

**THE REPUBLIC OF UGANDA**

**REMARKS MADE DURING THE NATIONAL ADR SUMMIT**

**AT**

**MESTIL HOTEL AND RESIDENCES**

**ON 26TH JUNE, 2023**

**BY**

**HON. JUSTICE ALFONSE CHIGAMOY OWINY-DOLLO**

**CHIEF JUSTICE**

Your Excellency, the Vice President of the Republic of Uganda  
My Lord, the Deputy Chief Justice  
The Hon. Minister of Justice and Constitutional Affairs  
The Learned Attorney General of Uganda  
My Lord, the Principal Judge  
My Lords, the Justices and Judges of Courts of Judicature  
Your Excellences the Ambassadors  
The Hon. Members of Parliament present  
The Inspector General of Government  
The Chairpersons of Constitutional Commissions  
The Members of the Judicial Service Commission  
The Members of the Judiciary Council  
The Heads of the Administration of Justice Programme Institutions  
The Permanent Secretaries present  
The President, Pepperdine University  
Professors from Pepperdine University  
Your Worship, the Chief Registrar  
Your Worships the Registrars  
Our Esteemed Guests, Ladies and Gentlemen.

I am greatly honored and privileged to welcome Your Excellency, the Vice President of the Republic of Uganda, to the first high-level national ADR Summit in Uganda. I profoundly thank you for honoring our invitation to officiate this summit.

I welcome you all, our distinguished guests, friends, partners and facilitators, and thank you again for accepting our invitation to this first high-level national summit on ADR.

In a special way, allow me welcome the President of Pepperdine University, Professor Jim Gash and the Vice President and Chief of Staff Pepperdine University, Professor Danny Dewalt.

The Hon Minister for Justice and Constitutional Affairs and I have convened this first High-Level National Summit on Alternative Dispute Resolution in Uganda in partnership with Uganda Bankers' Association, Pepperdine University and International Development Law Organization.

The theme of the Summit is: "The Role of ADR in Transforming Uganda's Dispute Resolution Landscape". This theme is expected to speak to ADR's stakeholders and sectors in Uganda, who are now clearly defined in terms of industry or sector (business, banking and finance, construction, extractive, etc.), and these have morphed and grouped into associations. There is an inevitable interest in these industries or sectors (as associations) to position ADR as the dispute resolution forum of choice. The theme will also speak to how the different stakeholders can contribute to making Uganda an attractive ADR destination.

The concept of Alternative Dispute Resolution in Uganda is familiar to many, yet it continues to be misunderstood or restricted in its application. The foundation of ADR in Uganda lies in Article 126 of the 1995 Constitution of Uganda, and it is reflected in many other statutes, including the Judicature Act, Cap 13. However, the enactment of the Arbitration and Conciliation Act, Cap 4, streamlined the practice of ADR in Uganda and is implemented today.

The Judicature Act recognises arbitration, conciliation and mediation as forms of ADR, which have gradually been infused into the court system. In particular, mediation was first introduced as part of the court process with the Judicature (Commercial Court Division) (Mediation) Rules, 2007. With the noted success of these Rules, it was introduced to the other Magistrate courts and High Court under the Judicature (Mediation) Rules, 2013. The court-annexed mediation remains a pre-requisite for the hearing of matters, and, in many instances, settlement of cases occurs at this stage. The ingenuity of courts in using ADR mechanisms has paved the way for better dispensation of justice, and its use has been considered an essential case backlog management tool. Still, the case backlog remains prevalent: according to the Annual Judiciary Report 2021/2022, the total case backlog stood at 50,592 cases (30.11 %) against 168,007 pending ones.

As regards arbitration, this ADR mechanism has steadily grown over the past 20 years. It is now supported by private entities, including ICAMEK, which has given birth to the CIArb Uganda Chapter.

On its part, conciliation in Uganda has not been widely used, and different stakeholders have called for an amendment of the Arbitration and Conciliation Act to provide for it in a detailed and more workable manner.

Against this background, a HiiL (Hague Institute for Innovation of Law) Justice Needs in Uganda Report in 2016 revealed that courts and lawyers are marginal to the experience of day-to-day justice needs of Ugandans. The report revealed that less than 5% of dispute resolution occurs in a court of law, and in less than 1% of all cases, a lawyer is involved. Further, it revealed that most Ugandan citizens rely on informal justice processes. At the time, the report recommended the adoption of ADR mechanisms as a means of resolving disputes in a fair manner.

The relevance of ADR as a whole in Uganda, therefore, cannot be over-emphasised given the highlighted issue of case backlog in the courts. There is, therefore, a need for the re-interrogation of ADR forms to speak to multifaceted litigants and disputants who seek the resolution of their ever-growing and wide-ranging disputes. Parties are satisfied when a mutual relationship is maintained, as litigation usually destroys

relationships. Additionally, beyond serving as the framework for resolving commercial or business-related disputes (including regional and cross-border disputes), ADR is quickly finding itself the framework for resolving complex disputes with traditional societal underpinnings (e.g., land disputes).

Compared to other jurisdictions, ADR in Uganda is just now taking shape. For example, the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards was ratified in Singapore in the 1980s. In 1991, the Singapore International Arbitration Center (SIAC) was established. This was followed by the setting up the Singapore Mediation Center (SMC) in 1997. Singapore is successful in ADR because the government has aligned the national legislation to international standards. The Singapore government's enthusiastic support, partnered with backing by senior members of the judiciary over recent years, has also driven the city state's embrace of ADR. Since the 1990s, Singapore has improved access to various ADR options to resolve disputes.

This calls for the government of Uganda to consider giving incentives to ADR practitioners in a way that all government cases can be considered through ADR first, which would save the government a lot of money. It also calls for curriculum review and development in legal education and training institutions. There is also a need for continuous national capacity building and strengthening ADR in the private sector institutions.

To the bar, litigation has changed fundamentally. Clients are interested in keeping relationships which require lawyers to re-skill and to be willing to invest in ADR for the long term.

There is also a need for the Africanisation of the judicial system to adapt to traditional justice needs. The current system of Justice is not African; we have tried it for the past 100 years, and it has only given us a case backlog. Africanisation, through ADR, provides a quick and timely resolution of disputes, eliminates the use of middlemen, and reduces transactional costs. Therefore, courts must move from the mindset of guarding their jurisdiction jealously and open it up to alternative dispute systems. Interim orders must promote rather than stifle ADR. The average caseload per judge

of the High Court now is 945 cases which can be significantly reduced if ADR is employed intensively.

Allow me to say something about the Alternative Justice System Strategy that is being launched today. This year's theme for the Judiciary is "The Judiciary Transformation Agenda: Enhanced Access to Justice." The transformation agenda of the Judiciary was triggered through the enactment of the *Administration of the Judiciary Act, 2020*, which operationalized Chapter Eight of our Constitution, strengthened our independence and streamlined the management of finances in the Judiciary, among other key features.

The Judiciary transformation agenda is geared towards enhancing access to justice services across Uganda. To achieve this dream, we are guided by the Judiciary Strategic Plan V. The Judiciary Strategic Plan V, 2021/22-2024/25, under Strategic Objective 2, identifies the need to strengthen ADR mechanisms as one of the critical measures that should be implemented. In a bid to realize this objective, the Judiciary has embarked on legal and judicial reforms aimed at strengthening and promoting a broader ADR framework. The proposal to develop a broader ADR framework for the Judiciary (Alternative Justice System) is anchored in the 1995 Constitution of Uganda, recognizing respect for culture, norms and values in line with fundamental rights and freedoms as enshrined in the Constitution. These cultures, norms and traditions of societies are central in facilitating the expeditious and cost-effective resolution of disputes if guided by a policy framework compared to the current adjudication framework, which is congested with a considerable backlog, high costs and is adversarial. The foregoing diagnosis of the justice system makes a strong case for an alternative justice system as an anchor for informal justice dispute resolution processes.

A broader ADR framework necessitated developing a strategy to complement ongoing efforts to reform the formal State justice institutions, hence the Alternative Justice System (AJS) strategy.

Against this background, I constituted an ad hoc Alternative Dispute Resolution Committee of the Judiciary chaired by the Hon. the Deputy Chief Justice, to make

proposals that informed the Alternative Justice System strategy that will guide the ADR approach of the Judiciary.

The committee is comprised of the following:

(a) Hon. Justice Richard Buteera	–	Chairperson
(b) Hon. Justice Mike Chibita	–	Vice Chairperson
(c) Hon. Justice Geoffrey Kiryabwire	–	Member
(d) Hon. Justice Paul Gadenya	–	Member
(e) Hon. Justice Richard Wabwire Wejuli	–	Member
(f) Mr. Francis Atoke	–	Member
(g) Mr. Francis Gimara	–	Member
(h) Ms. Rachel Odoi-Musoke	–	Member
(i) Prof. Andrew Khaukha	–	Secretary/Member

The AJS strategy has been developed to include more institutions and forms of ADR to ultimately optimize the delivery of justice to all in Uganda with the following objectives;

- (a) Serve as a toolbox for enhancing access to justice for all.
- (b) Provide for and support ADR mechanisms, including traditional approaches and institutions.
- (c) Serve as a case backlog reduction/caseload management measure (as a critical objective of the existing ADR framework, in, for instance, court-annexed mediation).
- (d) Empower/enable particular sectors/communities (e.g., “private” or “business” sector) in terms of expert-based justice rendered relevant to the community/sector.
- (e) Localize justice and justice delivery (and inculcate an “ownership” principle, with users of AJS pathways and processes embracing them as their own in resolving their disputes).
- (f) Create a framework that promotes ADR as a vehicle for the timely resolution of disputes while preserving critical relationships.

The AJS has been finalized and will be launched during this summit together with the national ADR policy.

I urge you all to open your minds to learning from this summit, as it will offer knowledge and capacity-building. This summit will also ignite an assessment of the place and role of ADR in Uganda in light of utilization and emerging national, regional and global trends.

The Summit has brought together national actors and stakeholders in the justice system, public institutions and agencies and the private sector, such as representation from the Judiciary, Ministry of Justice and Constitutional Affairs, Uganda Law Society, Uganda Law Reform Commission, Deans of law schools, Uganda Bankers Association and selected members from professional bodies, among others.

I finally take this opportunity to thank the International Development Law Organization (IDLO), Pepperdine University, Uganda Bankers' Association, and other partners for the support rendered in organizing this summit.

I also thank all participants for sparing valuable time to attend this important summit. I pray that you fruitfully use this opportunity to learn to further ADR in Uganda.

I thank the organizing team for their tireless efforts, zeal and commitment. Lastly, Your Excellency, thank you for finding time amidst your hectic schedule to be with us.

**Hon. Justice Alfonse Chigamoy Owiny-Dollo**  
**CHIEF JUSTICE**