

# Book Launch



**Hon. Lady Justice Martha Koome**  
Chief Justice of Kenya & CIARB Kenya Patron



## A Multi Door Exploration of Alternative Dispute Resolution in Kenya; Unlocking Justice

This book provides a comprehensive examination of Alternative Dispute Resolution (ADR) in Kenya. It covers various forms of ADR such as Mediation, Arbitration, and Alternative Justice Systems, emphasizing their importance in advancing justice and promoting access to justice. The author stresses the significance of cooperation among different branches of Government for the effective delivery of justice. The book examines the state of ADR in Kenya, highlighting the role of mediation in resolving disputes in sectors like banking and labor relations. It also discusses standardization of mediation practices and advocates for a 'Mediation First' approach to dispute resolution.



**Hon. Prof. Dr. Kariuki Muigua OGW, C.Arb, FCI Arb**  
Managing Partner - Kariuki Muigua & Co. Advocates,  
CIARB Regional Trustee for Africa (2019 - 2022) Kenya



## SETTLING DISPUTES THROUGH ARBITRATION IN KENYA

This is a book written in an articulate and concise language to present the entire arbitral process in Kenya. It examines the procedure and practice of arbitration in Kenya and gives illustrations by way of the most recent and authoritative local judicial decisions. The book includes the latest amendments in the Arbitration Act No. 4 of 1995 and the Rules thereof. It also presents critical areas in the arbitration practice in Kenya that are in dire need of reform. It is thus a suitable resource for ADR practitioners, scholars, students of ADR, teachers and legislators.



## ACCESSING JUSTICE THROUGH ADR

The book contains a collection of independent articles on Alternative Dispute Resolution (ADR) written over time and some published as journal articles and book chapters. The publication was necessitated by the need to consolidate the author's work in ADR and make it easy for the general readers, scholars, judges and academics to access. The various articles seek to link ADR Mechanisms with the quest for justice. Access to justice is possible through various mechanisms which include Litigation, Arbitration, Conciliation and Mediation.



**Dr. Kenneth Wyne Mutuma, C.Arb, FCI Arb**  
CIARB Kenya Vice Chair



**Jacqueline Waihenya, C.Arb, FCI Arb**  
Chairperson CIARB Kenya



## AFRICANIZATION OF INTERNATIONAL ARBITRATION

Arbitration has steadily become one of the most sought-after dispute resolution mechanisms in the global arena. With arbitration clauses and agreements becoming commonplace, more parties continue to shy away from mainstream court processes. In addition to traditional disputes, arbitration is now also used to resolve contemporary conflicts, including those related to Environmental, Social, and Governance (ESG). However, there is a notable absence of African presence within international arbitration. Very few cases are being determined by African arbitral institutions, African practitioners, or using African procedures. Informed by this background, this book discusses some of the challenges facing arbitration practice in the continent. It explores reforms that can be implemented to make Africa a more viable seat within international arbitration. In particular, this book highlights action plans that may be implemented by the different actors forming the ADR ecosystem in the continent.



## NAVIGATING DISRUPTIONS AND TECHNOLOGICAL INNOVATIONS IN ALTERNATIVE DISPUTE RESOLUTION

There is no doubt that technological disruptions have digitized dispute resolution processes. Like many professions, arbitrators, mediators, adjudicators and conciliators alike have had to make the shift to virtual or hybrid proceedings. This has included the use of Online Dispute Resolution (ODR) in ADR processes, as well as embracing new developments in the application of Artificial Intelligence Based Arbitrator Robots (ArBots). Parties in dispute are now exposed to methods such as assisted arbitration, automated negotiation, online mediation, and online arbitration. Artificial intelligence also has the potential to wholly revolutionize the practice of ADR by completely replacing third party neutrals in the dispute resolution processes.ecosystem in the continent.



## THE STATE OF ALTERNATIVE DISPUTE RESOLUTION IN KENYA 2024

The Constitution of Kenya 2010 marked a significant shift towards alternative dispute resolution (ADR) methods, moving away from traditional court-based litigation. Article 159 enshrined ADR's legitimacy and authority, leading to its increased adoption since then. Historically, ADR was intrinsic to indigenous Kenyan communities, focusing on reconciliation and harmony, but colonialism replaced these methods with English Common Law, marginalizing traditional practices. ADR's resurgence, as evidenced in the 2021 State of ADR Report, reflects its growing acceptance and application among the public and the judiciary. The forthcoming State of ADR Report, 2024 aims to assess ADR's progress thirteen years post-constitutional codification, providing insights to guide its evolution from an 'alternative' to an 'appropriate method of dispute resolution.



### ARBITRATION COMPENDIUM

Explore the dynamic field of arbitration jurisprudence in Kenya with this comprehensive compendium. It serves as a thorough reference, offering an exploration of the practical application of the Arbitration Act of 1995. Drawing insights from essential judicial decisions, the resource focuses on key thematic areas, including stay of proceedings, court intervention, conduct of arbitral proceedings, composition and jurisdiction of arbitral tribunals, arbitral awards, and termination of proceedings, recourse to the High Court, and recognition and enforcement of awards. The compendium provides a clear analysis of how Kenyan courts have interpreted and applied the law in the dynamic field of arbitration, making it an essential guide for those seeking a comprehensive understanding of arbitration practices in the country.



### MEDIATION COMPENDIUM

This compendium on mediation endeavors to elucidate the field of dispute resolution by providing a comprehensive exploration of practical methodologies and contemporary applications. It examines diverse mediation models and case studies to equip practitioners, scholars, and enthusiasts with a good understanding of the evolving dynamics within the field in order to foster a more informed and discerning approach to conflict resolution. By using examples and case studies, it navigates the reader through diverse scenarios to encourage a proper understanding of the mechanisms and challenges intrinsic to the mediation process.



**Dr. Wilfred Mutubwa**  
Founding & Managing Partner – Dr. Mutubwa Law,  
Chairman Emeritus, CIArb Kenya



### A CASEBOOK ON COMMERCIAL ARBITRATION IN KENYA

This is a compendium of leading cases in the area of theory and practice of commercial arbitration as handed down by superior courts of the Republic of Kenya. The book offers a ready reference text for the student, teacher, practitioner and academic in arbitration who would like to understand both simple principles, statutory provision, and analyse complex trends in commercial arbitration is key. The book is set in several thematic areas with brief case notes and import of the cases discussed.



### TRADE AND INVESTMENT DISPUTE RESOLUTION IN AN INTEGRATED AFRICA

Explore Africa's economic integration journey, spanning from the 1960s quest for independence to the formal adoption of a continental economic framework in 1991. This analysis delves into the African Union's visionary roadmap and the unveiling of the African Continental Free Trade Area (AfCFTA) in 2018, aimed at boosting cross-border trade and investment. The book scrutinizes dispute settlement mechanisms within the consolidated African Court of Justice and Human Rights (ACJ&HR). Addressing discord between harmonization and devolution principles and existing dispute resolution systems, the author proposes integrating trade and investment dispute resolution within the AU single court system.

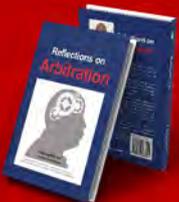


### CIArb COFFEE TABLE BOOK

This coffee table book serves as a comprehensive chronicle of the journey of arbitration in Kenya, offering an in-depth look at the evolution and impact of CIArb Kenya. Through detailed narratives and interviews, it highlights the institute's enduring role in shaping the ADR landscape. Featuring insights from seasoned arbitrators, industry leaders, and pioneers, the book encapsulates the collective wisdom of those at the forefront of arbitration in Kenya. It celebrates the milestones achieved and charts the path forward, ensuring that the principles of justice and fairness continue to thrive in Kenya's dispute resolution practices.

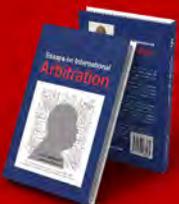


**Paul Ngotho HSC, C. Arb, FCIArb**  
Arbitrator, Mediator



### REFLECTIONS ON ARBITRATION

This book, Reflections on Arbitration, is divided into three parts, the first and last of which have a total of four chapters on general issues and diversity. The middle part has seven chapters on arbitration law and practice. It contains the author's reflections on diverse issues like arbitrability, arbitrator immunity, artificial intelligence, expedition of arbitration, etc.



### ESSAYS ON INTERNATIONAL ARBITRATION

This book, Essays on International Arbitration, is divided into four parts. Parts A, B and D are on general issues, arbitration law and practice and diversity. The author has revisited arbitrator integrity in Part C, which makes up about 40% of the pages in the book.