

Arbitration: Cheaper, faster administration of justice

Africa's arbitration centres are on par with similar facilities elsewhere on the globe

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Africa is embracing arbitration as a cheaper and faster way of solving civil disputes. This is because litigation, the traditional way of handling disputes, is more expensive and can take inordinately longer where courts are clogged up with cases.

Arbitration is when a dispute is submitted, by agreement of the parties, to one or more arbitrators who make a binding decision on the matter.

The World Intellectual Property Organisation notes that arbitration can only take place if both parties have agreed to it. It is a voluntary process.

Africa has six centres for international arbitration, the majority of which are in East Africa. Rwanda, Kenya, Burundi and Uganda have one each, while Egypt and Mauritius host the other two. Kenya is in the process of establishing the Law Society of Kenya International Arbitration Centre, in Nairobi's South C area, to join the Nairobi Centre for



From Left, Mr. John Ohaga Board Director at NCIA, Mr. Kennedy Ogeto, EBS Solicitor General and Mr. Arthur Igeria Chairman of the Board of Directors, NCIA, during the 1st NCIA ADR National Conference held at the Intercontinental Hotel on the 5th & 6th June, 2018.

International Arbitration.

These centres operate in line with international rules and requirements on arbitration.

Arbitration is considered the most direct alternative to litigation. The disputing parties compile and present their case to a third, independent party, who renders a decision.

Globally, arbitration is accepted as a formal way to resolve non-criminal disputes. It is used in both the

private and public sectors.

Arbitration is treasured for being more efficient than litigation: It is faster, cheaper and more flexible. The disputing parties select the arbitrator and, to some extent, have control over some aspects of the procedure.

Arbitrators boast immense expertise on the subject matter of the dispute. They also tend to have greater flexibility in decision-making.

Arbitration agreements generally provide a means for selecting the arbitrator or panel of arbitrators, the format of the hearing, the procedural and evidentiary rules to be used, and the controlling law.

Africa's arbitration centres are on par with similar facilities elsewhere on the globe. For example, the Kigali Centre for International Arbitration in Rwanda requires an arbitrator to have the appropriate degrees and licences to be allowed to arbitrate. This is over and above at least 10 years' post-qualification or senior business experience. Moreover, the arbitrator is required to possess arbitration experience in five or more cases. The arbitrator should also confirm membership of professional bodies and fellowship status with the Chartered Institute of Arbitrators (or a comparable institute).

Most of Africa's top international arbitrators are members of the International Centre for Settlement of Investment Disputes.

Even as Africa develops more

arbitration centres, there have been calls to establish an agency to champion arbitration. Such a body would promote international arbitration and other forms of international dispute resolution on the continent.

And this has been realised, with the recent establishment of the African Arbitration Association (AFAA).

Under its constitution adopted on June 18, 2018, AFAA is a non-profit association that does not administer arbitrations, but will act as the platform for African international arbitration practitioners and African arbitration institutions within the continent. The objective is to enhance the capacity of African parties, institutions and practitioners.

AFAA promotes, encourages, facilitates and advances the use of international arbitration within the continent. It aims to do this by acting as a reference point on international arbitration and alternative dispute resolution activities pertinent to Africa. It will facilitate and encourage the appointment of African international arbitration practitioners and the use of African arbitration institutions. It will increase coordination among its members in respect to Africa-related international arbitration and alternative dispute resolution activities. It will support the provision of technical assistance, awareness-raising and capacity-building arbitration activities to African governments. It will also increase co-ordination in delivering the same throughout the continent.

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ARBITRATORS BOAST IMMENSE EXPERTISE ON THE SUBJECT MATTER OF THE DISPUTE AND ALSO TEND TO HAVE GREATER FLEXIBILITY IN DECISION-MAKING

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