

BOOK REVIEW

Dr. Kariuki Muigua.

Resolving Conflicts through Mediation in Kenya, by Dr. Kariuki Muigua, (Glenwood Publishers, 2012) ISBN 978-9966-046-01-7, 182 pages.

Book review by Kihara Muruthi

Kenya and other African countries have faced challenges in the administration of justice due to excessive dependence on the courts in the resolution of disputes. This is the case even where the courts are not the best option and where other forms of dispute resolution would be more appropriate. It is not in dispute that our courts are overwhelmed by their caseloads and by extension access to justice is hindered. It is often the case that outcomes of court proceedings do not satisfy the interests of the parties involved.

When elections triggered widespread violence in Kenya in early 2008, mediation was successfully used to resolve the conflict. The mediation efforts culminated in a power-sharing agreement that ended the political crisis and led to the formation of a broad-based Coalition Government.

It is against this background that Kenya has embarked on legal reforms to integrate Alternative forms of Dispute Resolution (ADR), as well as Traditional Dispute Resolution mechanisms—in the administration of justice. Article 159 of the Constitution provides that Alternative forms of Dispute Resolution, including Conciliation, Mediation, Arbitration and Traditional Dispute Resolution mechanisms, shall be promoted. The Constitution therefore has given emphasis to Alternative Dispute Resolution mechanisms as a means of resolving disputes other than the courts.

The development of Mediation in Kenya appears to have blossomed in recent years. It is now regarded by many as a genuine method of resolving disputes and managing conflict both in the commercial and private domain.

Dr. Kariuki Muigua's book on mediation is more necessary now than ever. This book covers an introduction of all forms of ADR, but as you might expect from the title of the book, its primary focus is on mediation. The book is written in a clear and forthright way, maintaining throughout a high standard of intellectual rigour.

The book opens the readers mind to the various forms of ADR and then crystallizes to mediation. You will find a nexus between conventional mediation and traditional conflict resolution methods. For the aspiring or established practitioner the author has driven the journey from commencement to conclusion of the mediation process. Although the techniques a mediator improvises during the mediation process can be his or her own idea, a chapter on mediator's techniques and ethics for the potential mediator could have been more than welcome. All in all the book is easy to grasp and at the same time comprehensive. Of interest are the author's recommendations on the way forward. For those who wish to delve deeper in to the subject, the author has extensively made available references to various academic articles which can enrich the reader's appetite.

Dr. Kariuki's book will provide an invaluable reservoir of resources for practitioners of mediation, lawyers, court users committees, university students and persons who generally engage in the conflict resolution spectrum. You do not need to take my word for it – instead get a copy and indulge yourself!

Mr. Kihara Muruthi is an ADR practitioner and a Fellow of the Chartered Institute of Arbitrators