

**ALTERNATIVE DISPUTE RESOLUTION (ADR) JOURNAL
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Journal Review by Mwati Muriithi*

Published in January 2023, the Alternative Dispute Resolution (ADR) Journal, Volume 11, Issue 1 is a peer-reviewed/refereed publication of the Chartered Institute of Arbitrators Kenya (CI Arb-K), engineered and devoted to provide a platform and window for relevant and timely issues related to Alternative Dispute Resolution mechanisms.

It is edited by the ADR Practitioner of the Year 2022, Dr. Kariuki Muigua, Ph.D, who was also awarded: The African Arbitrator of the Year 2022; The Chartered Institute of Arbitrators (CI Arb) (Kenya Branch) ADR Lifetime Achievement Award 2021; The ADR Publisher of the Year 2021 and The Law Society of Kenya (LSK) ADR Practitioner of the Year Award 2021.

His book, *Settling Disputes through Arbitration in Kenya, 4th Edition*; Glenwood publishers 2022, was awarded the Publication of the Year Award 2022. He is a member of the National Environment Tribunal which was awarded the best performing Tribunal in Kenya for handling the most cases.

Dr. Kariuki Muigua has demonstrated his prowess and sound understanding of Conflict Management in his paper '*Understanding the Place of Conflict Management in Sustainable Development Agenda*'. The paper discusses the importance of effective conflict management as a step towards achieving sustainable development. The author argues that unless peace is achieved, it may not be possible to achieve the sustainable development agenda.

'Reflections on The African Continental Free Trade Area Agreement (AfCFTA) Dispute Settlement Mechanism: Some Imperatives for Reform' by Dr. Wilfred Mutubwa discusses the problems associated with dispute resolution mechanisms in Africa's regional and sub-regional integration. The paper advances proposals that seek to ensure that the decisions that emanate from the proposed trade and investment chamber of the African Court of Justice and Human Rights (ACJ&HR) are easily and promptly enforced.

Paul Ngotho in his paper '*Arbitrability: Marriage Nullification & Custody of Children in Kenya*' critically discusses arbitrability under Kenyan law with a focus on the dissolution of marriage. The paper uses court decisions from other jurisdictions as case studies.

'Transitional Justice and Human Rights' by Dr. Kenneth Wyne Mutuma discusses the history of Transitional Justice in Kenya. The paper critically analyses the Mediation process and examines the Legal Framework for Transitional Justice. It analyses the

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Challenges to Transitional Justice and highlights the reforms to be adopted so as to enhance Transitional Justice.

Eng. Bwalya Lumbwe in his paper '*Africanisation of International Dispute Resolution Stocktaking of African Construction and Engineering Disputes with Reference to the FIDIC Conditions of Contract for Construction*' critically analyses Dispute Resolution Under the FIDIC Construction Contracts. The paper succinctly discusses Performance and Usage of Dispute Boards as well as Enforcement of Dispute Board Decisions. It analyses African Representation in International Construction and Engineering Arbitration.

'The Implied Promise to Honour an Arbitration Award and the Remedies for its Breach' by Hazron Maira critically analyses the implied promise to honour an award. The paper succinctly discusses Breach of the implied contractual promise to honour an award and critically discusses Remedies for breach of the contractual promise to honour an award.

Dr. Kariuki Muigua in his paper '*The Future of Environmental Conflict Management*' calls for both knowledge-based and practical solutions as without continuous research and investment in environmental conflict management, sustainable development agenda may remain a mirage.

'Absolute Immunity of Arbitrators: Fact, Fallacy or Fantasy?' by Paul Ngotho critically discusses the Absolute Immunity of Arbitrators. The paper highlights Arbitrator's immunity in UK, US, Nigeria, France and China. It critically discusses the Arbitration Rules commonly used in Kenya. The paper succinctly discusses Kenyan Statutory Tribunals and the Remedy Against Errant Arbitrators and Arbitral Institutions.

Eunice Lumallas in her paper, '*Tracing The Confines and Boundaries of the Arbitrator's Immunity: The Kenyan Context*' discusses the foundation of arbitrator conduct and immunity. The paper analyses immunity and sanctions for breach of an arbitrator's duties.

'Energy Disputes Arbitration: A Focus on Independent Power Producers' (IPPS)' by Austin Ouko critically analyses the Arbitration of Energy related disputes with a specific focus on Independent Power Producers in Kenya. The paper critically analyses the Arbitration of Energy related disputes with a specific focus on Independent Power Producers in Kenya.

Mwati Muriithi, in his paper '*Book Review: Accessing Justice Through ADR*', comprehensively reviews Dr. Kariuki Muigua's book '*Accessing Justice Through ADR* Glenwood Publishers, 2022' which contains a collection of independent articles on Alternative Dispute Resolution (ADR) written over time.

'The Anatomy of Maritime Arbitration in Africa' by Beth Michoma highlights the Scope of Maritime Arbitration and discusses the nature of maritime disputes arising from Charter Party and Bills of lading.

Eng. Bwalya Lumbwe in his paper *'Book Review and beyond: UNCITRAL Model Law on International Commercial Arbitration: A Commentary on the Zimbabwean Arbitration Act'* analyses the publication, *'UNCITRAL Model Law on International Commercial Arbitration: A Commentary on the Zimbabwean Arbitration Act'*.

Lastly, *'The Notion of Good Faith in Construction and Arbitration'* by Damian James examines the notion and doctrine of good faith as it appears in the resolution of disputes through arbitration. The paper highlights use of good faith in different settings, whether geographical, contractual, statutory or procedural.