

Governing Access to Justice in Africa: Mainstreaming Appropriate Dispute Resolution (ADR) and Community Justice Systems (CJS) through Codification in the Age of Artificial Intelligence (AI) and Technology

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Abstract

This paper discusses how the ideal of access to justice can be effectively achieved in Africa. The paper notes that in light of current challenges, ADR and CJS provide effective solutions that can strengthen access to justice in Africa for development. The paper examines the key features of Appropriate Dispute Resolution (ADR) and Community Justice Systems (CJS) and their suitability in promoting access to justice in Africa. However, despite their appropriateness, the paper notes that ADR and CJS are yet to be fully embraced in the access to justice discourse in Africa. The paper discusses the key challenges facing ADR and CJS in Africa and their impact on access to justice. In light of these challenges, the paper posits that it is necessary to effectively govern access to justice in Africa by embracing ADR and CJS. In order to realise the dream of access to justice in Africa, the paper discusses how ADR and CJS can be mainstreamed through codification in the age of Artificial Intelligence (AI) and technology.

1.0 Introduction

Access to justice is a basic principle of the rule of law that seeks to ensure that all individuals are able to seek and obtain remedies through both formal and informal institutions of justice for grievances in compliance with human rights standards¹. Access to justice has also been defined as a component of the rule of law where individuals and groups with legal needs know where to go for help, obtain the help they need, and have access to justice systems that offer procedural, substantive, affordable and expeditious justice without undue cost or harm². In addition, access to justice has also been described as a process wherein people in need of help, find effective solutions available from justice systems which are accessible, affordable, comprehensible to ordinary people, and which dispense justice fairly, speedily and without discrimination, fear or favour³.

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¹ Understanding Access to Justice., Available at <https://thecommonwealth.org/publications/developing-people-centred-access-justice-strategy-blueprint-social-transformation-kenya-and-beyond/understanding-access-justice> (Accessed on 17/10/2026)

² Open Government Partnership., 'Justice' Available at <https://www.opengovpartnership.org/open-gov-guide/justice-access-to-justice/> (Accessed on 17/10/2026)

³ Ladan M.T, 'Access To Justice As A Human Right Under The Ecowas Community Law,' available at <http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=16&cad=rja&uact=8&ved=0CFcQFjAFOAo&url=http%3A%2F%2Fwww.abu.edu.ng%2Fpublications%2F2009-07-> (Accessed on 17/10/2026)

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It has been observed that equal, efficient, effective and affordable access to justice plays a key role in protecting human rights and promoting Sustainable Development⁴. The United Nations observes that access to justice play a critical role in promoting the rule of law by enabling citizens to have their voice heard, exercise their rights, challenge inequalities and discrimination, and hold decision-makers accountable⁵. Access to justice is key in ensuring that no one is left behind in the quest for Sustainable Development by placing equity, fairness, justice and human rights at the core of all decision-making processes⁶. Effective, equitable, responsive and affordable access to justice is especially vital for traditionally marginalized and vulnerable groups and populations including the youth, the elderly, persons with disabilities, women, indigenous peoples and migrants since it enables them participate in legal processes that promote inclusive growth in sectors such as health, employment, education, housing, and entrepreneurship towards Sustainable Development⁷. Sustainable Development Goals (SDG) 16 under the United Nations 2030 Agenda for Sustainable Development⁸ seeks to promote peaceful and inclusive societies for Sustainable Development, *provide access to justice for all* and build effective, accountable and inclusive institutions at all levels⁹ (Emphasis added).

However, access to justice remains an elusive dream for billions of people all over the world especially in Africa. For example, it has been observed that many African countries are struggling to establish functional, timely, affordable, responsive and credible justice systems undermining access to justice¹⁰. For many African citizens, confidence in courts as an avenue of accessing justice is weak. In particular, it has been observed that only a small number of citizens have direct experience with the courts, and contact rates with courts for some marginalised groups including indigenous and local communities, women and the uneducated are even lower¹¹. At the same time, informal avenues of accessing justice in Africa including Appropriate Dispute Resolution

⁴ Organisation for Economic Co-operation and Development., 'Access to Justice' Available at <https://www.oecd.org/en/topics/sub-issues/access-to-justice.html> (Accessed on 17/10/2026)

⁵ United Nations., 'Access to Justice' Available at <https://www.un.org/ruleoflaw/en/thematic-areas/access-to-justice-and-rule-of-law-institutions/access-to-justice> (Accessed on 17/10/2026)

⁶ Organisation for Economic Co-operation and Development., 'Access to Justice' Op Cit

⁷ Organisation for Economic Co-operation and Development., 'Leveraging the SDGs for Inclusive Growth: Delivering Access to Justice for All.' Available at <https://www.oecd.org/gov/delivering-access-to-justice-for-all.pdf> (Accessed on 17/10/2026)

⁸ United Nations General Assembly., 'Transforming Our World: the 2030 Agenda for Sustainable Development.' 21 October 2015, A/RES/70/1., Available at <https://sustainabledevelopment.un.org/content/documents/21252030%20Agenda%20for%20Sustainable%20Development%20web.pdf> (Accessed on 17/10/2026)

⁹ Ibid

¹⁰ Uwazie. E., 'Alternative Dispute Resolution in Africa: Preventing Conflict and Enhancing Stability.' *Africa Security Brief*, No. 16 of 2011

¹¹ Logan. C., 'Ambitious SDG goal confronts challenging realities: Access to justice is still elusive for many Africans' Available at https://www.afrobarometer.org/wp-content/uploads/2022/02/ab_r6_policypaperno39_access_to_justice_in_africa_eng.pdf (Accessed on 17/10/2026)

(ADR) and Community Justice Systems (CJS), which have been successful in the continent for many centuries, are yet to be fully and effectively embraced undermining the ability of citizens to access justice through affordable, responsive, expeditious and culturally-appropriate forums¹². In light of these concerns, it is imperative to strengthen access to justice in Africa for human rights and Sustainable Development.

This paper discusses how the ideal of access to justice can be effectively achieved in Africa. The paper notes that in light of current challenges, ADR and CJS provide effective solutions that can strengthen access to justice in Africa for development. The paper examines the key features of ADR and CJS and their suitability in promoting access to justice in Africa. However, despite their appropriateness, the paper notes that ADR and CJS are yet to be fully embraced in the access to justice discourse in Africa. The paper discusses the key challenges facing ADR and CJS in Africa and their impact on access to justice. In light of these challenges, the paper posits that it is necessary to effectively govern access to justice in Africa by embracing ADR and CJS. In order to realise the dream of access to justice in Africa, the paper discusses how ADR and CJS can be mainstreamed through codification in the age of Artificial Intelligence (AI) and technology.

2.0 Appropriate Dispute Resolution, Community Justice Systems and Access to Justice in Africa: Opportunities and Challenges

ADR and CJS provide a viable, affordable, responsive and appropriate forum for accessing justice in Africa. For example, ADR mechanisms including arbitration, mediation, negotiation, and conciliation possess key attributes including informality, privacy, confidentiality, flexibility and the ability to promote expeditious and cost-effective management of disputes making ADR a viable and appropriate tool in enhancing access to justice¹³. In addition, it has been observed that most ADR processes including negotiation, mediation and conciliation result in creative and collaborative outcomes that are more appropriate than those available through litigation¹⁴. By fostering collaboration, ADR processes including negotiation, mediation and conciliation allow all parties involved in a conflict to work together towards resolving the underlying conflict through active listening and respectful communication¹⁵. ADR processes in general allow parties

¹² Adeyinka. A., & Lateef. B., 'Methods of Conflict Resolution in African Traditional Society' *An International Multidisciplinary Journal*, Ethiopia Vol. 8 (2).

¹³ Muigua. K., 'Alternative Dispute Resolution and Access to Justice in Kenya.' Glenwood Publishers Limited, 2015

¹⁴ JAMS ADR., 'What is ADR' Available at <https://www.jamsadr.com/adr-spectrum/> (Accessed on 19/10/2026)

¹⁵ Ronquillo. Y., Ellis. V., & Toney-Butler. T., 'Conflict Management' Available at <https://www.ncbi.nlm.nih.gov/books/NBK470432/> (Accessed on 19/10/2026)

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to save time and costs, participate meaningfully in resolving their disputes, control the nature of proceedings and the outcome, and achieve greater satisfaction with the final outcome¹⁶.

In particular, ADR has been a key tool of accessing justice in Africa since time immemorial. It has been observed that throughout history, conflict management in Africa has taken the form of informal negotiation, mediation, reconciliation and arbitration among other techniques¹⁷. These techniques fit comfortably within traditional concepts of African justice, particularly its core values of peace, reconciliation and restoration of social harmony¹⁸. CJS have also been part and parcel of conflict management in Africa for many centuries. These processes represent the historical, culturally integrated, and indigenous pathways through which communities in Africa have utilised in managing conflicts for many centuries prior to the imposition of Eurocentric formal legal frameworks¹⁹. It has been observed that traditional, customary and community-based justice systems in Africa resonate more with local populations and are thus well accepted and effective in providing a sense of justice and restoring community relationships²⁰. In most contexts, CJS are often more accessible, responsive and affordable than formal justice systems therefore making them an appropriate tool in enhancing access to justice²¹. Since these processes are closely tied to their respective communities and are mostly non-institutionalized, they are usually more appropriate, responsive and affordable when compared to formal justice systems²². It has been observed that CJS are highly accepted among indigenous peoples and local communities in Africa and the Global South since they are usually conducted in local languages, are easily accessible thus bringing justice closer to the people, they focus on restorative justice at

¹⁶ Appropriate Dispute Resolution Information Sheet., Available at <https://sanmateo.courts.ca.gov/divisions/appropriate-dispute-resolution-programs/appropriate-dispute-resolution-information-sheet> (Accessed on 19/10/2026)

¹⁷ Kariuki. F., 'Conflict Resolution by Elders in Africa: Successes, Challenges and Opportunities.' Available at <http://kmco.co.ke/wp-content/uploads/2018/08/Conflict-Resolution-by-Elders-successeschallenges-and-opportunities-1.pdf> (Accessed on 19/10/2026)

¹⁸ Uwazie. E., 'Alternative Dispute Resolution in Africa: Preventing Conflict and Enhancing Stability.' Op Cit

¹⁹ Gafar. I., & Ayodeji. G. I., 'Traditional Dispute Resolution Mechanisms and Community Peace Building: A Doctrinal Legal Analysis' Available at https://www.researchgate.net/publication/408172339_TRADITIONAL_DISPUTE_RESOLUTION_MECHANISMS_AND_COMMUNITY_PACE_BUILDING_A_DOCTRINAL_LEGAL_ANALYSIS (Accessed on 19/10/2026)

²⁰ Traditional Justice Systems., Available at <https://gsdrc.org/topic-guides/transitional-justice/concepts-and-mechanisms/mechanisms/traditional-justice-systems/> (Accessed on 19/10/2026)

²¹ Judiciary of Kenya., 'Promoting Alternative Justice Systems (AJS)' Available at <https://judiciary.go.ke/promoting-alternative-justice-systems-ajs/> (Accessed on 19/10/2026)

²² Judiciary of Kenya., 'Alternative Justice Systems Baseline Policy and Policy Framework.' Available at <https://judiciary.go.ke/download/alternative-justice-systems-baseline-policy-and-policy-framework/> (Accessed on 19/10/2026)

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the expense of retribution, and are conducted by respected institutions including the council of elders²³.

Utilising ADR and CJS is therefore key towards strengthening access to justice in Africa. However, several challenges undermine the use of ADR and CJS in promoting access to justice in Africa. For example, it has been observed that inadequate political support, human resources, poor legal and policy foundations, and unsustainable financing in ADR are some of the key challenges that undermine the ability of citizens in Africa to access justice and resolve their differences in an appropriate, effective and expeditious manner²⁴. In addition, despite their suitability, ADR and CJS are viewed as alternative rather than appropriate mechanisms in enhancing access to justice in Africa²⁵. This limits the use of these processes in enhancing access to justice in the modern era with focus being placed on court processes undermining collaborative, consensual and reconciliatory approaches which have been part and parcel of conflict management in Africa for ages²⁶. In addition, it has been argued that attempts to mainstream ADR and CJS with judicial processes can lead to loss of their key attributes such as confidentiality, party autonomy, informality and privacy which have been fundamental for the success of these processes in the African context for many centuries²⁷.

It is imperative to address the foregoing concerns in order to strengthen access to justice through ADR and CJS in Africa.

3.0 Mainstreaming Appropriate Dispute Resolution (ADR) and Community Justice Systems (CJS) through Codification in the Age of Artificial Intelligence (AI) and Technology

ADR and CJS provide appropriate, effective, affordable and responsive means of accessing justice in Africa. Before the introduction of Western-centric justice systems in Africa, communities all over the continent had already developed their own traditional methods and mechanisms of

²³ Kariuki. F., 'Traditional Dispute Resolution Mechanisms in the Administration of Justice in Kenya' Available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3646995 (Accessed on 19/10/2026)

²⁴ Uwazie. E., 'Alternative Dispute Resolution in Africa: Preventing Conflict and Enhancing Stability' Op Cit

²⁵ Elachi. A.J., 'African Lawyers and Alternative Dispute Resolution' Available at <https://lawyersofafrica.org/wp-content/uploads/2019/08/African-Lawyers-and-Alternative-Dispute-Resolution.pdf> (Accessed on 20/10/2026)

²⁶ Our Mediation Heritage., Available at <https://www.conflictdynamics.co.za/Blog/Our-Mediation-Heritage-%20?swcfpc=1> (Accessed on 20/10/2026)

²⁷ Muigua. K., 'Fusion of Mediation and other ADR Mechanisms with Modern Dispute Resolution in Kenya: Prospects and Challenges.' Available at <https://kmco.co.ke/wp-content/uploads/2022/11/Fusion-of-Mediation-and-Other-ADR-Mechanisms-with-Modern-Dispute-Resolution-in-Kenya-Prospects-and-Challenges.pdf> (Accessed on 20/10/2026)

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preventing, managing and resolving conflicts²⁸. ADR and CJS processes including informal negotiation, mediation, conciliation, arbitration and traditional justice systems have been utilised for many centuries in resolving conflicts and preventing their escalation into violence, in order to preserve the social fabric that tied African communities together²⁹. It has been observed that these processes are well-entrenched in the traditions, customs, norms and taboos of the people of Africa³⁰. In particular, ADR and CJS are anchored in the African philosophy of *Ubuntu/Utu* with focus being on creating consensus, facilitating reconciliation, fostering peace and harmony and promoting social cohesion³¹. Consequently, with African countries struggling to establish timely, functional, affordable and responsive justice systems, embracing ADR and CJS is key towards reinvigorating culturally-appropriate access to justice in Africa.

Mainstreaming ADR and CJS is key towards strengthening access to justice in Africa. It has been observed that mainstreaming ADR and CJS is necessary towards facilitating broad-based and equitable access to justice especially for vulnerable and marginalized groups including indigenous and local communities who rely on these processes towards meeting their daily justice needs³². This process provides solutions towards making ADR and CJS more streamlined, efficient, cost- and time-effective, and therefore a preferred and comprehensive mechanism for obtaining justice³³. Mainstreaming ADR and CJS ensures the presence of effective legal, policy and institutional frameworks that can support and enhance the uptake of these techniques towards fostering culturally appropriate justice in Africa³⁴. In addition, by mainstreaming ADR and CJS, it is possible to promote a system of referral where by disputes filed in courts can be referred to amicable and culturally-appropriate resolution processes which focus on peace, harmony, and restorative justice³⁵.

AI and technology provide tools and solutions that can ensure that ADR and CJS are effectively mainstreamed in Africa for enhanced access to justice. It has been observed that modern

²⁸ Ademowo. A., 'Conflict Management in Traditional African Society.' Available at https://www.researchgate.net/publication/281749510_Conflict_management_in_Traditional_African_Society (Accessed on 20/10/2026)

²⁹ Kariuki. F., 'Conflict Resolution by Elders in Africa: Successes, Challenges and Opportunities.' Op Cit

³⁰ Ademowo. A., 'Conflict Management in Traditional African Society.' Op Cit

³¹ Muigua. K., 'Alternative Dispute Resolution and Access to Justice in Kenya.' Op Cit

³² The Asia Foundation., 'Mainstreaming Alternative Dispute Resolution for Equitable Access in Pakistan' Available at <https://asiafoundation.org/mainstreaming-alternative-dispute-resolution-for-equitable-access-in-pakistan/> (Accessed on 20/10/2026)

³³ Why We Should Make Alternative Dispute Resolution More Mainstream., Available at <https://www.linkedin.com/pulse/why-we-should-make-alternative-dispute-resolution-more-mainstream-/> (Accessed on 20/10/2026)

³⁴ Muigua. K., 'Effective Justice for Kenyans: Is ADR Really Alternative?' Available at <https://kmco.co.ke/wp-content/uploads/2018/08/Alternative-Dispute-Resolution-or-Appropriate-Dispute-Resolution.pdf> (Accessed on 20/10/2026)

³⁵ Judiciary of Kenya., 'Alternative Justice Systems Baseline Policy and Policy Framework.' Op Cit

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technologies such as AI have the potential to bridge gaps in access to justice by offering flexible, low-cost, user-friendly and accessible solutions for resolving disputes through ADR³⁶. Technology can transform informal justice systems including ADR and CJS into a more modern, expeditious, efficient and accessible domain³⁷. Through technology, it is possible to effectively mainstream and revamp ADR and CJS in Africa including through online resolution of disputes towards bridging geographical barriers among parties³⁸. Technology can also make ADR and CJS in Africa more accessible and affordable by removing the need for physical processes³⁹.

AI and technology can thus support efforts to mainstream ADR and CJS in Africa. In particular, AI and technology can ensure that these processes are conducted through virtual platforms for greater efficiency, accessibility, and affordability. AI can support key tasks and processes needed to effectively mainstream ADR and CJS in Africa. For instance, AI can aid in case assessment and referral of disputes to ADR and CJS, customizing ADR and CJS procedures, enhancing understanding of disputes, effective management of sessions and generating options for effective resolution of disputes⁴⁰.

It is therefore necessary to utilise AI and technology towards effectively mainstreaming ADR and CJS in Africa through codification. Achieving this goal requires key stakeholders including the judiciary and ADR institutions to integrate AI and technology into their service delivery. It is also necessary to collaborate with vulnerable groups including indigenous and local communities in order to ensure that the adoption of AI and technology into ADR and CJS upholds the core pillars of Afrocentric justice. Through this approach, it is possible to load indigenous legal norms, values and philosophies including *Ubuntu/Utu* into AI and technology towards promoting Afrocentric dispute resolution that focuses on peace, harmony and reconciliation while also enhancing the capacity of vulnerable groups including indigenous peoples and local communities to access justice through acceptable, affordable, responsive and culturally-relevant systems and processes⁴¹.

³⁶ Integration of Technology in Dispute Resolution., Available at [https://www.schreiberadr.com/integration-of-technology-in-dispute-resolution#:~:text=Advances%20in%20artificial%20intelligence%20\(AI,essence%20of%20alternative%20dispute%20resolution](https://www.schreiberadr.com/integration-of-technology-in-dispute-resolution#:~:text=Advances%20in%20artificial%20intelligence%20(AI,essence%20of%20alternative%20dispute%20resolution) (Accessed on 20/10/2026)

³⁷ Shaheen. S., 'Technology in ADR: An Overview of Transformative Tools' Available at <https://www.linkedin.com/pulse/technology-adr-overview-transformative-tools-saleem-shaheen-j4j3e/> (Accessed on 20/10/2026)

³⁸ Ibid

³⁹ Ibid

⁴⁰ International Bar Association., 'Guidelines on the Use of Generative Artificial Intelligence in Mediation' Available at <https://www.ibanet.org/document?id=Guidelines-on-the-use-of-generative-AI-in-mediation> (Accessed on 20/10/2026)

⁴¹ Okeke. U., 'Enhancing Access to Justice Through Technology in Developing Countries: Technology-Based Initiatives, Challenges and Emerging Technologies' *International Journal for Court Administration.*, Volume 16, Issue 3 (2026)

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Through the foregoing interventions, it is possible to effectively and appropriately mainstream ADR and CJS through codification in the age of AI and technology.

4.0 Conclusion

Strengthening access to justice is a key priority towards peace, development and prosperity in Africa. ADR and CJS provide effective, appropriate, affordable, responsive and culturally-relevant solutions that can promote access to justice in Africa for Sustainable Development. However, in light of current challenges, it is necessary to effectively govern access to justice in Africa by mainstreaming ADR and CJS. The emergence of AI and technology is a key development that can ensure that ADR and CJS are effectively and appropriately mainstreamed in Africa for enhanced access to justice.

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