

All family matters must go through mediation first – CJ

Alternative Dispute Resolution is fronted as the best way to reduce case backlog.

BY KARIM MUYOBO

All family-related disputes should first be handled through Alternative Dispute Resolution (ADR) before they are admitted into the formal court process should the mediation process fail, Chief Justice (CJ) Flavian Zeija has said.

CJ Zeija reasoned that mediation offers a faster, less costly, and less confrontational way of resolving disputes, especially family matters that often involve sensitive issues such as divorce, child custody, and property sharing.

"A family matter can be solved by a religious leader or elders. In some divisions, we have made it mandatory that every case must go through mediation," Justice Zeija said.

He added that issues in the family division such as those arising from divorce, including property sharing, children's custody, maintenance, and alimony, must first be handled by mediators before proceeding to court.

"You can choose a private mediator who is accredited, and their charges are regulated to prevent overcharging," he said.

The Chief Justice made the remarks yesterday during the GUMZO on Alternative Dispute Resolution conference organised by the Judiciary in partnership with the Ministry of Justice and Constitutional Affairs, the International Development Law Organisation, and the African Law Practice Dispute Resolution Hub.

According to the Judiciary, nearly 90 percent of disputes in Uganda are already resolved outside the formal court system, with many conflicts settled at the community level by elders, religious leaders, and mediators.

Judicial officials noted that many citizens prefer informal mechanisms because they avoid lengthy and costly court procedures, which are also affected by limited manpower and a growing case backlog.



Chief Justice Flavian Zeija and Justice minister Norbert Mao address the media after the Alternative Dispute Resolution conference in Kampala yesterday. PHOTO/KARIM MUYOBO

Justice Zeija said the Judiciary is investing in training judicial officers and other professionals to strengthen the use of mediation.

"If you want to promote something, you must first sensitise the public so

through ADR, they agree and sign a consent. Once that happens, the dispute rarely goes beyond that stage," he said.

To tackle the monster of the case backlog, a couple of years ago, the Judiciary resorted to having all civil cases first undergo mediation and could only go on to a full trial before a judicial officer when the mediation process fails.

Backlog

According to the recently released Judiciary's National Court Case Census report, there are 167,353 cases currently pending across all court levels. Of these, 46,542 cases are classified as backlog, representing 27.81 percent of the total pending case-load.

The report also indicates that of the pending 167,353 cases, 81,353 cases (49 percent) are at the pre-hearing stage, while a total of 78,238 cases, representing 47 percent, are under the hearing stage. Also, 4,629 cases were pending judgment.

Speaking at the same event, Justice and Constitutional Affairs minister, Norbert Mao said the case backlog re-

mains a major challenge within the justice system.

"There are many cases stuck in the Judiciary, from magistrates' courts to the Supreme Court, and the Chief Justice has made clearing the backlog a priority," Mr Mao said.

Mr Mao said many disputes involving individuals, groups, and corporate entities can be resolved without going through the full court process.

"In court, you do not choose your judge, but in mediation, you choose the mediator. And if you feel the process is not going the way you want, you can walk away," he said.

He added that ADR provides disputing parties with a flexible and accessible way of resolving conflicts while reducing pressure on the court system.

President Museveni has always advocated for ADR in the Judiciary to quickly resolve cases. He voiced this in March 2024, during the African Chief Justice summit in Kampala, saying the ADR concept was in Africa before the Europeans brought their adversarial justice system.

167,353

This is the number of cases currently pending judgement, countrywide.

they understand it," he said.

He noted that the legal profession has traditionally focused more on litigation than mediation, which has contributed to the heavy reliance on courts to resolve disputes.

He added that agreements reached through mediation are often more sustainable as they are based on mutual consent between the parties.

"When people resolve disputes