

INTERNATIONAL FAMILY LAW SYMPOSIUM IAFL WITH EALS AND CLA 2 September 2025

Session Resources Pack Session 2: Cross Border AJS and NCDR

*Tuesday 2 September 2025
09:30 – 10:30*

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 - Cross border alternative justice systems and non-court dispute resolution in family law disputes – Efe Etomi

PATRICIA MUNDIA

**PWM Advocates
Nairobi
Kenya**

Email: patricia@pwmadvocates.co.ke



Patricia Wanjiru Mundia is an Advocate of the High Court of Kenya, founder of PWM Advocates, Chairperson of the East Africa Law Society Family Law Committee and Partner at Ngigi Mundia Advocates LLP.

She possesses over 12 years of specialized experience and dedicated legal support in family law. Her expertise extends beyond borders.

She represents the Law Society of Kenya as a member of the NCAJ Standing Committee on Access to and Administration of Justice for Children in Kenya.

A certified professional mediator, she is currently exploring innovative approaches to family law particularly what is proposed through alternative justice systems.

CHACHA ODERA

**Oraro & Company Advocates
Senior Partner
Nairobi
Kenya**

**Email: chacha@oraro.co.ke
Website: www.oraro.co.ke**



Chacha is the Senior Partner at Oraro & Company Advocates and a key practitioner in the Dispute Resolution practice group. With over 36 years of experience, he has represented both local and international clients in commercial disputes, employment and labour law, property law, and alternative dispute resolution.

Throughout his career, Chacha has handled high-profile cases, which have contributed to his recognition in leading international legal directories, such as Chambers Global and Legal 500, where he has been consistently ranked as a top lawyer in dispute resolution and employment law. In the Chambers Global Guide 2023, clients praised him as "very well known and highly regarded by market players."

ANTHONY ASIIMWE

**Vice President
The Uganda Law Society
Kampala
Uganda**

**Email: vp@uls.or.ug
Website: www.uls.or.ug**



PRISCA CHOGERO

**AVC and Partners Advocates
Managing Partner
Dar es Salaam
Tanzania**

**Email: prisca@avcpartners.co.tz
Website: www.avcpartners.co.tz**



EFOSA ETOMI

**Chief Rotimi Williams' Chambers
Ilupeju
Lagos
Nigeria**

**Email: ee@frawilliams.com
Website: www.frawilliams.com**



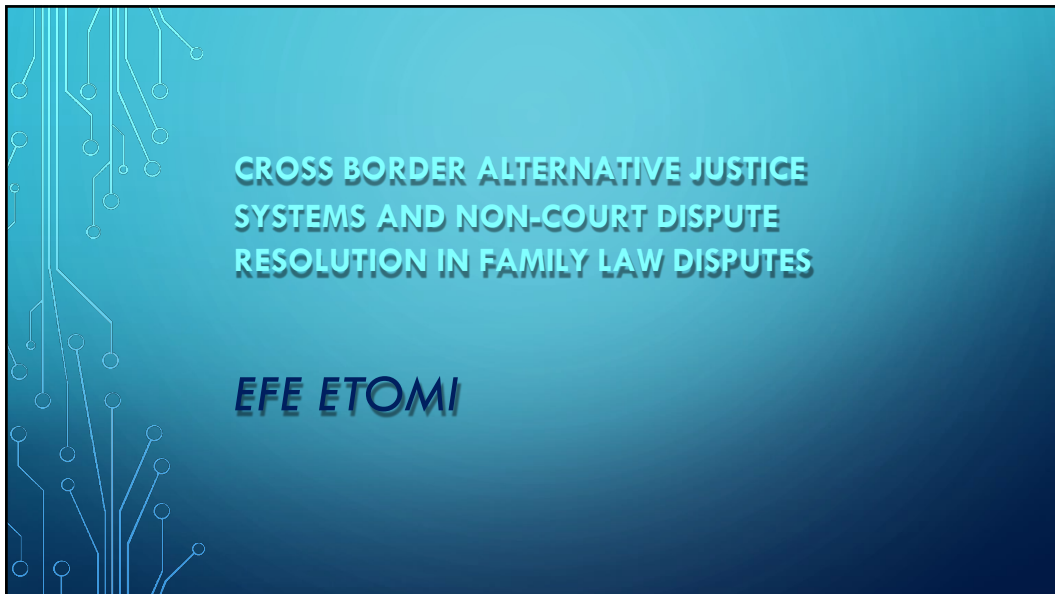
PROFESSOR JOSEPH YAV

**Professor of Law
University of Lubumbashi**

**Managing Partner
YAV & ASSOCIATES Law Firm,
Lumumba, Lubumbashi,
Haut-Katanga Province, DRC**

**Email: joseph@yavassociates.com
Website: www.yavassociates.com**





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INTRODUCTION

- Family law disputes are sensitive and emotionally charged by their nature, because they are often between people who share close ties.
- Family disputes include divorce, separation, custody of children/disputes arising from the abduction of children, sharing family asset and estate and succession matters.
- Litigation is generally one of the firmly established mechanisms for formally resolving family law disputes. However, Litigation is costly, slow and adversarial.
- The need for flexible, less hostile, and inclusive approach for resolving family law disputes have necessitated the use of non-court alternatives.

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ALTERNATIVE JUSTICE SYSTEMS (AJS) IN NIGERIA

- AJS has not received significant attention or constitutional recognition in Nigeria's justice system, like court connected and non-court connected Alternative Dispute Resolution (ADR), for resolving family law disputes.
- AJS is utilized and judicially recognized in Nigeria, not used mainstream and has not been constitutionally entrenched, as has been done in Kenya.
- It is popular in rural communities and leverages informal, social and traditional systems & institutions such as chiefs, elders, age groups, families and religious leaders for dispute resolution.

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FORMS OF AJS IN NIGERIA

- AJS takes the form of customary arbitration, customary mediation and negotiations.
- The Nigerian Supreme Court in *Okala v Udah* stated that:

Customary arbitration is one of the modes of settlement of disputes recognized under the Nigeria law, particularly where the object of dispute is such that falls within the domain of customary law. In submissions to arbitration, the general rule is that as the parties choose their own arbitrator to be the Judge in the disputes between them, they cannot when the award is good on its force, object to its decision, either upon the law or the facts.

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LIMITATIONS OF THE USE OF AJS IN CROSS-BORDER DISPUTES

AJS is not commonly used in cross-border disputes for two key reasons

it is more commonly resorted to in rural communities in Nigeria and less frequently used in urban areas.

AJS typically comes into play where there is a customary law element to the disputes, which may be absent in cross-border disputes.

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BENEFITS OF AJS IN NIGERIA

1.

• Greater inclusion of women and children, thus ensuring social inclusion and enhanced access to justice.

2.

• Cheaper and less adversarial than litigation.

3.

• Results in win-win resolution of family disputes such as custody issues, maintenance & spousal support

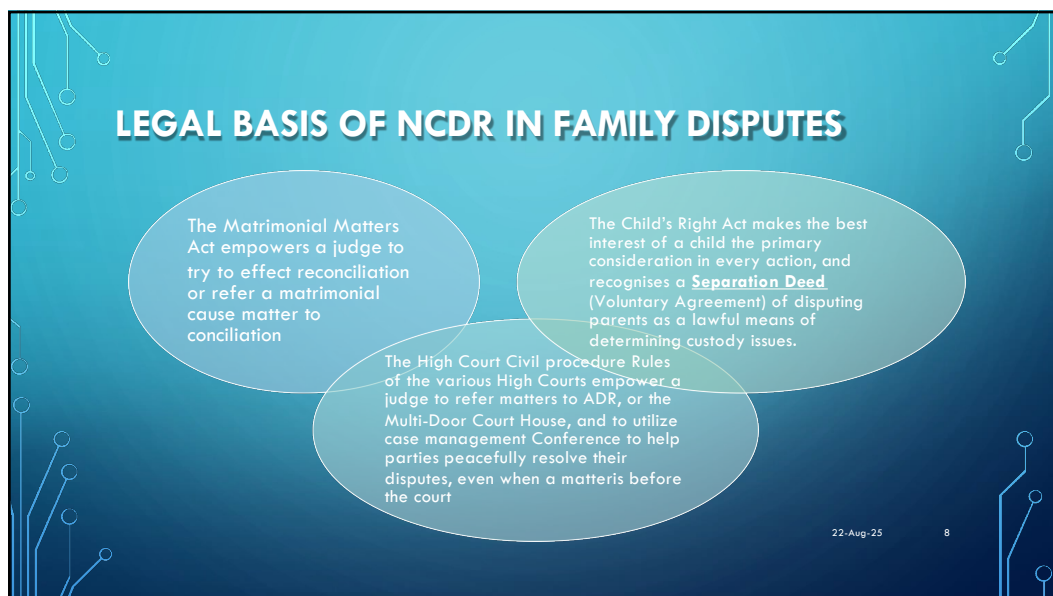
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THE MULTI-DOOR COURT HOUSE: INSTITUTIONALIZING NCDR MECHANISMS

- The establishment of Multi-Door Courthouses (MDCH), under the Multi-Door Courthouse laws of various states in Nigeria has enhanced court-connected, as well as non-court-connected ADR.
- In Lagos State, as well as in other states that have established the Multi-Door Courts, family law matters are referred by the court to mediators and conciliators at the MDCH to attempt reconciliation, and where that is not possible, to resolve issues pertaining to custody, maintenance and settlement of marital property.
- No fewer than 20 states in Nigeria have established their own MDCH
- The terms of settlement or arbitral award may be made an order of court to ensure that it is binding.

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CROSS BORDER FAMILY LAW DISPUTES

- Cross-border family law disputes are on the rise due to transnational marriages and migration.
- Cross-border disputes raise the challenges of jurisdiction, service of court processes, choice of law rule to be applied and the recognition and enforcement of foreign judgments. NCDR provides flexible solutions to surmount the challenges.
- Nigeria is not a signatory to the 1980 Hague Convention on the Civil Aspects of International Child Abduction (Hague Abduction Convention), making the utilization of NCDR (including **bilateral consular mediation/negotiation**) imperative. .

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NIGERIAN CASE STUDIES

Case Studies

Okafor v Okafor: This was a case for determination of custody and payment of child support. The parties were referred to mediation by the High Court of the FCT and the matter was finally settled after three mediation sessions.

In a live matter currently before a Nigerian Court, a custody agreement reached by the petitioners in a suit filed and heard outside of Nigeria was admitted as terms of settlement in determining custody between the parties.

Eze v Nwoye : In this case, a dispute that bordered on child custody and inheritance was resolved through customary mediation.

Aliyu v Zainab: In this matter, arbitration was used to resolve dispute on the splitting of their marital property, as was specified in their prenup, following their decision to dissolve their marriage. Within a short time, from the commencement of the arbitral proceedings, the dispute was resolved, and the arbitral award was final.

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RECOMMENDATIONS

1. NCDR mechanisms should be emphasized as a viable option for the resolution of family disputes, not only for commercial disputes.
2. Arbitration and Mediation Act 2023 should clarify the law is designed to govern ADR for the resolution of all forms of disputes, including family disputes.
3. Establish ADR centers/ Institutions across Nigeria, including rural areas.
4. Train legal professionals and social workers in family mediation, gender sensitivity, and child-focused resolution.
5. Launch public awareness campaigns to educate citizens on ADR benefits.
6. Digitize ADR platforms for use in cross-border and diaspora matters.

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CONCLUSION

- There are over 243,253 pending cases in Nigeria Superior Courts, AJS & NCDR can significantly reduce this backlog.
- The new AMA 2023, has now created a strengthened framework for the recognition and enforcement of arbitral awards; this offers an incentive for the continued use and adoption of ADR mechanisms for the resolution of family law disputes.

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THANK YOU

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