



**DISPUTE RESOLUTION IN THE
PROMOTION
OF
ECONOMIC DEVELOPMENT**

Ethiopia is known for her non-formal dispute resolution mechanisms

- **IDR (Informal Dispute Resolution Mechanisms)**
 - Currently, the most prevalent form of commercial dispute resolution in Ethiopia is informal mediation and arbitration
- **CDR (Customary Dispute Resolution Mechanism)**
 - The informal dispute resolution mechanisms operate on the basis of local customary or cultural norms and not on the basis of modern codified norms

The private justice system in Ethiopia

- 50 years after borrowing modern western laws the private justice system in Ethiopia still remains to be customary, traditional and informal
- In the face of plurality of norms, peoples' preference is still for the informal, customary and traditional dispute resolution mechanisms
- The modern codified norms remain to be unknown to the bulk of Ethiopian societies
- There is tension between the modern codified norms and the customary and traditional norms and values

The status of formal ADR in Ethiopia

- Ethiopia's achievement in developing a formal ADR System is minimal
- The existing laws relating to ADR in Ethiopia are very sketchy
- The existing laws relating to ADR in Ethiopia reflect the state of development in ADR back in the 50s
- Very little of the sketchy laws on ADR in the country has been put to use
- Formal arbitration is little known and little used in Ethiopia
- Formal arbitration is ad hoc in Ethiopia
- Institutional arbitration is just beginning and could be said hasn't yet taken off
- Modern mediation is not recognized and hence not known in the current Ethiopian dispute resolution system

The role of dispute resolution in economic development

- ADR is crucially important as a workable alternative system to a dysfunctional public justice system
- Foreign investors detest being subjected to local courts' jurisdictions
- ADR is a quick, inexpensive and effective system of dispute resolution whether of investment or commercial
- A workable system of dispute resolution attracts investors and enhances development
- The UN advocates that a workable system of dispute resolution contributes to development
- The UN Economic Commission for Africa has resolved that for the development of the African region providing an appropriate framework of dispute resolution and mechanisms for resolving conflicts is important

The role of ADR in economic devt. Contd.

- ADR increases civic engagement and creates public processes to facilitate economic restructuring and other social change
- Helps reduce the level of tension and conflict in a community
- Assists in managing disputes and conflicts that may directly impair development initiatives

Assessing the existing formal judicial/courts system in resolving commercial disputes

- Inefficient and deficient public justice system
- Lack of tenure system
- Lack of systems and/or scheme/s to attract experienced lawyers to the service of judgeship
- Lack of scheme/s helping to retain experienced judges
- Problems of judicial competence –lack in expertise to resolve complicated commercial and /or technical disputes
- Heavy burden (backlog of cases) and resultant delays despite some improvements
- Corrupt system

Assessing the existing formal judicial/courts system in resolving commercial disputes contd.

- Discredited court system and judiciary mistrust and low public perception
- No observance of judicial ethics
- Problems surrounding accessibility of the public justice system
- Problems surrounding accessibility of judicial decisions and other court documents

The need to strengthen and institutionalize the private justice system in Ethiopia

- The inefficiency and deficiency surrounding the public justice system calls for a workable pvt.jus.syst.
- Developing a workable private justice system as an integral part of the on going justice sector reform
- A workable private justice system would complement the public justice system
- A workable private justice system will attract investors
- A workable private justice system guarantees a quick, inexpensive and effective resolution of disputes
- a quick, inexpensive and effective resolution system of disputes will satisfy disputants

The importance of defending and properly prosecuting claims against and on behalf of the government

- The need for transparency- zero tolerance towards corruption
- The importance of obtaining proper legal representation in international disputes
- The hidden savings to the country in being seen to properly defend claims and not be a soft target

A formalized private justice system will not replace the courts (the public justice system)

- The need to have both public and private justice systems operating side by side
- Cases where the private justice system may be inappropriate
- The role of the public justice system in helping the private justice system work

What can Ethiopia do to promote investment through dispute resolution?

- Develop a specialized commercial court to effectively deal with complex international commercial disputes
- Create a preventive law/legal compliance environment
- Develop comprehensive laws on alternative dispute resolution mechanisms
- Develop her arbitration institutions to obtain world recognition and thereby make Addis a preferred regional dispute resolution center
- Ratify the New York Convention on Recognition and Enforcement of Foreign Arbitral Awards
- Ratify the ICSID Convention
- Combine her traditional mechanisms with new approaches to be able to adapt to new needs and demands
- Develop institutional support for mediation, conciliation compulsory conciliation and other non-decisional mechanisms of dispute resolution

What can Ethiopia do to promote investment through dispute resolution? Contd.

- Train experts in dispute resolution
- Give adequate dosage of commercial law courses to judges in the various judicial training centers in the country
- In addition to the classic dispute resolution mechanisms like arbitration and conciliation/mediation, introduce into her system other mechanisms like:
 - Rent-a-judge;
 - Med-arb;
 - Non-binding arbitration;
 - Final offer arbitration;
 - Mini-trial;

What can Ethiopia do to promote investment through dispute resolution? Contd.

Summary jury trial;
Early neutral evaluation;
Neutral expert fact finding;
Ombudsperson;
Court-annexed arbitration;
Court-annexed mediation; and
Adjudication

- Introduce multi-door court houses
- See to it that the public justice system and the private justice system work together, are integrated if possible
- See to it that her law schools design and offer appropriate courses on ADR
- Work towards making Addis a known regional dispute resolution center



THANK YOU