



AFRICA MEDIATION ASSOCIATION

together for change

Welcome to our annual newsletter!

Africa has been enmeshed in various forms of intra and inter state conflict often times posing a major challenge for development and peace to occur. This is compounded by global threats and shocks. The Africa Mediation Association has been in the forefront of promoting mediation as a tool for the amicable resolution of disputes on the continent.

In this 2023 newsletter, we share updates on the work of AMA on the continent! We are excited to announce that AMA inaugurated its International Advisory Board (IAB) in 2023. Emeka Obegolu and Prabha Sankaranarayan were elected President and Vice President respectively. Other members of the IAB includes Beryl Anyango Ouma, Hela Cherif, Liz Hume, Tim Murithi, Philip Hackett, Cori Wielenga, Ulla Glaber, Rosemary Anyona, James Mangerere and Theophilus Ekpon who serves as the Secretary of the IAB.



Africa Mediation
Association Launches
to Foster
Collaborative
Peacebuilding



"MBBI is honored to support the launch of this important entity on the continent. AMA encompasses a wealth of practices within its membership, and I look forward to amplifying the impact of mediators and peacebuilders working in extremely complex circumstances with courage and creativity!" Prabha Sankaranarayan.

On November 16th 2023, the Africa Mediation Association (AMA) was launched during the 10th International Congress of the Mediators Beyond Borders International (MBBI) in Nairobi, Kenya. The AMA Launch Event which aligned with the theme of the MBBI Congress of "Identity, Belonging, and Migration," marked a significant milestone in the realm of conflict transformation and peacebuilding across the African continent.

The AMA launch was attended by the AMA President James Mangerere, the Deputy President Dr. Sokfa John, AMA International Advisory Board members Beryl Auma and Rosemary Anyona, and the President of MBBI Prabha Sankaranarayan. AMA, as a non-profit organization, aspires to collaborate with citizens, public institutions, and private entities to enhance the application of mediation as a viable and responsive alternative dispute resolution model in Africa.

The association's primary goal is to strategically promote mediation as a results-oriented and impactful mechanism for resolving disputes within African communities and institutions. During the launch, James Mangerere provided an insightful overview of the association's mission and objectives. He emphasized the critical role of mediation in achieving sustainable peace and encouraged attendees to register as members. The call to membership was seen as a pivotal step in propelling collaborative practices in conflict resolution within Africa. While speaking on African trends, Dr. Sokfa John encouraged the use and embrace of technology as a tool for effective mediation.

Participants at the AMA launch suggested the creation of national and francophone chapters to help mobilize mediators and make the desired impact. They also suggested that AMA should embark on large scale awareness campaign to promote the association and its objectives including rewarding excellence in the field of mediation on the continent.

Lastly, participants are of the view that qualification and accreditation requirements should be waived for community mediators to ensure their emancipation into the work of AMA. AMA's emphasis on collaborative mediation practices within Africa is a response to the pressing issues of identity, belonging, and migration that the continent faces.

By fostering a sense of community and understanding, the association aims to contribute to the resolution of conflicts and challenges arising from cultural diversity and migration trends. The launch of the Africa Mediation Association sets the stage for a new era of conflict resolution in Africa. AMA's commitment to collaborative practices and mediation as a dispute resolution mechanism is poised to make a significant impact in shaping a more peaceful and harmonious future for the continent.

As the association continues to grow and gain momentum, its role in shaping the next decade of mediation and collaborative practices in peacebuilding will be closely watched, offering hope for a more united and resilient Africa.

Webinar on Commercial Disputes: A Case Study of Germany.



The Africa Mediation Association (AMA) in collaboration with the German Foundation on International Legal Cooperation (IRZ) supported by the Federal Ministry of Justice (BMJ) organized a webinar on Mediation in Commercial Disputes with a focus on Germany. Ingrid Hönlinger, a prominent German lawmaker, lawyer and mediator was the Guest Speaker. The Deputy President of AMA, Dr. Sokfa John served as the webinar moderator.

According to the Guest Speaker, mediation in Germany began in the 1970s, and it was not until May 21 2008, that the European Union issued directives on its legislation due to cross-border civil and commercial disputes. On July 26 2008, the Mediation Act was enacted for all forms of mediation in Germany, regardless of the type of dispute or the residence of the parties involved.

The German Mediation Act establishes general guidelines, providing significant flexibility for mediators and parties involved during the mediation process. The English translation of the German Mediation Act can be accessed [here](#). While the Act defines the terms 'mediation' and 'mediator,' it deliberately avoids establishing a code of conduct for the mediation process. However, it outlines disclosure obligations and activity restrictions to safeguard the independence and impartiality of mediators. Moreover, legislation formally obliges mediators to maintain strict client confidentiality.

Germany continues to strengthen the legal regulations on Mediation since the Federal Government was required to report to the Bundestag (lower house of parliament) on the Act's impact five years after its implementation, which was done in 2017.

There are five stages of mediation effective in handling positions and interests in a dispute:

Stage 1: Opening Stage / Starting Situation This stage involves introductions, emphasizes confidentiality, sets mediation goals and rules, and defines the mediator's role.

Stage 2: From Position to Topic Parties describe their positions, and the mediator guides communication to collect relevant topics.

Stage 3: From Topic to Interest Direct communication is implemented, shedding light on the conflict, clearing up interests and emotions, recognizing needs, formulating wishes, and dissolving positions.

Stage 4: Developing Solutions This involves brainstorming, collecting solution ideas, evaluating them, and seeking common ground, leading to a mutually developed solution.

Stage 5: Formulating Solutions Parties work on formulating SMART solutions - Specific, Measurable, Acceptable, Realistic, and Timed. Reading and signing the agreement occur at this stage.

Additionally, the mediator can propose another meeting to examine compliance with the mediation agreement. If needed, themes or changes can be discussed in the new meeting.

Mediation can serve as a strong tool for dispute resolution in commercial disputes since all parties have an interest in low-cost and satisfactory solutions. During the webinar, an example was given on the future

directions of a family-owned company that led to internal disagreements. Another example can be of disputes between trading partners, among other disagreements in the realm of commercial activity.

Mediation costs are usually negotiated between the mediator and the parties involved and there is no legislation governing mediation fees. Legal aid mediation is not currently envisaged, except for a pilot project in the federal state of Berlin, "Bigfam."

There is currently no legislation that defines the professional profile of a mediator in Germany. However, the Federal Ministry of Justice introduced regulations for additional training and further development criteria. A certified mediator requires 130 hours of mediation training, 5 practice cases under supervision, and continuous training. Various associations, organizations, universities, companies, and institutions currently offer mediation training in Germany.

The Mediation Act encourages mutual dispute settlement, incorporating incentives in official procedural codes. For instance, when parties bring an action in a civil court, they must declare whether they have attempted out-of-court measures, such as mediation. The court may also suggest settling the conflict via mediation or another form of out-of-court settlement. In principle, a mediation agreement can be enforced with the assistance of a lawyer, mediator, or notary.

In general, the advantages of mediation include high satisfaction levels, sustainable resolution, quick and efficient dispute resolution, and an internationally applicable method of dispute resolution. Online dispute resolution makes it helpful for parties who prefer not to meet in person.

In conclusion, it is evident that a key similarity between Kenya and Germany in experiences of commercial disputes is the resistance by lawyers. Most commercial disputes have an arbitration clause, preferring it over mediation. Germany is more advanced in mediation compared to Kenya, with more private mediation in commercial disputes than through court-annexed mediation. Germany has a thriving environment for mediation. Creativity is the way to promote mediation.

https://e-justice.europa.eu/64/EN/mediation_in_eu_countries?GERMANY&init=true&member=1



**Highlights from the Webinar on Mediation in
German Local Administrations and
Communities and its Implications for Mediation
in Africa**

The Africa Mediation Association (AMA) and the German Foundation for International Legal Cooperation (IRZ) supported by the Federal Ministry of Justice (BMJ) organized a webinar focusing on Mediation in German Local Administrations and Communities and its Implications for Mediation in Africa on September 25th, 2023.

The Guest Speaker, Juliane Ade, provided insights into the legal foundations, application areas, and challenges of mediation within the German Civil Service, and participatory processes with citizens, drawing interesting lessons for Africa as can be seen in this summary. The webinar was moderated by the Organizing Secretary of AMA, Crispin Wura-sey.

The main legal bases for mediation in the German civil service include Civil Service Law, State and Federal Administrative Law, and the German Mediation Law (Mediationsgesetz), established in 2012. These laws provide a framework for both internal workplace mediation and external mediative citizen participation formats. The English translation of the German Mediation Act can be accessed [here](https://www.gesetze-im-internet.de/englisch_mediationsg/englisch_mediationsg.html). (https://www.gesetze-im-internet.de/englisch_mediationsg/englisch_mediationsg.html)

Within the German civil service, workplace conflicts are addressed through intraorganizational mediation. This can occur among teams, colleagues, hierarchical levels, and different departments. Conflicts arise from factors such as structural issues, pressures from change, and conflicting interests. The German Civil Service's unique features, including a transparent salary system and a strong emphasis on hierarchical structures, significantly impact mediation processes.

Conflicts within the Civil Service range from disputes affecting building applications and escalated neighbor conflicts to disagreements between research officers at cooperating universities. Discrimination incidents against superiors, colleagues, citizens, and students, as well as conflicts following leadership changes, are also common. Both internal and external mediators play a crucial role in resolving these conflicts.

Mediation in local administrations faces certain legal limitations, emphasizing voluntariness in mediation law. Despite these limitations, mediation is deemed essential for voluntary informal conflict resolution, emphasizing communication and relationship clarification.

Mediation is integrated into communal administration processes, particularly in planning and approval procedures. The scope extends to infrastructure projects, aligning with principles such as the common good, transparency, neutrality, and stakeholder involvement. Various mediatory participatory formats, including public hearings, information events, and dialogue formats, contribute to decision-making in urban planning, building projects, and environmental conflicts.

The German experience has several lessons to strengthen mediation in Africa. The case study of Germany shows that for mediation to flourish in Africa, national governments and citizens need to enact mediation laws to provide a framework for mediation at all levels including in local communities. While some countries including Kenya and Nigeria have made modest progress in this context, several African countries are left

behind. The German experience also shows how mediation can play a central role in governance at all levels in Africa to promote transparency, best standards, and citizens participation in governance.

The case study of using mediation for local government administration in Nigeria as initiated by the Centre for Sustainable Development and Education in Africa serves as an example of mediation on an individual, collective, and structural level. This inclusive approach involves women and youth, addressing challenges such as resource constraints, publicity, fluctuating engaged parties, and distrust. The challenges in mediation as derived from the Nigerian experience include resource constraints, publicity issues, fluctuation of engaged parties, and dependency on individuals. To ensure long-term success, the development of competences, secured financing, long-term planning, and early involvement of stakeholders are essential.

Mediation in German public administration, encompassing both internal and external dimensions, is a dynamic process influenced by legal frameworks, organizational structures, and stakeholder involvement. Recognizing the challenges and conditions for success is crucial in fostering effective conflict resolution and decision-making within local administrations and communities.



AMA Launches its Maiden Mediation Training



The Africa Mediation Association (AMA) in collaboration with the Institute for Public Policy and International Affairs, United States International University (USIU) organized its first ever Mediation, Diplomacy and Negotiation Course from 20th to 24th November 2023.

The 40 hours course which held at the USIU main campus in Nairobi exposed participants to basic mediation process including how to facilitate mediation to reach an agreement. Participants also learnt about diplomatic negotiations and protocols, skills in diplomatic negotiations, bargaining and shuttle diplomacy.

AMA mediation courses are aimed at deepening the understanding of AMA members on mediation at community, national, continental and global space. The mediation training also introduced participants to the linkages between mediation, diplomacy and negotiation.

The next in-person AMA mediation course is scheduled to hold at the end of April 2024 and further information will be shared with members soon. AMA is also planning its first online and hybrid mediation trainings. Stay tuned!



Exploring New Horizons: Highlights from the 2023 Intercontinental Mediation Summit

The Africa Mediation Association (AMA) partnered with the Institute for Chartered Mediators and Conciliators (ICMC), the Mediation Training Institute East Africa, and the International Mediation Institute (IMI) to organize the 2023 Intercontinental Mediation Summit on the 18th and 19th October 2023. The conference, organized in collaboration with our partners brought together professionals, experts, and thought leaders from various fields to discuss the theme "Mediate First: Exploring New Horizons Today and Beyond."

The first day of the summit began with a series of captivating keynote speeches. In her remarks, the Chief Justice of Kenya, Martha Koome pledged to champion the Mediation Bill in Kenya, emphasizing that empowering people is a collective responsibility. She lauded court-annexed mediation for significantly reducing backlog cases and fostering harmony in both business and family settings.

The second speaker, Linda Heng from Singapore showcased AI Dispute Advisor Community (AIDA) by Reso X, demonstrating how AI can personalize conversations empathetically, identify dispute types, and guide participants towards successful mediation. Tat Lim, a Board Member of IMI from Singapore discussed the evolving role of lawyers in mediation, underlining the importance of legal professionals understanding the effectiveness of mediation.

He also praised the collaborative support from the judiciary and executive branches in Singapore which is crucial for establishing a thriving mediation environment. Finally, Prof. David Weiss introduced the New Jersey Arbitration Mediation and Conciliation Act, proposing it as a global solution for cross-country disputes, enforceable under the New York Convention in over 157 countries worldwide.

On the second day of the summit, a diverse array of speakers shared their ideas. Justice Harriet Magala from Uganda drew parallels between mediation and historical times specifically biblical times, highlighting its enduring significance. She commended Kenya's recognition of private mediation and emphasized the need for ongoing mediation education, even at the university level.

Susan Bongers from Switzerland spoke on workplace mediation, with a focus on averting conflict escalation and managing diverse interests. Paul J. Van Osselaer, President of the International Academy of Mediators illuminated the intricacies of mediating insurance disputes. Joe Tirado stressed the significance of international conventions like the Singapore and New York Conventions in investor-state mediation, essential for attracting investors and improving the business environment.

Jean-Christophe Barth, Executive Director of the World Association of Public Private Partnership Units and Professionals (WAPPP), emphasized mediation as a performance catalyst in projects and the importance of deal mediators from the agreement's outset. Jonathan Lloyd-Jones from the UK discussed how mediation can benefit lawyers and clients, showcasing its potential through a precedent case from England. Dr. Theo Bitho, founder of Bitho Law explored dispute resolution under OHADA rules, focusing on the benefits in the African context and its role in creating an investor-friendly environment.