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CENTRE TEAM VISITS SOUTH RIFT COUNTIES TO CREATE AWARENESS OF ADR MECHANISMS

31ST SEPTEMBER 2024

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THE CENTRE'S ENGAGEMENT WITH SOUTH RIFT COUNTIES

As part of the Centre's mandate to promote the use of Alternative Dispute Resolution mechanisms and in line with the planned activities outlined in the Centre's strategic plan 2023-2027, a team from the Centre visited the south rift counties of Nandi, Uasin Gishu, Trans Nzoia, Elgeyo Marakwet and Baringo from 9th to 13th September 2024 to meet with different stakeholder groups both in the private and the public sectors. The initiative of visiting counties is aimed at raising awareness of the Centre's activities and the ADR services on offer as we strive to deepen the use of ADR in the grassroots to resolve disputes. It is also part of our commitment to foster collaborations that advance the cause of Alternative Dispute Resolution (ADR) at the county level. The team was also able to visit the counties of Kajjado, Turkana, West Pokot and Samburu where the team engaged with various stakeholders in the months of September and November.

Below are the highlights of the 5 counties visited in the South Rift region from 9th to 13th September 2024:

NANDI COUNTY

The engagement commenced with a courtesy call to the office of the Nandi County Commissioner, where the team was hosted by Deputy County Commissioner *Ms. Alfet Hadula Jillo*. The team made a detailed presentation of the mandate of the Centre, highlighting areas of possible collaboration with the National Government Administration in supporting the resolution of disputes among the communities.



Deputy County Commissioner Alfet Hadulu Jillo with NCIA team during the meeting at her office.

On her part Ms. Jillo offered valuable insights into the County's prevalent disputes, noting that the majority were related to land inheritance and succession among clans and family members. She appreciated the role the Centre was playing in sensitizing and promoting the use of ADR mechanisms in dispute resolution, observing that upon the enactment of the National ADR Policy, the collaboration with national government should be escalated through the Ministry of Interior commencing with building capacity senior administrators including County Commissioners, Deputy County Commissioners and Assistant County Commissioners in matters ADR.

The team also had the opportunity to meet with the Nandi County Attorney Hon. Amos Magut and his team and had discussions covering the functions of NCIA, partnerships, training initiatives, and the inclusion of the NCIA Mediation and Arbitration Clauses in contracts.



The NCIA team and the County Attorney with his team pose for a group photo after the meeting.

The County Solicitor observed that due to the ad hoc nature of pricing ADR services by sector players, the cost of ADR, especially Arbitration was considerably high, which he observed may affect uptake. The team however assured him that once the National ADR policy becomes enacted, the mandate of the Centre will include regulation of the ADR practice to ensure standardization and quality assurance.

It was also clarified that the Centre has rules and regulations that govern the practice of Mediators and Arbitrators accredited by the Centre which would address such situations of ad hoc fees setting. The team expressed its interest in collaborating with the Centre in capacity building and adoption of NCIA Clauses in their contracts through a structured MOU.

The team held a fruitful discussion with the Kenya National Chamber of Commerce and Industry (KNCCI) Nandi Chapter led by the branch Chairman Mr. Elly Chepkwony and the Director of Membership, Trade, Investment and Legal Affairs Mr. Peter Chalicha. The team took the Directors through the mandate of the Centre and explained areas of collaboration in the existing MOU between the national office of the chamber and the Centre.



The NCIA team during the meeting with the branch Chairman Mr. Elly Chepkwony and the Director of Membership Mr. Peter Chalicha.

The directors noted that there was a need to carry out a sensitization webinar on ADR and how the service can be accessed. There was also needed to build the capacity of the chapter Directors by training and certifying them in mediation to enable us to provide mediation services to its 600 members. They also proposed face to face interaction with members during the chapter's AGM, breakfast meetings for contractors and women in business, and during the general business dinner for members.

The team concluded its meetings in the County by having fruitful discussions with Nandi Law Courts Head of Station Hon. Sambu Kibet, who was accompanied by the Court Administrator Mr. Evans Kibet. The NCIA team explained the mandate and functions of the Centre, collaboration opportunities with the Judiciary, training and public awareness initiatives.



Nandi Law Court Head of Station Hon. Sambu Kibet with the NCIA team during the meeting.

The team explained the mandate of the Centre and how the Centre can collaborate with the courts in mediation and capacity building. The judge on the other hand stated that they actively encourage the public to opt for ADR rather than rushing for the litigation process while acknowledging lack of awareness in the use of mediation has made the public believe that the only way of settling disputes must be through courts. He suggests that the Centre undertakes active sensitization to the public while highlighting them ADR being the fastest and least costly option for resolving disputes.

The team proceeded to the county of Uasin Gishu where they held meetings with different stakeholders including the County Commissioner Dr. Adanon Nyale with discussions covering the mandate of the Centre and how the Centre plans to collaborate with National Government Officers (NGAO) in building capacity of senior administration officers to equip them with skills and knowledge necessary for handling disputes in a structured manner.



Dr. Nyale with the NCIA team during the discussions

Dr. Nyale provided valuable insights on the disputes profile in the county noting that majority disputes revolved around land, boundaries, inheritance and succession. He expressed his support for the Centre in promoting ADR as an effective way to resolve disputes and noted that upon the enactment of National ADR Policy, the Centre should collaborate with NDC to train and certify senior administrators and sensitize the Chiefs, Assistant Chiefs, Village Elders, and the community on matters relating to ADR. He noted that there was a close working relationship between his office and the judiciary through the court annex mediation at Moiben and Turbo sub-counties.

The team later met the staff of the Uasin Gishu County Attorney's office to discuss how the Centre can support the county to resolve the many disputes that are currently pending in court. The Senior Legal Counsel Mr. Kenneth Mutai noted that the County Government of Uasin Gishu was willing to embrace the use of ADR due to the significant number of cases that county attorney's legal team was handling.



The NCIA and the members of staff of the County Attorney staff after the meeting.

He observed that that the prevalent cases related to land, labour and suppliers' contracts were expensive to the county and a burden to their staff. He observed that ADR practitioners were charging exorbitant fees due to the unregulated nature of the practice. The team expressed its interest in collaborating with the Centre in capacity building and adoption of NCIA Clauses in their contracts through having MOUs.

The team, later in the afternoon had discussions with the KNCCI, Uasin Gishu County Chapter which was represented by the Mr. Seth Willy Ogutu the director in charge of membership development and recruitment and was accompanied by other directors and the chapter chief executive officer Ms. Veronica Cheruiyot.



Meeting with Kenya National Chamber of Commerce and Industry Directors

The NCIA team made a presentation on the mandate and functions of the Centre, opportunities for collaboration with the chapter in capacity building and public awareness initiatives. It also provided highlights of the MOU signed with the national office, adoption of the Centre's ADR services and utilization of NCIA hearing facilities.



Chapter Directors pose for a group photo with the NCIA team.

The directors of KNCCI Uasin Gishu chapter expressed interest in collaborating with the Centre in training its directors in mediation, sensitization of its members especially during events such as board inductions, annual general meetings and proposed a direct MOU with the Centre if possible. They noted that they have a vibrant membership of over 6,000 members with some having disputes with CRB, KRA, NCA and KEBS indicating that ADR may facilitate resolving such disputes.

TRANS NZOIA COUNTY

The team on its third day in the region travelled to the county of Trans Nzoia where they had a meeting with the county governor Hon George Ntembeya, and his team led by the County Attorney Hon. Charles Wanyonyi. Discussions revolved around the functions and mandate of NCIA, areas of collaboration, training and capacity building initiatives, and the utilization of NCIA facilities during ADR processes.



Trans Nzoia County Governor Hon. Ntembeya with NCIA Head of Corporate Communication

The County Attorney Hon. Wabobwa Walioli noted that the county legal team had, through the courts, dealt with disputes related to pending bills and land disputes, most of which he noted could easily have been resolved through ADR. He expressed his appreciation of the visit by the NCIA team and welcomed the proposal to build capacity of staff on matters ADR.



The Trans Nzoia Governor Hon. George Ntembeya, County Attorney Hon. Walioli and the NCIA team after the meeting

Hon. Ntembeya commended the use of ADR in handling disputes and emphasized the need for capacity building to ensure court staff took an active role in resolving disputes through mediation as the best way of resolving disputes. He welcomed the progress made in coming up with a National ADR policy which he observed will help to regulate the practice and training of ADR in the country and expressed interest in collaborating with the Centre.

The team also had the opportunity to meet with the Chairman of the KNCCI Trans Nzoia chapter Mr Titus Kilongi who was accompanied by other officials including the Vice Chairperson Mr. Simon Wabire.



NCIA team and chamber officials during the meeting.

The Chairman expressed his support for the Centre's mandate to promote the use of ADR mechanisms in resolving disputes adding that the chapter's was willing to collaborate with the Centre for tailor made training initiatives for chapter directors and members.



The NCIA team and the chamber officials pose for a group photo after the meeting.

The team held discussions with the Hon. Samuel Mutai, the Head of Station, Kitale Law Courts with the discussions revolving around the mandate and functions of the Centre, collaboration opportunities with the Judiciary in dispensing justice, training and public awareness initiatives.



Hon. Kimutai with the NCIA team during the meeting.

The NCIA team informed the HOS that the Judiciary and the Centre have been collaborating since the idea was mooted to establish the court annexed mediation and was currently training and certifying mediators and arbitrators who qualify for accreditation by the court. The Centre was also collaborating with the Judiciary in building the capacity of Judicial officers on ADR mechanisms and will also be collaborating during the Nairobi Arbitration Week 2025 scheduled to take place in March 2025. Hon. Mutai appreciated the NCIA team for visiting the Kitale law courts, noting that collaboration of the two institutions is key in the dispensing of justice to the public.

ELGEYO MARAKWET COUNTY

The team on their fourth day travelled to Elgeyo Marakwet county where they met the Deputy County Commissioner, Mr. Julius Maiyo and held discussions that centered on the mandate and functions of NCIA, partnerships, training initiatives, and progress on the national ADR policy.



NCIA team with Mr. Maiyo during the meeting at his office.

Mr. Maiyo offered valuable insights into the county dynamics and challenges faced by national government administration officers when handling disputes among the community. He noted that common disputes in the county included land and succession disputes, adding that he was pleased to note that there was a government agency to support the building of capacity of officers in the national government on matters ADR and expressed optimism that the National ADR policy will provide opportunity for structured ADR practice once enacted.

The team also had the opportunity to meet with the Deputy County Governor H. E Prof. Grace Cheserek who was accompanied by the County Secretary Hon. Paul Chemutut.



Deputy Governor Cheserek accompanied by the County Secretary and the NCIA team after the meeting.

The Deputy Governor expressed her support for ADR mechanisms in resolving disputes and welcomed initiatives by the Centre to sensitize and build capacity of county staff in adopting the use of ADR in dispute resolution. She noted that she had a personal interest in becoming a mediator and urged further engagement to train her and the leadership of the county to ensure preparedness when disputes arise.

She further noted that the county is the third least funded county by the exchequer which had forced them rely on partnerships including donors to fund their capacity building efforts. She appreciated the progress made in developing a National ADR policy which she noted will regulate the ADR practice and ensure it is devolved to the grass roots, which will ensure easy access of services to the community.

The NCIA team proceeded to meet with the Kenya National Chamber of Commerce and Industry, Elgeyo Marakwet chapter led by their Chairman Mr. John Chemugut who was accompanied by the Vice Chairperson Mr. Joseph Kiptai and other directors.



Mr. Chemugut and the NCIA team pose for a group photo after the meeting.

The NCIA team took the directors through the mandate of the Centre and the areas that the Center was collaborating with the national office including training and sensitization of members on ADR mechanisms. The Chairman welcomed collaboration in building the capacity of chapter directors, sensitization of the members through webinars and inclusion of NCIA clause in their members contracts with the county government and other business partners once they became sensitized.

Directors expressed interest in collaborating with the Centre in training directors in mediation and proposed sensitization of members on ADR during events including their Annual General Meetings.

The team on its last day in the county held discussions with Hon. Gladys Adhiambo, the Head of Station, Kabarnet Law Courts. The NCIA team presented the mandate and functions of the Centre, discussed areas of collaboration with the Judiciary in dispensing justice, training and public awareness initiatives.



Hon. Adhiambo with the NCIA team accompanied by the Court Administrator Mr. Titus Rono after the meeting.

The NCIA team informed the Head of Station that the Judiciary and the Centre collaborated during the inception of the court annexed mediation and was currently training and certifying mediators and arbitrators who qualify for accreditation by the court. The Centre was also collaborating with the Judiciary in building the capacity of Judicial officers on ADR mechanisms and will be collaborating during the upcoming Nairobi Arbitration Week 2025 scheduled for March 2025.

Hon. Adhiambo reiterated that ADR was the best way to reduce cases in the courts and encouraged collaboration between the Centre and the judiciary and the court users committee to sensitize stakeholders on ADR.

BARINGO COUNTY

The team met the Baringo County Governor H.E Benjamin Cheboi who was accompanied by the County Attorney Mr. Julius Tarus and other officials.



The NCIA team pose for a group photo with Hon Cheboi after the meeting at his office. Next to him is the County Attorney Mr. Julius Tarus

The Governor expressed his support for the Centre in execution of its mandate, adding that the County Government was keen on adopting ADR mechanisms to resolve its disputes. He observed that the most common disputes faced by the county include labour relations, land, and vendors/supplier's disputes.



H.E Benjamin Cheboi with the team during the meeting at his office.

Mr. Tarus, the County Attorney, observed that ADR was the best way to handle disputes quickly and at an affordable cost but added that the current ad hoc manner applied by practitioners when charging services had made it relatively expensive.

He, however, appreciated the progress made towards the enactment of the National ADR policy which he noted will bring sanity and order to the practice, including easy access to services. The team expressed interest in collaborating with the Centre in capacity building initiatives and adoption of the Centre's mediation and arbitration clauses in their contracts. He requested a draft MOU to formalize the identified areas of collaboration.

The team also held discussions with the Kabarnet Law Courts Head of Station, Hon. Purity Koskei, who was accompanied by the station Court Administrator Mr. Anthony Koome.



Kabarnet Law Courts Hon. Purity Koskei accompanied by the Court Administrator Mr. Anthony Koome and the NCIA team

Ms. Koskei expressed her support for ADR mechanisms in resolving disputes, noting that this had decongested the courts and ensured that justice was dispensed quickly and at an affordable cost. She welcomed the initiatives by the Centre to sensitize and build the capacity of judiciary in support of the adoption of ADR mechanisms.

She welcomed the collaboration between the Centre and the station on the promotion of ADR during the judiciary open days and other forums such as sensitization of the

court users committee.

She noted that there were only seven mediators in the county, a number which she observed was exceptionally low, adding that there were skill gaps that needed to be addressed through capacity building and training to make the process effective and acceptable by parties in disputes and to avoid matters being referred to the courts after the ADR process is conducted.

The team also had the opportunity to meet with the Assistant County Commissioner, Mr. Stephen Wasike, where the team took him through the mandate and functions of the Centre. Mr. Wasike offered valuable insights into the prevalent disputes that include land inheritance and succession disputes amongst the clans and family members.



Mr. Wasike with the NCIA team during the meeting at his office.

He welcomed the role of the Centre in promoting ADR in resolving disputes and looked forward to further collaboration upon the enactment of the National ADR Policy.

The team also held discussions with Mr. Jeremiah Chesirewa, a Director at the Kenya National Chamber of Commerce and Industry, Baringo Chapter.



Mr. Jeremiah Chesirewa, a Director at KNCCI Baringo Chapter and the PCMO, after the meeting.

The NCIA team took him through the mandate of the Centre and areas of collaboration with the national office. He expressed his interest on behalf of KNCCI Baringo Chapter in collaborating with Centre in training the directors on mediation, sensitization of its members especially during events including the Annual General Meeting and proposed a direct MOU with the Centre to make it easier for their members to have the NCIA ADR Clause in their future engagement contracts especially while entering business contracts with the county government.