

OPENING REMARKS BY CHIEF JUSTICE SAM RUGEGE AT THE MEDIATION SKILLS TRAINING OF MARCH 12-16, 2018

1. Welcoming Remarks

- Our Dear Friends Bruce Edwards and Emily Gould, Dear participants from the Judiciary, the Bar Association and different institutions, I offer you my warmest greetings.
- I am very pleased to be here this morning as we take the first steps towards putting into practice our dream and commitment to expand mediation as a major form of dispute resolution in our country.
- Allow me first to welcome our friends, Bruce and Emily who made a long trip all the way from the USA to be with us once again and for having sacrificed their valuable time to come and conduct this five-day training on mediation skills, despite their busy schedules.
- Some of you were here last year in January during the Mediation Seminar organized by KIAC and you may remember Bruce's passion for mediation as he and Hon. Judge Weinstein gave us a flavor of the mediation process. Since then we have had discussions on how we could go further and establish mediation as a serious form of alternative dispute resolution beyond the Abunzi process, focusing on court-based mediation. With the support of our mediator-friends, Emily, Bruce, judge Weinstein and their respective organizations, African Peace Partners, Edwards Mediation Academy and JAMS Foundation, we initiated a mediation pilot project to be implemented in commercial courts, starting with this training in mediation skills.

2. Background and issues

- We have had provisions for mediation in the law and have been trying mediation in courts during the last five years, but litigants and lawyers have underutilized mediation process probably because judges, lawyers and registrars did not have adequate skills in modern mediation but also because of reluctance perhaps for lack of faith in mediation as a final solution to disputes. Yet we are convinced that mediation is in many cases a better way to settle disputes, restore harmony among parties and maintain the peace.
- Lawyers may think they will lose a substantial part of their fees if they do not argue their cases in the usual way but since they will take part in negotiations for a settlement during mediation, they will still be paid by their clients. In fact, a reputation for good negotiating skills should attract more clients. In-house counsels and lawyers of public institutions should also not worry that their bosses will think they gave in without a serious fight. The result of mediation is normally satisfactory to all parties and eliminates the bitter taste of defeat hence maintaining cordial relations between the parties, which is a good thing. But let me leave the persuasion to Bruce.
- This is the reason why we invited corporates that tend to file disputes in commercial courts, lawyers that appear often in commercial litigation and judges from commercial courts who will mediate commercial cases, so that they can acquire the skills required for mediation to work effectively as well as gain the conviction that mediation works and is often a better path than litigation.

- We are fortunate and privileged to have the right people who have vast experience in the practice of mediation, who have designed courses on approaches to mediation in its modern forms and are teaching these courses in different parts of the World and who are passionate about mediation. They are well-equipped to effectively impart the necessary skills based on experience and I see from the program that every aspect of the mediation process is covered from adequate preparation to managing emotions, to skillful negotiation and concluding a settlement.
- We want to develop a well-functioning court-based mediation process that complements the existing litigation system. I therefore urge you participants to take advantage of this training and acquire the skills, not only for the knowledge but to put them to use as advisors to clients or to your respective organizations and thereby help our country build a new culture of modern mediation.
- In Courts, Judges will propose mediation in disputes when they deem it appropriate. The practice in countries where mediation works effectively shows that the major part of disputes filed in courts are mediatable. There is no reason why this should not work in Rwanda where we can rely on a tradition of mediation and dialogue at many levels.
- The Judiciary of Rwanda is committed to this change process and call upon all financial institutions, corporates and other business organizations waiting for trial in commercial courts to inform the relevant court about their willingness to have their cases mediated and they will, as an incentive, be assigned an early date in preference to those who opt for litigation.
- We have started with commercial courts, but our objective is to extend the practice to ordinary courts as well for judges to be able to mediate other appropriate matters once there is an enabling legislation.

3. Recognition

I would like to express my sincere gratitude to our USA Partners:

- I thank the JAMS Foundation and its leading light, Hon. Judge Weinstein, a Pioneer of Mediation in US and doyen and mentor of mediators in America. JAMS Foundation supports our Court ADR Project under which this training has been organized. We are also under the same project support, in the process of preparing directives to be issued on mediation in courts. At the end of this training, the project will provide support in screening cases that are appropriate for mediation and organizing mediation sessions by judges.
- I wish to thank the Edwards Mediation Academy founded by Bruce here today in person for greatly valuable support. Besides the facilitation of the seminar last year and the present training, Bruce and his Academy offered us the use for free of an online basic skills course for reference during practice over the next three months. You will have the opportunity to discuss the modalities of certification, if that is possible. Thank you, Bruce, for being here to share your skills, thank you for allowing participants to use the EMA basic skills online course and for the generosity of having provided financial support for the ground expenses. Please convey our thanks to Judge Weinstein for doing the same.

- Last but not least, I wish to thank the African Peace Partners and my sister, Emily (Nyiramwiza) for her support in training as well as assisting in making sure that this dream of extensive use of mediation in Rwanda is kept alive. She has done a lot of ground work with Bernadette and her colleagues, Harrison and Regis in ensuring this training takes place and in other matters relating to this project. I gather that by July, Emily will be conducting coaching on practice to help you respond to concerns you may have encountered during the pilot. Thank you once again Emily for all your support and commitment to Rwanda.

4. Final Remarks

Finally, I wish to appeal to you again participants. You are the seeds of modern mediation, expected to transform our legal system from a litigation culture to more negotiated outcomes. We trust you will bear fruit for yourselves, for your respective organizations and for Justice delivery in general. There might be a cost in money and time, especially for lawyers who have left their paying clients, but it is a worthy investment. We need this collective effort to make change happened. You have a busy day, an intense week so I must bring my remarks to an end. I wish you a great time in this special training with special trainers and hereby declare this mediation Skills Training workshop officially open.