

**PNG CONTINUING LEGAL EDUCATION FOR
MEDIATION & COMMERCIAL LAW**



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WORLD TRENDS

- ▣ Modern forms of ADR & Mediation Started in the USA
- ▣ UN General Secretary 's Circular
- ▣ EU Directive
- ▣ Others
 - Canada
 - Australia
 - New Zealand
 - PNG

ADR Drivers

Delays & Backlogs



Delay + Costs = Losses & endings



Too costly



Self help takes over = victims



Winners & losers a constant reality



Mediation - PNG Experience



Mediation - PNG style



PNG's Mediation Experience

- ▣ Chief Justice and Judges led based on
 - Legislation & Rules
 - Order 2, Rule 2 (3) (b)
 - Judicial pronouncements & case law
 - Training & awareness
 - Support facilities and resources
 - Over 157 Mediators

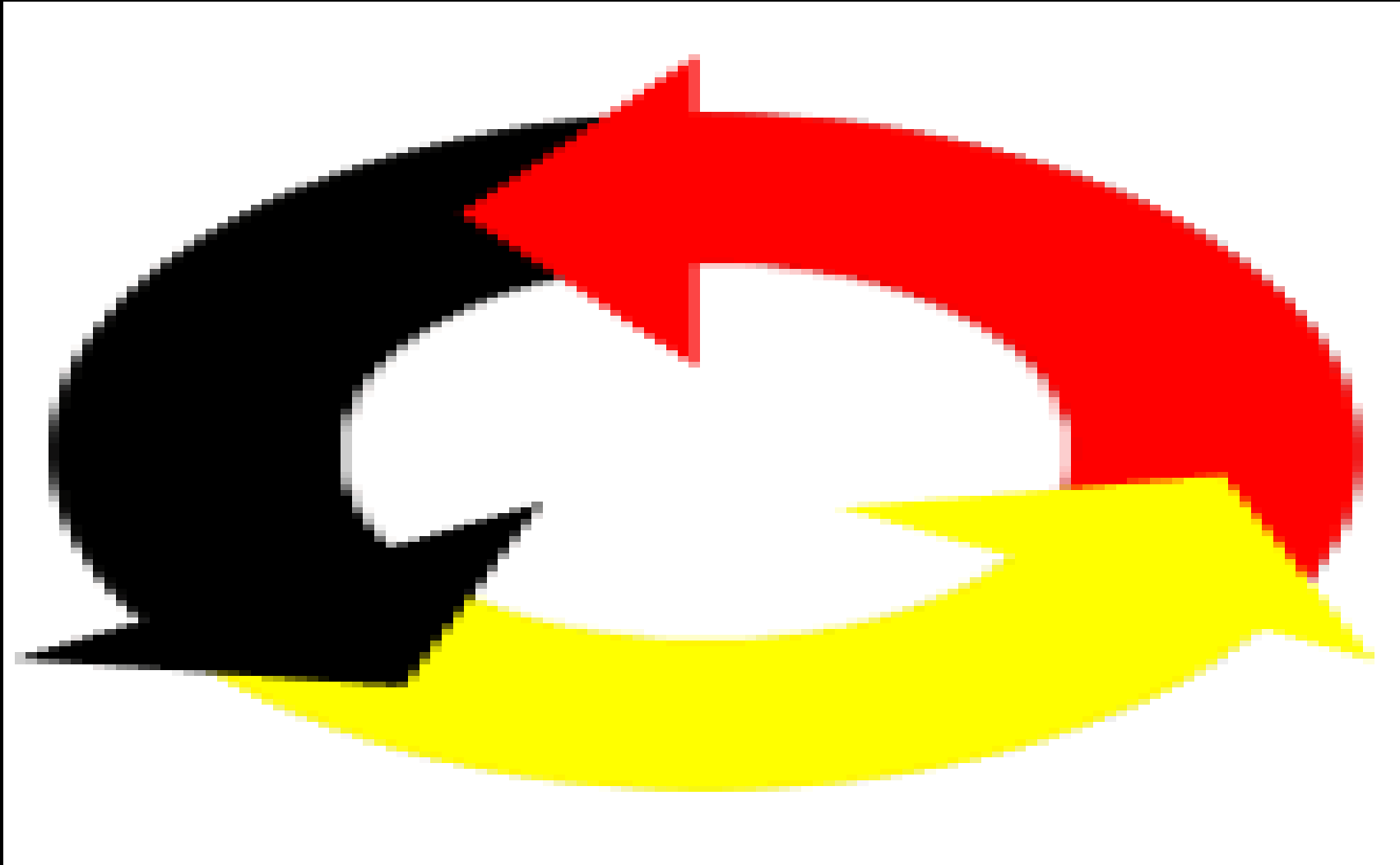
Feedback from users

- ▣ Sample survey of 96 users said:
- ▣ 73.33% increased trust and confidence in the court system;
- ▣ 98.80% Courts should support and use mediation more;
- ▣ 97.44% mediation was safe, comfortable, user friendly and more secure;
- ▣ 95.79% use mediation again;

Feedback from users cont'd

- ▣ 98.97% recommend mediation to others;
- ▣ 93.94 % assisted in identifying the real issues;
- ▣ 97.89 % assisted in understanding the other party's views well;
- ▣ 92.78% gave them opportunities to develop options for settlement;
- ▣ Costs saved, funds freed up and value of projects affected ran into millions of Kina or dollars.

Finality an elusive dream



Clients' preferences



Many ways to Justice



Consequence of overloading



Consider

FORMAL COURTS

- ✓ Impartial
- ✓ Fair
- Prompt??
- Less costs ??
- Equality in:
 - Access??
 - Participation??
- Finality ??

MEDIATION

- ✓ Impartial
- ✓ Fair
- ✓ Prompt
- ✓ Less costs
- ✓ Equal in:
 - ✓ Access
 - ✓ Participation
- ✓ Finality

Mediation & ADR Friends Ready to Share and Lighten Our Burdens

Courts

- Interpretation of:
 - Statutory
 - Contract
 - Other documents
- Precedent setting
- Conflicting authorities
- Public sanction
- Protective orders
- Preliminary Issues

Mediation

- Every thing missing on the Courts' list

Result

- No delays
- Prompt resolutions
- No backlog
- Less costs
- Less harm and less damage
- Equality in:
 - Access to justice
 - Participation
- Finality
- Confidence and trust
- Better choice
- Better outcomes
- More time for:
 - Business
 - Nation building
- Peaceful nations world and peoples

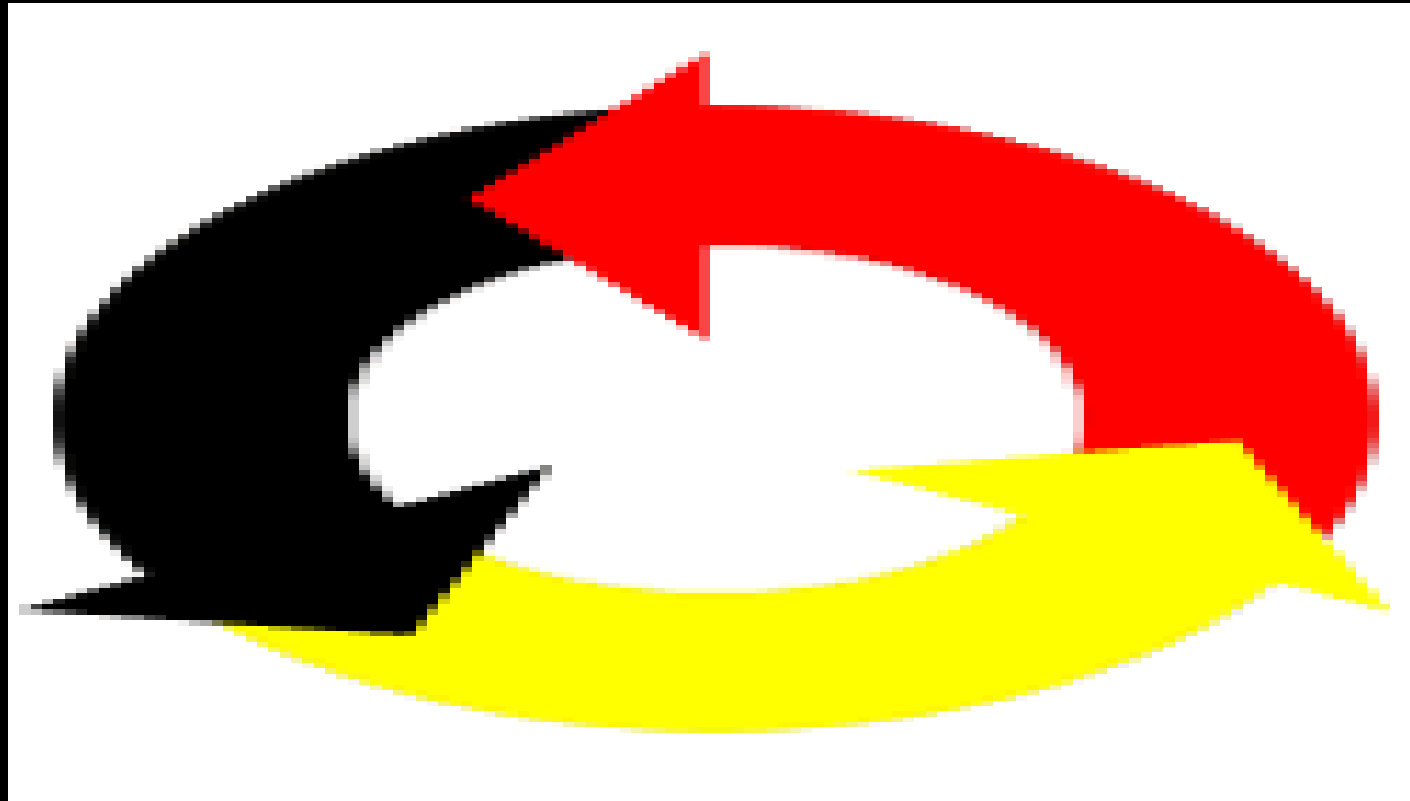
Broader Role – Peace & Nation Builders



Conclusion

- **Mediation process/tools to share and lighten our burdens.**
- **Courts, lawyers & parties use them to their advantage**
- **Failure to use mediation & ADR**
- **= Decision to retain delays, back logs and associated problems.**
- **Commercial lawyers in better place to encourage and enable clients to use mediation & ADR more.**

Be rest assured



Its about doing our jobs smartly
and being on top of our lists