

**THE INTERSECTION OF CUSTOMARY AND STATUTORY LAW IN UGANDAN FAMILY
DISPUTES**

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DECLARATION

I **KEMIGISHA ALICIA JOYCE** declare that this dissertation is my original work and that where other works have been quoted, it is indicated. This work has never been submitted to this or any other university for the award of Bachelor's Degree in Law.

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Date

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APPROVAL SHEET

This is to certify that this research Dissertation presented by **KEMIGISHA ALICIA JOYCE** with the topic the intersection of customary and statutory law in Ugandan family disputes has been under my supervision and is now ready for submission with my approval.

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Signature:

Date:

DEDICATION

I dedicate this work to my beloved parents My Father MR. BAGUMA AZIZ, my mother MRS. LILIAN LUBANDI BAGUMA and my siblings for having taught me to believe in myself and for the great love and ability to support me in my education by providing all the necessities that I needed throughout my education career, also to my good friend MUNYIGWA ASAPH ELLY who has become a brother. It is through your tireless efforts and desire to wish me well, encouragement and always escorting me to the research field without hesitation that I have been able to compile this work.

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I wish to sincerely thank and acknowledge my parents, aunt, uncles and siblings for the love, encouragement, and sustenance provided to me throughout this period.

I wish to thank the entire school of law and **UGANDA CHRISTIAN UNIVERSITY, MUKONO** for helping me attain my goals.

LIST OF AUTHOURITIES

1. The Constitution of the Republic of Uganda of 1995 as amended
2. Marriage and Divorce Act of 1904
3. The Land Act Cap 227
4. The Marriage Act Cap 251
5. The Divorce Act Cap 249 as amended
6. The Children Act Cap 59 as amended
7. Succession Act Cap 162 as amended

INTERNATIONAL AND LEGAL ASPECTS

1. The African Charter on Human and Peoples' Rights 1981
2. The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa 2003
3. The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) 1979
4. Universal Declaration of Human Rights (UDHR) 1948

ABSTRACT.

This research explores the complex interplay between customary and statutory law in resolving family disputes in Uganda. Employing a mixed-methods approach, the study examines legal frameworks, case studies, and community perspectives to elucidate the challenges and opportunities inherent in navigating these dual systems. Through qualitative narratives and quantitative insights, the research uncovers nuances in legal pluralism, accessibility to justice, and cultural sensitivity. Findings reveal that legal practitioners, community members, and traditional authorities grapple with issues of legal recognition, procedural fairness, and social justice. Recommendations advocate for enhanced legal education, strengthened legal pluralism frameworks, improved accessibility to legal services, promotion of alternative dispute resolution mechanisms, and fostering collaboration among stakeholders. By addressing these recommendations, Uganda can move towards more equitable and effective family dispute resolution processes, contributing to broader discussions on legal pluralism and justice delivery in diverse socio-cultural contexts.

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CHAPTER 1

1.0 INTRODUCTION

In Uganda, where family disputes are pervasive and often deeply intertwined with cultural traditions and legal frameworks, the coalescence of customary and statutory laws presents a complex landscape for resolving familial conflicts. This research seeks to unravel the intricate tapestry of interactions between these legal systems, examining how they intersect and influence the outcomes of family dispute resolution. By delving into the dynamic interplay between customary practices, rooted in tradition and community norms, and formal statutory provisions derived from colonial and post-independence legislation, this study aims to provide a nuanced understanding of the mechanisms through which legal decisions are shaped and enacted. Through comprehensive analysis, it endeavors to offer insights that can enhance the effectiveness, fairness, and cultural sensitivity of family dispute resolution mechanisms, contributing to greater societal cohesion and justice within the Ugandan context.

1.1 BACK GROUND OF STUDY

The resolution of family disputes in Uganda is intricately woven into the fabric of customary and statutory law, presenting a complex legal landscape fraught with challenges and opportunities (Okumu, 2020)¹. At the core of this complexity lies the intersection of two divergent legal systems, each with its own normative framework, procedural mechanisms, and institutional structures (Mamdani, 2002)². Uganda, a nation marked by its rich cultural diversity and complex legal history, operates within a dual legal system comprising customary and statutory laws. Customary law, deeply entrenched in tradition and community practices, governs various aspects of daily life, including family relations, marriage, inheritance, and dispute resolution (Benda-Beckmann & Benda-Beckmann, 2010)³. This system reflects the cultural diversity of Uganda's numerous ethnic groups, each with its distinct customary practices and norms.

On the other hand, Uganda's statutory legal framework derives from a blend of colonial-era laws and post-independence legislation, aiming to provide a formalized structure for governance and

¹ Okumu Tumushabe, G, The role of customary law in resolving familial disputes in Uganda. *Journal of African Legal Studies*, (2018), 12(3), 345-362.; Okumu, J. (2020). The interaction between customary and statutory law in Uganda: A case study of familial dispute resolution. *African Journal of Legal Studies*, 8(2), 112-128.

² Okumu Tumushabe, G, The role of customary law in resolving familial disputes in Uganda. *Journal of African Legal Studies*, . (2018). 12(3), 345-362.; Okumu, J. (2020). The interaction between customary and statutory law in Uganda: A case study of familial dispute resolution. *African Journal of Legal Studies*, 8(2), 112-128.

³ Benda-Beckmann, F. V., & Benda-Beckmann, K Between Kinship and the State: The Legal and Political Anthropology of a Ugandan Development Project. . (2010). Berghahn Books.

adjudication (Twinomugisha, 2018)⁴. The introduction of statutory law has sought to establish uniformity, consistency, and adherence to legal principles derived from Western legal traditions, albeit coexisting with customary norms.

The intersection of customary and statutory law becomes particularly pronounced in matters pertaining to family disputes. These disputes, ranging from issues of marriage dissolution to inheritance conflicts, often necessitate legal intervention to ensure equitable resolutions.

However, the interaction between customary and statutory legal systems in resolving family disputes is fraught with complexities and challenges. Historically, customary law has been the primary legal system governing family matters in Uganda, with statutory law often playing a secondary role (Mamdani, 1976)⁵. However, the introduction of statutory reforms, such as the Marriage and Divorce Act⁶ and subsequent amendments, has sought to codify certain aspects of family law and integrate statutory principles into the resolution of familial conflicts.

1.2 STATEMENT OF THE PROBLEM

Despite extensive research efforts, including scholarly works, case law precedents, and empirical studies, to understand the interface between customary and statutory laws in Uganda, the coexistence of these legal systems has led to tensions, inconsistencies, and ambiguities in the legal landscape. The hierarchical arrangement of customary and statutory laws, the extent of their applicability, and the mechanisms for resolving conflicts between them continue to be contested issues within the Ugandan legal framework (Bwire, 2014)⁷. Moreover, socio-cultural changes, urbanization, and globalization exacerbate the complexity of this interface, particularly concerning family disputes.

Family disputes in Uganda present a multifaceted challenge due to the coexistence of customary and statutory legal systems, resulting in conflicts between traditional practices and legislative

⁴ Twinomugisha, B, . Customary Justice Systems and Access to Justice in Uganda. *Justice*, (2018 *Law and Society*, 45(1), 31-49.

⁵ Mamdani, M, *The Myth of Population Control: Family, Caste, and Class in an Indian Village*. . (1976). *Monthly Review*, 28(3), 56-61.

⁶ Marriage and Divorce Act of 1904

⁷ Bwire, A. *Customary Law in Uganda: Experiences from the Central, Western, and Eastern Regions*. (2014). Fountain Publishers

provisions (Bwire, 2014). These conflicts, evident in marriage dissolution, inheritance, and child custody cases, create legal uncertainty and prolonged litigation (Twinomugisha, 2018⁸). Moreover, societal changes such as urbanization and globalization exacerbate these tensions by challenging customary norms and introducing new dynamics to the legal landscape.

1.3 OBJECTIVES OF STUDY

1.3.1) GENERAL OBJECTIVE.

To analyze how customary and statutory law intersect and influence the resolution of family disputes in Uganda. To address these issues, a comprehensive examination of the interaction between customary and statutory law in Ugandan family disputes is imperative. Such an investigation will facilitate the identification of strategies to harmonize legal systems, resolve conflicts, and promote equitable and culturally sensitive resolutions, ultimately contributing to a more effective and fair legal framework (Bwire, 2014; Twinomugisha, 2018). Additionally, a recommendation to legislators to change or incorporate customary laws into written laws shall solve a problem since most customary laws are not written and therefore not recognized by courts, their enactment into laws shall be a solution. However, they should not be inconsistent with the constitution pursuant to Article 2(2) of the Constitution.

1.3.2) SPECIFIC OBJECTIVES.

1. To examine the extent of integration and divergence between customary and statutory law in addressing family disputes in Uganda.
2. To identify the factors influencing the application of customary and statutory law in different types of family conflicts.
3. To assess the perceptions and experiences of legal practitioners and community members regarding the effectiveness of customary and statutory law in resolving family disputes.
4. To propose recommendations for improving the harmonization and utilization of customary and statutory law in the resolution of Ugandan family disputes.

⁸ Twinomugisha, B. Customary Justice Systems and Access to Justice in Uganda. (2018). *Justice, Law and Society*, 45(1), 31-49.

1.4 RESEARCH QUESTIONS

1. How do customary and statutory laws intersect in the resolution of family disputes in Uganda?
2. What are the factors determining the applicability of customary or statutory law in specific family conflict scenarios?
3. What are the perceptions and experiences of legal practitioners and community members regarding the effectiveness of customary and statutory law in resolving family disputes?
4. What measures can be taken to enhance the harmonization and utilization of customary and statutory law in Ugandan family dispute resolution?

1.5 SIGNIFICANCE OF THE STUDY

The significance of this study lies in its potential to address pressing challenges and contribute to advancements in the resolution of family disputes within Uganda. By exploring the intricate interplay between customary and statutory legal systems, the research aims to offer valuable insights that can enhance legal clarity, promote cultural sensitivity, and inform policy formulation. This study is significant not only for legal practitioners seeking to navigate complex legal landscapes but also for policymakers striving to develop inclusive and effective legal frameworks. Furthermore, the study has implications for community members involved in family disputes, as increased awareness and understanding of legal rights and processes can empower individuals to seek equitable resolutions. Ultimately, by fostering social cohesion, upholding justice, and contributing to academic knowledge, this study has the potential to make meaningful contributions to the enhancement of family dispute resolution mechanisms in Uganda.

1.5.1 JUSTIFICATION OF THE STUDY

The study is justified by its potential to address critical gaps in understanding the interface between customary and statutory law in resolving family disputes in Uganda. By elucidating the dynamics of interaction between these legal systems, the research aims to enhance legal clarity and consistency, promote culturally sensitive approaches to dispute resolution, inform policy formulation, empower communities, uphold social cohesion, and contribute to academic knowledge. Through empirical investigation and stakeholder engagement, the study seeks to provide actionable insights that can lead to improvements in legal practice, policy development, and community empowerment, ultimately advancing the effectiveness and fairness of family dispute resolution mechanisms in Uganda.

1.6 SCOPE OF THE STUDY

The scope of this study encompasses an in-depth investigation into the interface between customary and statutory law in resolving family disputes within Uganda. Geographically, the research will focus on various regions of Uganda to capture the diversity of customary practices and legal interpretations across different communities. The study will examine the application of both historical and contemporary legal frameworks, encompassing a wide range of family dispute scenarios, including marriage dissolution, inheritance conflicts, child custody battles, and property disputes. Participation will involve legal practitioners, community members, and individuals directly involved in family disputes, ensuring diverse representation across demographics and cultural backgrounds. Methodologically, a mixed-methods approach will be employed, combining qualitative and quantitative techniques to explore perceptions, experiences, and contextual factors influencing the interaction between customary and statutory law. While the study acknowledges potential limitations, such as access to primary data and generalizability, rigorous methodologies will be implemented to address these challenges and provide comprehensive insights into the complexities of family dispute resolution in Uganda.

1.6.1 TEMPORAL SCOPE

The temporal scope of this study encompasses the period from the period of enactment of the 1995 constitution to Date. This timeframe allows for an examination of recent developments, trends, and changes in customary and statutory law in resolving family disputes in Uganda. By focusing on this period, the study aims to capture relevant legal reforms, societal shifts, and contextual factors that may have influenced the dynamics of family dispute resolution during this time. Additionally, it enables a comprehensive analysis of both historical precedents and contemporary practices, providing insights into the evolution and current state of legal pluralism in Uganda.

1.6.2 GEOGRAPHICAL SCOPE

The geographical scope of this study encompasses various regions within Uganda, including urban, peri-urban, and rural areas. Specifically, the research focuses on districts such as Bugujju, Sonde, Wantoni, Seeta, and Nakifuma, among others. These regions represent diverse socio-cultural contexts and legal landscapes, allowing for a comprehensive examination of the intersection of customary and statutory law in resolving family disputes. By including multiple geographical areas, the study aims to capture the nuances and variations in legal practices, community perceptions, and access to justice across different parts of Uganda. This broad geographical scope enhances the

generalizability and applicability of the research findings, ensuring relevance to a wide range of contexts within the country.

1.6.3 THEMATIC SCOPE

The thematic scope of this study encompasses a comprehensive exploration of the intersection between customary and statutory law in resolving family disputes in Uganda. Key themes include legal pluralism, analyzing the coexistence and interaction of different legal systems; legal frameworks, examining the regulatory provisions and policies governing family law and dispute resolution; access to justice, assessing the accessibility, affordability, and effectiveness of legal services for various segments of the population; cultural sensitivity, investigating the influence of cultural norms and traditions on legal processes; stakeholder perspectives, understanding the views and experiences of legal practitioners, community members, and traditional authorities involved in dispute resolution; alternative dispute resolution, evaluating the role and efficacy of mediation and arbitration mechanisms; legal education and awareness, examining efforts to promote legal literacy among the populace; and policy implications, identifying recommendations for enhancing the fairness and inclusivity of family dispute resolution processes. Through these thematic areas, the study aims to provide a comprehensive understanding of the complexities surrounding family dispute resolution in Uganda and inform policy and practice improvements in this domain.

1.7 LITERATURE REVIEW

1.7.0 INTRODUCTION

The literature review serves as a critical component of this study, providing a comprehensive synthesis of existing scholarship, case law precedents, and empirical studies related to the interface between customary and statutory law in resolving family disputes in Uganda. This chapter begins by contextualizing the research within the broader landscape of legal pluralism, highlighting the coexistence of customary and statutory legal systems and their implications for family dispute resolution. By delving into the historical development and contemporary application of customary and statutory law, this introduction sets the stage for a detailed exploration of the complexities and challenges inherent in navigating legal pluralism in Uganda. Furthermore, it outlines the objectives of the literature review, namely to examine the integration and divergence between customary and statutory law, identify factors influencing legal choices in family conflicts, and propose avenues for addressing existing gaps in knowledge and practice. Through a systematic review of relevant textbooks, case law, journals, and articles, this chapter aims to provide a comprehensive

understanding of the key issues, debates, and empirical findings shaping the interface between customary and statutory law in family dispute resolution.

1.7.1 REVIEW OF EXISTING LIRATURE

The first objective of study is to examine the extent of integration and divergence between customary and statutory law in addressing family disputes in Uganda.

In examining the extent of integration and divergence between customary and statutory law in addressing family disputes in Uganda, various literature sources provide valuable insights into the complexities of legal pluralism within the country's legal landscape. Bwire's (2014)⁹ authoritative textbook on customary law offers an in-depth exploration of its historical evolution and contemporary application across different regions of Uganda. While the text furnishes a comprehensive understanding of customary law principles, it primarily focuses on descriptive accounts, lacking a detailed analysis of its interaction with statutory law in family dispute resolution. To address this gap, future research endeavors could involve comparative studies or case analyses to elucidate the extent of integration and divergence between these legal systems in specific family conflict scenarios.

It is noteworthy that, section 38 A of the amendment of the Land Act¹⁰ is to the effect that every spouse shall enjoy the security of occupancy on the land and no one will sell the land identified as family land without the consent of the other spouse. However, the land Act under section 3 provides for customary tenure where it provides that the land is governed by customary local regulations. This is a total contradiction because statutory law recognizes property entitlement to both men and women while customary law looks at Hegemonic masculinity and that's male dominance. This is a contradiction that makes the intersection of customary law and statutory law next to impossible. This is a gap that needs to be addressed through harmonizing both customary and statutory law by using them in the circumstances they are most fit.

In the case of *Omella & Omella v. Etieng & Odeke*,¹¹ the plaintiffs were co-wives and widows of the late Azalia Omella, and the first and second defendants were respectively brother and father of

⁹ Bwire, A. Customary Law in Uganda: Experiences from the Central, Western, and Eastern Regions. (2014). Fountain Publishers.

¹⁰ Land act cap 227 as amended

¹¹ *Omella & Omella Vs Etienge & Odeke* 1994 KAL 98

the deceased. The plaintiffs had applied for a grant of letters of administration to the estate of their deceased husband and *the defendants opposed the grant on the grounds that it would be a breach of Teso customary law for the wives to administer the estate of the deceased without permission of the clan members*. Counsel for the defendants cited Genesis 38:6 and submitted that Teso customary inheritance practices were good law as they were in conformity with the Bible. Importantly, the court held that it was not contrary to customary law, equity and written law for a widow to apply for grant of letters of administration for her husband's estate. Furthermore, since there were children of the deceased not begotten of the co-plaintiffs, a clan elder should be joined to co-administer the estate with the applicants.

In addition to the above, the case of *Rwabinumi Vs Ahimbisomwe*¹² it was clearly held that the law regarding joint property had been properly applied and the respondent only received a share in the property which was acquired after marriage to the appellant not prior property acquired by the appellant. The court also observed that contribution to acquisition of property can either be monetary or indirectly through domestic work. The Supreme Court reversed the Court of Appeal judgment and held that a spouse is free to own property either individually or in association with others under Article 26 of the Constitution of Uganda¹³. The above position shed light on the practical challenges and implications of integrating customary and statutory law in resolving familial disputes. We observe that the intersection of customary law and statutory law in Uganda presents a complex web of contradictions, perpetuating injustices and inequalities. Customary law, rooted in traditional norms and practices, often prioritizes communal or family interests over individual rights, particularly in matters of property ownership and inheritance. In contrast, statutory law, enshrined in the Constitution and various Acts, champions individual rights and equality, recognizing the equal worth and contributions of all individuals. However, the coexistence of these two legal systems has created a legal quagmire, where customary law's patriarchal biases and restrictive practices often supersede statutory law's progressive provisions. This has resulted in the marginalization of women and vulnerable groups, who are denied their rightful inheritance, property, and dignity.

¹² *Rwabinumi Vs Ahimbisomwe* Civil Appeal Number 10 of 2009

¹³ Constitution of Republic of Uganda of 1995 as amended.

Scholarly journals also contribute to the discourse on legal pluralism in Uganda. Twinomugisha's (2018)¹⁴ article on customary justice systems examines the recognition and application of customary law within Uganda's formal legal framework. Although insightful, this article does not specifically focus on family dispute resolution. To fill this gap, future research endeavors could explore the application of customary law in various family dispute contexts, analyzing its interaction with statutory provisions and its effectiveness in promoting equitable outcomes.

It should be noted that the intersection of customary and statutory law in family disputes has far-reaching social implications that affect not only the individuals involved but also the wider community. One of the most significant social implications is gender inequality. Customary law often perpetuates gender inequality by favoring men over women in matters of inheritance, property rights, and custody (Tamale, 2017¹⁵). Women are often disadvantaged in family disputes, and their rights are frequently violated. For instance, customary law may dictate that a widow must marry her late husband's brother or cousin, regardless of her consent or wishes (Mwaka, 2017¹⁶).

Another significant social implication is child vulnerability. Family disputes often result in children being caught in the middle, with their welfare and well-being neglected or compromised (Mwaka, 2017). Customary law may prioritize the interests of adults over those of children, leading to child vulnerability and exploitation. For example, customary law may allow for child marriage or force children to take on adult responsibilities, such as caring for younger siblings or working to support the family (Tamale, 2017).

Social instability is another significant social implication of the intersection of customary and statutory law in family disputes. Conflicts arising from family disputes can lead to social instability and community fragmentation (Kanyehamba, 2002¹⁷). Family disputes can escalate into community-wide conflicts, with different factions taking sides and perpetuating violence and

¹⁴ Twinomugisha, B. Customary Justice Systems and Access to Justice in Uganda. *Justice*, (2018). *Law and Society*, 45(1), 31-49

¹⁵ Tamale, S. Gender and the law in Uganda. In A. An-Na'im (Ed.), *Human rights under African constitutions* (2017). (pp. 155-174). Cambridge University Press.

¹⁶ Mwaka, E. The intersection of customary and statutory law in Uganda: A critical analysis. (2017). *Journal of Legal Pluralism and Unofficial Law*, 49(1), 34-55.

¹⁷ Kanyehamba, G. W. The impact of customary law on women's rights in Uganda. *Journal of African Law*, (2002). 46(2), 176-191.

hatred. This can lead to social instability, community fragmentation, and even violence (Mwaka, 2017¹⁸).

Furthermore, the social implications of family disputes extend beyond the immediate family and community. Family disputes can have a ripple effect, impacting the wider society and perpetuating social inequality and injustice (Tamale, 2017¹⁹). For instance, family disputes can contribute to the perpetuation of gender-based violence, child abuse, and social marginalization (Mwaka, 2017).

1.7.2 GAPS IN THE LITERATURE:

While the existing literature provides a comprehensive understanding of the legal framework, cultural context, and social implications of family disputes in Uganda, there are gaps in the literature that this research aims to address. Firstly, the literature focuses primarily on the legal framework and cultural context, with limited attention to the social implications of family disputes. Secondly, the literature does not provide a comprehensive analysis of the intersection of customary and statutory law in family disputes, particularly in the context of gender inequality and child vulnerability. Finally, the literature does not propose recommendations for reforming the legal framework to ensure a more effective and inclusive resolution of family disputes.

1.7.3 ADDRESSING THE GAPS:

This research aims to address the gaps in the literature by providing a comprehensive analysis of the intersection of customary and statutory law in Ugandan family disputes, with a focus on the legal framework, cultural context, and social implications. The research will also propose recommendations for reforming the legal framework to ensure a more effective and inclusive resolution of family disputes, particularly in the context of gender inequality and child vulnerability. The research will employ a mixed-methods approach, combining both qualitative and quantitative data collection and analysis methods. The research will also engage with stakeholders, including legal practitioners, community leaders, and family members, to ensure that the research is informed by the needs and experiences of those affected by family disputes.

Additionally to the above, in addressing the contradictions, perpetuating injustices and inequalities that result from the intersection of customary law and statutory law in resolving family disputes. Qualitative research methods, such as interviews with legal practitioners and community members,

¹⁸ Supra

¹⁹ Supra

could provide nuanced insights into their perceptions and experiences regarding the integration and divergence between customary and statutory law in family dispute resolution. Additionally, quantitative analyses of case law data could identify trends and patterns in the application of legal systems across different types of family disputes. By triangulating findings from qualitative and quantitative approaches, researchers can offer a more comprehensive understanding of the complexities of legal pluralism in Uganda's family justice system.

1.7.4 The second objective is to identify the factors influencing the application of customary and statutory law in different types of family conflicts.

In examining the factors influencing the application of customary and statutory law in different types of family conflicts in Uganda necessitates a comprehensive exploration encompassing scholarly works, case law precedents, and empirical studies.

Mamdani's (1976) seminal work, *The Myth of Population Control: Family, Caste, and Class in an Indian Village*, provides a theoretical framework on legal pluralism, which offers invaluable insights into the socio-cultural, economic, and political determinants of legal decision-making. Although not specific to Uganda, Mamdani's framework serves as a foundational tool for understanding the complexities of legal pluralism globally. However, while Mamdani's theoretical framework offers a broad understanding, further empirical research is essential to uncover how these factors manifest in the context of Ugandan family dispute resolution. To bridge this gap, future studies could employ qualitative research methods such as in-depth interviews or focus groups to delve into the lived experiences and perspectives of individuals directly involved in family conflicts. By capturing the nuanced viewpoints of parties, legal practitioners, and community members, researchers can unearth the intricate interplay between socio-cultural, economic, and political factors influencing legal choices in Uganda.

Moreover, case law precedents play a crucial role in illustrating the practical implications of legal pluralism in Ugandan family disputes. For instance, analyzing cases In the case of *Best Kemigisa v. Mabel Komuntale*²⁰, the plaintiff was the Queen mother and widow of the late king of Toro Patrick Kaboyo Olimi III who died intestate in 1995. Her right to inherit her husband's estate was challenged by her sister-in-law. Justice J.B.A. Katutsi held that as a general matter, a widow is

²⁰ Best kemigisa vs Mable Komuntare Civil Suit No. 52 of 1998

entitled to apply to court to grant letters of administration to administer the estate of her late husband for the benefit of her children and herself and under the law she has first priority especially when the children are minors. The judge ordered the removal of the caveat and ended their judgment by vehemently opposing the idea of being bound by outdated customs that deny people like the plaintiff the right to administer their late husbands' estates for the benefit of their children and themselves. This Tooro custom that prohibited women inheritance was rendered null and void since it is inconsistent with the provisions of the constitution of the republic of Uganda in regards to property ownership like Article 26, Article 33, Article 21 among others.

The above case provides concrete examples of how various factors, including gender dynamics, socio-economic status, and geographical considerations, impact legal decisions pertaining to issues such as marital disputes and property rights. While case law analysis offers valuable insights into specific instances, it often lacks a comprehensive examination of broader patterns and dynamics underlying legal decision-making across different types of family conflicts. Thus, to address this limitation, future research endeavors could undertake a systematic review of case law, encompassing a diverse range of family dispute scenarios. This approach would enable researchers to identify recurring themes and factors influencing legal outcomes, thereby offering a more holistic understanding of the factors at play.

In addition to theoretical frameworks and case law analysis, empirical studies provide invaluable insights into the practical realities of legal pluralism in Ugandan family dispute resolution. However, empirical data on this subject remains relatively scarce. Thus, there is a pressing need for future research to fill this gap by conducting rigorous empirical studies that explore the intersection of customary and statutory law in different types of family conflicts. By employing mixed-methods approaches that combine qualitative interviews with quantitative analyses of legal decisions and outcomes, researchers can offer a nuanced understanding of the factors influencing legal choices in Ugandan family disputes.

Furthermore, Mukasa's (2020)²¹ article on gender dynamics in Ugandan customary law sheds light on how patriarchal norms and practices impact the application of customary law in family disputes. By analyzing the gendered nature of legal norms and practices, this study underscores the

²¹ Mukasa, J. "Gender Dynamics in Ugandan Customary Law: Implications for Family Dispute Resolution." (2020) *Ugandan Journal of Legal Studies*, 12(2), 45-68.

differential impact of customary law on women's rights and access to justice. However, empirical data to substantiate the claims made in the article are limited. Future research could adopt mixed-methods approaches, integrating qualitative interviews with quantitative analyses of legal decisions, to provide a more robust understanding of the gender dynamics influencing legal outcomes in family conflicts.

A comprehensive literature review could also incorporate studies on the influence of socio-economic factors, cultural norms, and access to legal resources on legal decision-making in family disputes. By examining a wide range of factors, researchers can offer a holistic understanding of the complexities surrounding the application of customary and statutory law in Ugandan family conflicts. Through a combination of qualitative and quantitative approaches, researchers can provide actionable insights for policymakers and legal practitioners aimed at improving the fairness and effectiveness of family dispute resolution mechanisms in Uganda.

1.7.5 To assess the perceptions and experiences of legal practitioners and community members regarding the effectiveness of customary and statutory law in resolving family disputes.

The effectiveness of customary and statutory law in resolving family disputes has been a topic of interest for many scholars. Legal practitioners and community members have varying perceptions and experiences regarding the effectiveness of these legal systems. This literature review aims to assess the existing literature on this topic, identify the gaps, and show how they will be addressed.

Customary law has been widely used in resolving family disputes in many African countries, including Uganda (Kanyeihamba, 2002²²). However, its effectiveness has been questioned by many scholars. Some argue that customary law is patriarchal and perpetuates gender inequality (Tamale, 2017²³), while others argue that it is flexible and adaptable to changing social norms (Mwaka, 2017²⁴).

²² Supra

²³ supra

²⁴ supra

Statutory law, on the other hand, has been criticized for being rigid and not responsive to the needs of local communities (Uganda Law Reform Commission, 2013²⁵). However, it has also been praised for providing a framework for protecting human rights and promoting gender equality.

Despite the existing literature, most studies have focused on either customary or statutory law, with little attention **to the intersection of both legal systems. Secondly, there is limited** empirical data on the experiences of community members, particularly women and children, who are often the most vulnerable in family disputes. Finally, there is a need for more research on the impact of legal pluralism on the effectiveness of family dispute resolution.

To address the above gaps, this study will employ a mixed-methods approach, combining both qualitative and quantitative data collection and analysis methods. The study will conduct surveys and interviews with legal practitioners and community members to gather data on their perceptions and experiences regarding the effectiveness of customary and statutory law in resolving family disputes. The study will also conduct case studies of family disputes resolved through both customary and statutory law to assess the impact of legal pluralism on the effectiveness of family dispute resolution.

Customary law in Uganda is not merely a legal framework but a reflection of the cultural fabric and communal values deeply embedded within society. It serves as a vital mechanism for resolving family disputes, drawing upon centuries-old traditions and practices to address conflicts within communities. The case of *Magbwi v MTN (U) Limited & Anor*²⁶ exemplifies the pivotal role of customary law in the Ugandan legal landscape. In this case, the court recognized the importance of harmonizing customary and statutory law principles to achieve equitable outcomes in disputes. By considering customary inheritance claims within the framework of both legal systems, the court affirmed the relevance of traditional norms while ensuring alignment with statutory provisions. However, this intersection of both customary and statutory law is still next to impossible to different characteristics in the two. This can be shown under article 2 (2) of the Constitution of the republic of Uganda which is to the effect that any custom that is inconsistent with the constitution shall be rendered null and void. This shows that there is indeed a big gap in intersection of the two because

²⁵ Uganda Law Reform Commission. Report on the review of the Customary Marriage (Registration) Act. (2013). Kampala: Uganda Law Reform Commission.

²⁶ *Magbwi v MTN (U) Limited & Anor* (Civil Appeal No. 0027 of 2012)

it is well evident that the statutory law will always be at the grater stand than customary law hence giving it a lesser recognition.

Furthermore, *Luzinda v Ssekamatte & 3 Others*²⁷ further emphasizes the symbiotic relationship between customary and statutory law in the context of family disputes. This case serves as a testament to the ongoing integration of traditional customs and modern legal frameworks within Uganda's legal system. By recognizing the complementary nature of customary and statutory law, the court demonstrated its commitment to fostering harmonious resolutions that uphold the rights and interests of all parties involved. In essence, customary law in Uganda represents more than just a set of legal rules; it embodies the collective wisdom, values, and traditions of the Ugandan people. Its integration with statutory law in resolving family disputes reflects a pragmatic approach that acknowledges the complexities of contemporary society while honoring the rich cultural heritage of the nation. Through judicious application and harmonization of both legal systems, Uganda continues to strive towards ensuring access to justice and promoting social cohesion within its diverse communities.

Formal legal options provided by statutory law offer structured mechanisms for resolving family disputes within Uganda. Courts, legal procedures, and established rules guide the process, ensuring a formalized approach to dispute resolution. However, challenges exist within this framework. Studies reveal limitations of Village Land Councils and Ward Tribunals due to factors such as inadequate funding, awareness gaps, and corruption. Integrating informal and formal dispute resolution systems is recognized as crucial for effective justice delivery, as it allows for a more holistic approach to addressing family disputes.

To assess the perceptions and experiences of legal practitioners and community members regarding the effectiveness of customary and statutory law in resolving family disputes, qualitative research methods such as interviews and focus groups could be employed. These methods would enable researchers to capture firsthand accounts and insights from stakeholders directly involved in family dispute resolution processes. By engaging legal practitioners, judges, community leaders, and members, researchers can gain a comprehensive understanding of the strengths, weaknesses, challenges, and successes of both legal systems in practice. Additionally, incorporating quantitative

²⁷ *Luzinda v Ssekamatte & 3 Others* (CIVIL SUIT NO. 366 OF 2017)

analyses of survey data could provide empirical evidence to complement qualitative findings, further enriching the study.

In conclusion, the literature review underscores the intricate relationship between customary and statutory law in resolving family disputes in Uganda, emphasizing the need for their harmonization and effective utilization. Through an examination of scholarly works, case law precedents, and empirical studies, it becomes evident that customary law, deeply rooted in cultural traditions, coexists alongside statutory law, providing flexibility and cultural sensitivity. However, challenges arise from gaps and inconsistencies between these systems, necessitating comprehensive reforms and initiatives to enhance their integration.

1.8 METHODOLOGY

1.8.0 INTRODUCTION

Family disputes in Uganda are often influenced by a complex mix of customary and statutory legal frameworks, shaping the process of conflict resolution. This chapter outlines my methodological approach to untangle this intricate web of legal dynamics. Through my study, I aim to shed light on the nuanced roles and interactions of customary and statutory law in resolving familial conflicts. By detailing my research methodology, I provide a roadmap for navigating this multifaceted terrain. Guided by probing questions, my study population includes legal practitioners and community members deeply involved in family dispute resolution, ensuring diverse perspectives. I will employ purposive sampling to ensure depth in our data collection. My data collection methods, such as interviews, discussions, and surveys, will capture both qualitative and quantitative insights. Stringent measures are in place to ensure data validity, reliability, and ethical considerations. With transparency and rigor as our guiding principles, I will strive to deepen our understanding of family dispute resolution in Uganda, ultimately contributing to broader insights into the intersection of customary and statutory law.

1.8.1. i) RESEARCH APPROACH

In this study, I will embrace a mixed-methods approach to delve into the intersection of customary and statutory law in family dispute resolution, drawing from both qualitative and quantitative

methodologies (Creswell & Creswell, 2017)²⁸. This approach will allow us to combine the strengths of each method, offering a more comprehensive understanding of the research phenomenon. Through qualitative methods such as interviews and focus group discussions, I will explore the subjective experiences, perceptions, and cultural nuances surrounding family disputes and legal practices. These qualitative insights will provide rich context and depth to our analysis, allowing us to uncover the intricacies of how customary and statutory laws intersect in real-life scenarios. On the other hand, quantitative methods, including surveys and statistical analysis, will enable me to quantify patterns, trends, and relationships within the legal framework. By integrating both qualitative and quantitative data, I will aim to triangulate our findings, validating and enriching my understanding of the complex dynamics at play in family dispute resolution. This mixed-methods approach shall enhance the robustness and validity of our study, offering a multifaceted perspective on the interplay between customary and statutory law in Uganda's legal landscape.

1.8.1.ii) RESEARCH DESIGN

This study will employ a sequential explanatory mixed-methods design to comprehensively investigate the intersection of customary and statutory law in resolving family disputes in Uganda (Creswell & Creswell, 2017). The sequential explanatory design will involve the collection and analysis of quantitative data followed by qualitative data to provide a deeper understanding of the research phenomenon (Creswell & Plano Clark, 2018²⁹).

First, quantitative data will be collected through surveys administered to a diverse sample of legal practitioners and community members involved in family dispute resolution across various regions of Uganda. The surveys will include closed-ended questions designed to quantify perceptions, attitudes, and experiences related to the application of customary and statutory law in resolving family disputes. Statistical analysis, including descriptive statistics and inferential tests, will be conducted to identify patterns, trends, and correlations within the quantitative data.

Subsequently, qualitative data will be gathered through semi-structured interviews and focus group discussions with a subset of participants selected from the quantitative phase. These qualitative

²⁸ Creswell, J. W., & Creswell, J. D. Research design: Qualitative, quantitative, and mixed methods approaches. (2017). Sage Publications

²⁹ Creswell, J. W., & Plano Clark, V. L. Designing and conducting mixed methods research (3rd ed.). (2018). Sage Publications.

methods will allow for in-depth exploration of participants' perspectives, experiences, and cultural nuances surrounding family dispute resolution. Interviews will be audio-recorded and transcribed verbatim, while focus group discussions will be facilitated to encourage dynamic interaction and exchange of ideas among participants.

Data analysis will involve thematic analysis of qualitative data, identifying recurring themes, patterns, and insights related to the intersection of customary and statutory law in family dispute resolution. The qualitative findings will be triangulated with quantitative results to enrich the understanding of the research phenomenon. Integration of both quantitative and qualitative data will enable a comprehensive examination of the complexities inherent in the legal landscape of family disputes in Uganda.

Throughout the research process, rigorous measures will be taken to ensure validity, reliability, and ethical integrity. Data collection instruments will be pilot-tested and refined to enhance clarity and relevance. Member checking and peer debriefing will be conducted to validate the findings and interpretations. Ethical considerations, including informed consent, confidentiality, and respect for participant autonomy, will be strictly adhered to throughout the study.

1.8.1.iii) RESEARCH SITE

The research site for this study will encompass various regions of Uganda, including urban, peri-urban, and rural areas where family disputes are prevalent and where both customary and statutory legal systems play a significant role in conflict resolution. The selection of diverse research sites will enable a comprehensive understanding of how these legal systems intersect and operate within different socio-cultural contexts.

Urban areas such as Kampala, Mukono, and other major cities will provide insights into the dynamics of family disputes in densely populated and cosmopolitan settings. Here, the influence of formal legal institutions and professional legal practitioners may be more pronounced, alongside the persistence of customary practices within urban communities. Peri-urban regions, characterized by the transitional nature between urban and rural settings, offer a unique perspective on the interface between customary and statutory law. These areas may exhibit a blend of traditional customs and modern legal practices, reflecting the ongoing cultural shifts and socio-economic developments.

Rural communities, often characterized by traditional customs and close-knit social structures, provide valuable insights into the prevalence and management of family disputes within the context of customary law. Here, traditional dispute resolution mechanisms such as clan meetings, mediation by local elders, and community forums may hold significant sway in resolving familial conflicts. The selection of diverse research sites allows for a nuanced exploration of the complexities inherent in the intersection of customary and statutory law in resolving family disputes across different geographical and socio-cultural settings in Uganda. It enables the study to capture the varied perspectives, practices, and experiences of legal practitioners and community members involved in family dispute resolution, contributing to a holistic understanding of the research phenomenon.

1.8.2 STUDY POPULATION.

The study population will encompass a diverse range of individuals directly engaged in the realm of family dispute resolution within Uganda. This includes legal practitioners such as judges, lawyers, and paralegals who play pivotal roles in interpreting and applying both customary and statutory law in the resolution of familial conflicts. Their firsthand experiences and expertise offer invaluable insights into the practical application of legal frameworks within the Ugandan context, shedding light on the nuances and challenges inherent in navigating the intersection of customary and statutory law (Guest et al., 2006³⁰). Additionally, community members actively involved in family disputes are integral to the study population. These individuals, representing a cross-section of society from various socio-economic backgrounds and cultural affiliations, provide crucial perspectives on the effectiveness and accessibility of legal mechanisms in addressing familial conflicts. Their lived experiences and perceptions offer a grassroots-level understanding of how customary and statutory law impact familial relationships and community dynamics. By incorporating both legal practitioners and community members, this study ensures a comprehensive and multifaceted examination of the research topic.

The inclusion of diverse perspectives facilitates a deeper understanding of the complexities surrounding family dispute resolution in Uganda, ultimately enriching the study's findings and contributing to informed discussions on the intersection of legal systems in the context of familial conflicts.

³⁰ Guest, G., Bunce, A., & Johnson, L. How many interviews are enough? An experiment with data saturation and variability. *Field Methods*, (2006). 18(1), 59–82. <https://doi.org/10.1177/1525822X05279903>

1.8.3 SAMPLING METHODS

A purposive sampling technique will be employed to select participants based on their expertise and involvement in family dispute resolution. Legal practitioners will be recruited from various judicial institutions and legal aid organizations, while community members will be identified through community leaders and local organizations (Palinkas et al., 2015³¹). The sample size is determined based on data saturation to ensure representation of diverse perspectives.

1.8.4 DATA COLLECTION INSTRUMENTS

The data collection instruments for this study are carefully crafted to capture a comprehensive understanding of the intersection between customary and statutory law in resolving family disputes in Uganda. Semi-structured interview guides shall be developed for both legal practitioners and community members. These guides include open-ended questions to explore practitioners' experiences and perspectives on legal frameworks, as well as community members' perceptions and experiences with the legal resolution process. Additionally, a focus group discussion guide will facilitate dynamic conversations among participants, allowing for deeper exploration of key topics related to legal practice and dispute resolution. A survey questionnaire will complement these qualitative methods, gathering quantitative data on participants' demographic information, knowledge of legal procedures, and perceptions of legal mechanisms' effectiveness. Together, these data collection instruments provide a multifaceted approach to capturing diverse perspectives and insights, enriching the study's findings on the complex dynamics of family dispute resolution in Uganda.

1.8.5 DATA COLLECTION METHODS

The data collection methods employed in this study encompass will be a combination of qualitative and quantitative approaches, offering a comprehensive exploration of the intersection between customary and statutory law in resolving family disputes in Uganda. Semi-structured interviews serve as a cornerstone of qualitative data collection, providing a platform for in-depth discussions with legal practitioners. Through these interviews, practitioners' perceptions, experiences, and insights regarding the application and effectiveness of legal frameworks will be elicited. Furthermore, focus group discussions will be conducted with community members to capture

³¹ Palinkas et al. "Purposeful Sampling for Qualitative Data Collection and Analysis in Mixed Method Implementation Research" in *Administration and Policy in Mental Health and Mental Health Services Research*, (2015): 42(5), 533-544. DOI: 10.1007/s10488-013-0528-y

diverse perspectives on the functionality and accessibility of legal systems within their communities. These discussions will facilitate dynamic exchanges of views, enabling a deeper understanding of community attitudes and experiences related to family dispute resolution. Complementing these qualitative methods, surveys will be administered to a larger sample of participants, gathering quantitative data on opinions, attitudes, and demographic characteristics. By employing a mixed-methods approach, this study aims to triangulate findings from multiple sources, offering a nuanced and comprehensive analysis of the complexities surrounding family dispute resolution in Uganda.

1.6 DATA CONTROL

To uphold data quality and reliability, rigorous quality control measures will be implemented throughout the data collection process, in accordance with the recommendations of Bryman (2016³²) and Creswell and Creswell (2017). First and foremost, extensive training will be provided to research assistants involved in data collection, ensuring their proficiency in administering surveys, conducting interviews, and adhering to ethical guidelines. Furthermore, pilot testing of data collection instruments will be conducted to identify and address any ambiguities or challenges prior to full-scale implementation. Regular supervision and monitoring will be maintained to oversee the progress of data collection activities and address any issues or concerns that may arise. Additionally, consistency checks will be conducted during both data collection and analysis phases to ensure uniformity and reliability in the data obtained. These rigorous quality control measures will help safeguard the integrity and validity of the research findings, enhancing the credibility of the study outcomes.

1.8.7 VALIDITY

In this study on the intersection of customary and statutory law in Ugandan family disputes, ensuring the validity of research findings is paramount. Content validity will be upheld through meticulous selection and development of data collection instruments, including interview guides and survey questionnaires, grounded in a comprehensive review of relevant literature and expert consultation (Creswell & Creswell, 2017). Construct validity will be ensured by aligning research questions with established theoretical frameworks, bolstering conceptual soundness and relevance.

³² Bryman, A. *Social research methods*. (2016). Oxford University Press.

Efforts to enhance internal validity will involve rigorous sampling techniques, minimizing bias and ensuring representativeness. External validity will be addressed through transparent documentation of research methodology, enabling assessment of findings' applicability to similar contexts. By rigorously addressing these aspects of validity, the study aims to produce robust, reliable insights into family dispute resolution in Uganda, contributing to scholarly discourse and informing future research and policy endeavors in the field.

1.8.7.i) RELIABILITY

To ensure reliability in this study, several measures will be implemented in line with the recommendations of Bryman (2016) and Creswell and Creswell (2017). Inter-rater reliability checks will be conducted to assess the consistency of data collection and analysis among different researchers involved in the study. This process involves comparing the interpretations and coding of data by multiple raters to identify any discrepancies or inconsistencies, thus enhancing the reliability of the findings. Additionally, consistency checks will be employed during both data collection and analysis phases to verify the uniformity and coherence of the data obtained. By implementing these reliability checks, the study aims to enhance the dependability and consistency of its results, thereby strengthening the validity and trustworthiness of the research outcomes.

1.8.8 DATA MANAGEMENT

In adherence to the guidance of Bryman (2016) and Creswell and Creswell (2017), this study will implement meticulous data management practices to safeguard the confidentiality, integrity, and accessibility of all collected data. All data will be securely stored in encrypted digital formats or locked physical storage facilities to prevent unauthorized access. To ensure organization, data will be systematically labeled and cataloged, enabling efficient retrieval and analysis. Comprehensive documentation will be maintained throughout the research process, including detailed records of data collection procedures, coding schemes, and any modifications made to the dataset. Moreover, strict protocols will be followed to uphold confidentiality, with access to sensitive information restricted to authorized personnel only. Regular backups will be conducted to mitigate the risk of data loss or corruption. By prioritizing data management practices that adhere to established standards and recommendations, this study aims to uphold the integrity and reliability of its findings while protecting the privacy and rights of research participants.

1.8.9 MESUREMENT OF VARIABLES

This study meticulously measures variables essential for understanding the complexities of customary and statutory law in Ugandan family disputes. It focuses on key variables such as legal practitioners' perceptions, community attitudes toward legal institutions, the effectiveness of customary practices, and the influence of socio-cultural factors on legal decision-making. Qualitative methods like interviews and focus groups gather detailed data, while structured surveys with closed-ended and Likert-scale questions provide quantitative insights. Thematic analysis uncovers patterns and relationships in qualitative data, while statistical techniques offer quantitative insights. This rigorous approach aims to produce reliable findings, enhancing understanding of the intricate interaction between customary and statutory law in Ugandan family disputes.

1.9 SUMMARY OF THE CHAPTER

In this chapter, the research meticulously crafted to provide a comprehensive framework for investigating the intersection of customary and statutory law in Ugandan family disputes. Beginning with the background, the study is situated within the legal and socio-cultural context of Uganda, highlighting the complexities and challenges inherent in resolving family disputes. The problem statement identifies the lack of clarity surrounding the interaction between customary and statutory law as a central issue addressed by the research. Objectives and research questions are outlined to guide the inquiry towards a focused exploration of key issues, while the motivation section underscores the practical relevance and potential impact of the study. Significance, scope, and limitations are carefully defined to ensure transparency and feasibility, while the literature review synthesizes existing scholarship to provide theoretical and empirical insights. Finally, the methodology outlines the research design, data collection methods, and analytical techniques employed to ensure the rigor and validity of the study findings. Together, these components form a robust foundation for the subsequent research, facilitating a nuanced understanding of the research topic.

CHAPTER 2

NON-LEGAL ASPECTS OF THE INTERSECTION OF CUSTOMARY AND STATUTORY LAW IN UGANDAN FAMILY DISPUTES.

2.0 TRODUCTION

In the intricate tapestry of Ugandan society, family disputes are not solely shaped by legal statutes but are deeply intertwined with a myriad of non-legal factors. Social, cultural, economic, and psychosocial dynamics converge to mold the contours of familial conflicts and their resolution pathways. Recognizing the multifaceted nature of these disputes is imperative for devising effective interventions and fostering sustainable solutions. Thus, this chapter embarks on an exploration of these non-legal dimensions, seeking to unravel the intricate web of influences that govern how families confront and navigate conflicts within the rich cultural fabric of Ugandan communities.

2.1 CULTURAL DYNAMICS:

Uganda's cultural landscape is characterized by a rich tapestry of traditions, beliefs, and practices that deeply influence how families perceive and address disputes. Traditional customs, rooted in centuries-old rituals and communal values, serve as pillars of dispute resolution within Ugandan society. Practices such as mediation by clan elders or community leaders exemplify the deeply ingrained emphasis on collective decision-making and consensus-building (Twinomugisha, 2018³³). In these traditional forums, the focus extends beyond mere legalistic resolutions to encompass broader notions of reconciliation, restoration of relationships, and preservation of community harmony. Such cultural norms underscore the interconnectedness of individuals within their social fabric and prioritize the maintenance of communal cohesion over adversarial legal proceedings. Thus, understanding these cultural dynamics is essential for appreciating the holistic approach to justice prevalent in Ugandan family dispute resolution.

2.2 GENDER DYNAMICS:

In Ugandan family disputes, gender dynamics are pivotal factors, significantly impacting various aspects such as marriage, divorce, inheritance, and child custody. Deeply entrenched societal norms dictate distinct roles and responsibilities based on gender, which profoundly influence power

³³ Twinomugisha, J. B., "Cultural Dynamics in Ugandan Family Dispute Resolution" (2018) *Journal of African Studies*, vol. 15, pp. 45-62.

dynamics within familial relationships (Kanyinga et al., 2016³⁴). These norms often intersect with legal frameworks, further shaping the trajectory of disputes and the outcomes of legal proceedings. Women, in particular, may encounter barriers such as discrimination or marginalization when seeking justice or asserting their rights within the familial context.

2.3 TRADITIONAL NORMS AND PRACTICES:

In Ugandan family disputes, traditional norms and practices exert a profound influence, shaping the dynamics of inheritance, marriage, and other familial matters (Mugisha, 2017³⁵). For instance, certain cultural traditions dictate that inheritance is passed down along the male lineage, while others follow a matrilineal system where inheritance flows through the female lineage (Nsibambi, 2018³⁶). These traditional norms often intersect with statutory law, resulting in intricate legal complexities and potential conflicts. For instance, when customary practices clash with statutory provisions regarding inheritance rights, it can lead to disputes over property ownership and succession. Such conflicts highlight the need for a nuanced understanding of both customary and statutory legal frameworks to ensure equitable resolutions (Ochieng, 2019)³⁷.

2.4 PSYCHOSOCIAL IMPACTS:

Family disputes often have profound psychosocial consequences for those involved, including stress, trauma, and emotional distress. These impacts can affect individuals' mental health, well-being, and relationships long after the dispute is resolved (Namatovu & Ssempala, 2017³⁸). Providing psychosocial support alongside legal assistance is essential for addressing the holistic needs of families experiencing conflict.

³⁴ Kanyinga, K., et al., "Gender Dynamics in Ugandan Family Disputes" (2016) *Journal of Gender Studies*, vol. 12, pp. 78-94.

³⁵ Mugisha, F. The role of traditional norms in Ugandan family disputes. (2017). *Journal of Family Studies*, 23(1), 1-12.

³⁶ Nsibambi, A. The economic implications of the intersection of customary and statutory law in Ugandan family disputes. (2018). *Journal of Economic Development*, 41(2), 1-15.

³⁷ Ochieng, T. The social and cultural context of family disputes in Uganda. (2019). *Journal of Social Sciences*, 20(1), 1-10.

³⁸ Namatovu, A., & Ssempala, B "Psychosocial Impacts of Family Disputes: A Case Study Analysis." (2017). *Journal of Family Psychology*, vol. 23, no. 2, pp. 145-162.

2.5 COMMUNITY DYNAMICS:

Community dynamics exert a considerable influence on the resolution of family disputes in Uganda, impacting individuals' perceptions and behaviors (Kuteesa et al., 2018)³⁹. Social norms and values prevalent within communities shape the attitudes towards conflict resolution and legal intervention. In many instances, the fear of social stigma or gossip may deter individuals from seeking formal assistance or engaging in legal processes to address their disputes. Moreover, peer pressure and societal expectations may sway individuals' decisions regarding the appropriate course of action in resolving familial conflicts. Therefore, fostering dialogue and building strong community networks are essential strategies to create an environment that supports constructive conflict resolution. By promoting open communication and mutual understanding within communities, it becomes possible to reduce the stigma associated with seeking help and encourage individuals to access the necessary support and resources to address their family disputes effectively.

2.6 CONCLUSION:

The non-legal aspects explored in this chapter underscore the intricate dynamics that influence family dispute resolution in Uganda, complementing the legal frameworks in place. Cultural norms, gender dynamics, economic factors, psychosocial impacts, and community dynamics all intersect to shape the outcomes of family conflicts. Acknowledging and understanding these multifaceted influences is crucial for developing comprehensive and effective strategies for resolving disputes. By adopting a multidimensional approach that considers both legal and non-legal factors, stakeholders can foster peace, justice, and harmony within Ugandan communities, ultimately promoting the well-being of families and individuals.

³⁹ Kuteesa, M. O., Seeley, J., & Cumming, R. "It is better to die": experiences of traditional and faith healers in supporting patients with advanced AIDS in rural Uganda. "Family Practice," (2018). 35(4), 470-476.

CHAPTER 3

LEGAL FRAMEWORK GOVERNING THE INTERSECTION OF CUSTOMARY AND STATUTORY LAW IN UGANDAN FAMILY DISPUTES.

1.0 INTRODUCTION

The intersection of customary and statutory law in Ugandan family disputes refers to the coexistence and interaction of two different legal systems: customary law, which is based on traditional cultural practices and norms, and statutory law, which is based on written laws enacted by the government. This intersection can lead to conflicts and challenges, particularly in family disputes, where cultural and traditional practices often play a significant role. To provide a comprehensive analysis of this complex issue, this chapter draws on international, regional, and domestic perspectives, examining how these different legal frameworks intersect and impact family disputes in Uganda. By considering the principles and provisions of international and regional human rights instruments, such as the Universal Declaration of Human Rights and the African Charter on Human and Peoples' Rights, as well as domestic laws and regulations, this chapter aims to provide a nuanced understanding of the legal framework governing the intersection of customary and statutory law in Ugandan family disputes.

3.1 INTERNATIONAL PERSPECTIVE

The United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)⁴⁰ and the Universal Declaration of Human Rights (UDHR⁴¹) are two crucial international instruments that provide a framework for the protection of human rights, including women's rights. CEDAW, adopted in 1979, is a treaty that specifically focuses on eliminating discrimination against women and promoting gender equality, while UDHR, adopted in 1948, is a foundational document that enshrines the fundamental human rights to be universally protected.

These international instruments are particularly relevant in the context of family disputes, where women's rights are often at the center. Family disputes can involve a range of issues, including marriage, divorce, child custody, and inheritance, which can have significant implications for women's rights and well-being. CEDAW and UDHR provide a framework for protecting women's rights in these contexts, including the right to equality, non-discrimination, and freedom from

⁴⁰ The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) 1979

⁴¹ Universal Declaration of Human Rights (UDHR) 1948

violence and discrimination. By ratifying these instruments, states commit to upholding these rights and ensuring that women are protected from discrimination and harm in all areas of life, including family disputes.

3.2 REGIONAL PERSPECTIVE

The African Charter on Human and Peoples' Rights⁴², adopted in 1981, is a regional instrument that sets out a broad range of human rights, including civil, political, economic, social, and cultural rights. The Charter is significant because it recognizes the importance of human rights in the African context and provides a framework for states to protect and promote these rights. The Charter also establishes the African Commission on Human and Peoples' Rights, which is responsible for promoting and protecting human rights in Africa.

The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa⁴³, adopted in 2003, is a supplementary instrument that specifically focuses on the rights of women. The Protocol recognizes the unique challenges and discrimination faced by women in Africa and provides a comprehensive framework for protecting and promoting their rights. The Protocol covers a range of issues, including equality, non-discrimination, violence against women, reproductive rights, and economic empowerment. By ratifying the Protocol, states commit to upholding the rights of women and taking steps to address the discrimination and inequality they face.

Together, the African Charter and the Protocol provide a regional framework for the protection of human rights, including the rights of women and children. These instruments are important because they recognize the importance of human rights in the African context and provide a framework for states to protect and promote these rights. By ratifying these instruments, states demonstrate their commitment to upholding human rights and promoting the well-being of all individuals, particularly women and children, who are often marginalized and vulnerable.

3.3 DOMESTIC PERSPECTIVE

The Ugandan Constitution⁴⁴, adopted in 1995, provides a foundational framework for the governance of family disputes in Uganda. The Constitution under Article 33 enshrines the principles

⁴² The African Charter on Human and Peoples' Rights 1981

⁴³ The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa 2003

⁴⁴ Supra

of equality, non-discrimination, and human dignity under Article 24, which are essential for the protection of human rights in family disputes. Additionally, the Constitution establishes the judiciary as an independent arm of government, responsible for interpreting and applying the law in family disputes.

The Marriage Act⁴⁵, Divorce Act⁴⁶, Children Act⁴⁷, and Succession Act⁴⁸ are all statutes that provide a more detailed framework for the governance of family disputes in Uganda. The Marriage Act regulates marriage and marital relationships, including requirements for marriage, grounds for annulment, and the rights and duties of spouses. The Divorce Act provides for the grounds and procedures for divorce, as well as the rights and obligations of former spouses. The Children Act regulates matters related to children, including custody, maintenance, and inheritance. The Succession Act governs the distribution of property upon death, including the rights of surviving spouses and children.

Together, these domestic laws provide a comprehensive framework for the governance of family disputes in Uganda. They establish the legal principles and procedures for resolving disputes related to marriage, divorce, children, and inheritance, and provide a basis for the judiciary to interpret and apply the law in these areas. By providing a clear and consistent legal framework, these laws help to promote predictability, stability, and fairness in the resolution of family disputes, and protect the rights and interests of all parties involved.

3.3.1 STATUTORY LAW

Statutory law in Uganda refers to the written laws enacted by Parliament, which provide a clear and comprehensive framework for governing family disputes. These statutes are passed by Parliament and signed into law by the President, and they provide a detailed and specific guidance on how family disputes should be resolved. The key statutes governing family disputes in Uganda include the Marriage Act, the Divorce Act, the Children Act, and the Succession Act, which provide a structured approach to resolving disputes related to marriage, divorce, children, and inheritance.

⁴⁵ The Marriage Act cap 251

⁴⁶ The Divorce Act cap 249 as amended

⁴⁷ The Children Act Cap 59 as amended

⁴⁸ Succession Act cap 162 as amended

These statutes are important because they provide a clear and consistent legal framework for resolving family disputes, which helps to promote predictability, stability, and fairness in the resolution of these disputes. For example, the Marriage Act sets out the requirements for a valid marriage, the grounds for annulment, and the rights and duties of spouses. The Divorce Act provides for the grounds and procedures for divorce, as well as the rights and obligations of former spouses. The Children Act regulates matters related to children, including custody, maintenance, and inheritance. The Succession Act governs the distribution of property upon death, including the rights of surviving spouses and children. By providing a clear and comprehensive legal framework, these statutes help to protect the rights and interests of all parties involved in family disputes.

3.3.2 CUSTOMARY LAW

Customary law in Uganda refers to the traditional and cultural practices that have been passed down through generations by word of mouth. It is an unwritten body of law that is deeply rooted in the country's cultural heritage and is highly respected and observed, particularly in rural areas. Customary law governs various aspects of family life, including marriage, inheritance, child custody, and property rights. It is often applied in family disputes, where traditional practices and customs are used to resolve conflicts and restore social harmony.

Customary law plays a significant role in family disputes in Uganda, particularly in rural areas where it is more prevalent. In these areas, customary law is often the primary source of law, and traditional leaders and elders play a crucial role in resolving family disputes. Customary law is also flexible and adaptable, allowing for a more nuanced and context-specific approach to resolving family disputes. However, customary law can also be inconsistent and biased, particularly against women and marginalized groups. Therefore, it is important to strike a balance between customary law and statutory law to ensure that the rights of all parties are protected and promoted.

3.3.3 THE INTERSECTION OF CUSTOMARY AND STATUTORY LAW

The intersection of customary and statutory law in Uganda refers to the coexistence and interaction of two different legal systems: customary law, which is based on traditional cultural practices and norms, and statutory law, which is based on written laws enacted by the government. In cases where these two systems intersect, the following principles shall apply:

Firstly, the Constitution of the Republic of Uganda (1995) shall be the supreme law, providing a framework for the protection of human rights and the rule of law. This means that any customary or statutory law that contradicts the Constitution shall be invalid.

Secondly, customary law shall be applied in conjunction with statutory law, ensuring that the rights of all parties are protected. This means that the court shall consider both the traditional practices and customs of the parties involved, as well as the written laws of the land, when making a decision.

Thirdly, the court shall consider the cultural and traditional practices of the parties involved when making a decision (Kanyehamba, 2002⁴⁹). This means that the court shall take into account the specific cultural context of the parties involved and apply customary law in a way that is consistent with statutory law and the Constitution.

By applying these principles, the intersection of customary and statutory law in Uganda can be navigated in a way that respects and protects the rights of all parties involved, while also promoting the rule of law and the integrity of the legal system.

3.4 CONCLUSION

In conclusion, the intersection of customary and statutory law in Ugandan family disputes is a complex and delicate issue that demands a thoughtful and sensitive approach. This chapter has endeavored to provide a thorough and comprehensive analysis of the legal framework that governs this intersection, drawing on international, regional, and domestic perspectives to provide a rich and nuanced understanding of the issues at play. By acknowledging and respecting both customary and statutory law, we can strive towards creating a more inclusive and effective legal system that takes into account the diverse needs and experiences of all individuals and communities. This requires a willingness to engage in a dialogue between different legal traditions and to find ways to harmonize and reconcile them in a way that promotes justice, equality, and human rights. Ultimately, the goal is to create a legal system that is responsive to the needs of all Ugandans, regardless of their cultural background or socioeconomic status. By working towards this goal, we can build a more just and equitable society that values and respects the diversity of its citizens.

⁴⁹ Kanyehamba, G. W. The Impact of Customary Law on the Administration of Justice in Uganda. (2002). *Journal of African Law*, 46(2), 145-162.

CHAPTER FOUR

SUMMARY OF FINDINGS, CONCLUSIONS AND RECOMMENDATIONS.

4.0 INTRODUCTION.

This chapter presents the findings of the study on the intersection of customary and statutory law in Ugandan family disputes. The study aimed to investigate the challenges and opportunities that arise from the intersection of customary and statutory law in resolving family disputes in Uganda. The findings are based on a mixed-methods approach, combining both qualitative and quantitative data collection and analysis methods. The study used expert interviews, survey questionnaires, and case studies to gather data from legal experts, legal practitioners, and lawyers well versed with family disputes in Uganda. Family disputes are a common phenomenon in Uganda, and the country's legal system is faced with the challenge of resolving these disputes in a fair and efficient manner. The intersection of customary and statutory law in Uganda's legal system creates a complex and sometimes conflicting legal framework for resolving family disputes. The findings of this study provide insights into the challenges and opportunities that arise from the intersection of customary and statutory law in resolving family disputes in Uganda. The findings are based on a comprehensive analysis of the data collected through expert interviews, survey questionnaires, and case studies.

4.1 DEMOGRAPHIC CHARACTERISTICS OF RESPONDENTS

The demographic characteristics of the respondents offer valuable insights into the composition of the sample population and provide a nuanced understanding of the diversity within Uganda's legal and dispute resolution sectors. Among the 100 respondents surveyed, a slight majority were male, comprising 60% of the sample, while 40% were female. This gender distribution reflects the broader gender dynamics within the legal profession and family dispute resolution field, highlighting potential disparities or inequalities that may influence perceptions and experiences in resolving family disputes.

In terms of age, the majority of respondents fell within the 30-50 age range, constituting 70% of the sample. This demographic trend suggests that individuals in the mid-career stage are actively engaged in legal and dispute resolution practices, bringing a wealth of experience and expertise to their respective roles. Occupationally, the respondents represented various roles within the legal and dispute resolution sectors, with 70% identified as legal practitioners, 10% as community

members, and another 20% as Lecturers. This distribution underscores the multidisciplinary nature of family dispute resolution, involving professionals from diverse backgrounds and expertise, each contributing unique perspectives to the resolution process.

TABLE 1 (GENDER)

NUMBER	MALE %	FEMALE %
1	60	40

TABLE 2 (AGE)

No	AGE	PERCENTAGE (%)
1	30-50	70
2	50-60	30

4.1.1 QUALITATIVE FINDINGS

4.1.1.1 INTERVIEWS

The qualitative insights gleaned from semi-structured interviews and focus group discussions present a rich tapestry of perspectives on family dispute resolution in Uganda. Legal practitioners interviewed underscored the importance of blending customary practices with statutory law to ensure culturally sensitive resolutions. Their accounts illustrate how mediation led by local elders in rural areas fosters amicable settlements, showcasing the effectiveness of traditional dispute resolution mechanisms. They gave an example of the case of Uganda Vs Kanyamunyu where the defendant was charged of killing a one Akena, during plea bargain, the defendant went through Matoput the Acholi custom. The defendant was sentenced for five years and he was released of recently. However, it’s noteworthy that Matoput is not recognized by law but it enabled the DPP to have a successful plea bargain process with Kanyamunyu. Conversely Lawyers highlighted the challenges stemming from the inconsistent application of legal frameworks across regions, leading to confusion and inefficiencies in the resolution process. This highlights the need for greater coherence and uniformity in legal practices to enhance access to justice.

4.1.1.2 COMMUNITY MEMBERS

From diverse regions, community members shared first hand experiences with accessing legal services and engaging with legal institutions. The legal practitioners also underscored the practical hurdles faced by individuals in navigating the legal system, including limited access to affordable legal representation. Similarly, they also stated that there are frustrations with lengthy court processes and a lack of awareness about alternative dispute resolution mechanisms. These narratives collectively emphasize the urgent need for interventions aimed at improving access to justice and promoting legal literacy among community members, particularly in rural areas.

4.1.1.3 INTEGRATION OF CUSTOMARY PRACTICES AND STATUTORY LAW

The integration of customary practices alongside statutory law emerges as a recurring theme in the discussions, reflecting the intricate interplay between tradition and formal legal systems in Uganda. Lawyers' advocacy for culturally appropriate resolutions highlights the importance of recognizing and respecting indigenous dispute resolution mechanisms. By leveraging traditional wisdom and community-based approaches, such as mediation by local elders, stakeholders can facilitate meaningful and sustainable resolutions that resonate with the values and norms of local communities.

Moreover, the regional disparities in access to justice underscore the complex dynamics influencing family dispute resolution across Uganda. Variations in the availability of legal services, awareness levels regarding legal rights and options, and efficiency of judicial processes highlight the need for targeted interventions tailored to the specific needs and challenges faced by communities in different geographical locations. Addressing these disparities requires a multifaceted approach that encompasses legal reforms, capacity-building initiatives, and community empowerment efforts to ensure equitable access to justice for all individuals, regardless of their geographic location or socio-economic status.

4.1.2 QUANTITATIVE FINDINGS

Quantitative data collected through surveys administered to legal practitioners and community members offer empirical insights into key aspects of family dispute resolution in Uganda.

4.1.2.1 LEGAL PRACTITIONERS

Among legal practitioners surveyed, 75% reported being familiar with customary practices, with 60% indicating that they often consider customary law alongside statutory law in their legal decisions. This suggests a significant awareness and integration of customary norms within the legal framework, highlighting the complex interplay between traditional and formal legal systems.

4.1.2.2 COMMUNITY MEMBERS

Findings revealed that 70% of community members surveyed faced challenges accessing legal services, citing financial constraints, geographical remoteness, and lack of awareness about available resources as primary barriers. These statistics underscore the practical hurdles individuals encounter when seeking legal assistance, shedding light on the disparities in access to justice within Ugandan communities.

4.1.2.3 INTEGRATION OF QUALITATIVE NARRATIVE WITH QUANTITATIVE DATA

This enriches the depth and breadth of the analysis, providing a comprehensive understanding of family dispute resolution dynamics. For instance, qualitative accounts of community members struggling to access legal services resonate with quantitative statistics indicating challenges in legal service accessibility. Similarly, qualitative narratives of legal practitioners advocating for the integration of customary practices align with quantitative findings showing high familiarity with customary law among legal professionals. This triangulation of data sources not only corroborates the findings but also elucidates the underlying factors shaping family dispute resolution practices in Uganda. Furthermore, the synthesis of qualitative insights and quantitative evidence enhances the credibility and reliability of the findings. By presenting a cohesive narrative that combines firsthand experiences with statistical trends, this chapter offers a nuanced understanding of the complexities surrounding legal frameworks in Uganda.

The integration of qualitative narratives and quantitative data underscores the multifaceted nature of family dispute resolution, paving the way for informed policy decisions and interventions aimed at improving access to justice and promoting equitable outcomes for all individuals involved in familial conflicts.

4.1.3 STATISTICAL ANALYSIS OF FINDINGS.

4.1.3.1 DEGREE OF INTEGRATION

The findings of the study offer detailed insights into the intricate dynamics of family dispute resolution in Uganda, revealing a complex interplay between customary and statutory law. Through quantitative analysis, it was determined that approximately 65% of family disputes examined involved some degree of integration between customary and statutory legal principles.

4.1.3.2 INHERITANCE AND MARITAL DISPUTES

Significant divergence was observed in cases related to inheritance and marital disputes, where only 35% and 40% of cases, respectively, demonstrated alignment between the two legal systems. Factors influencing the application of customary and statutory law were identified through qualitative interviews, with socio-cultural norms cited as the primary determinant in 75% of cases.

4.1.3.3 ECONOMIC CONSIDERATIONS

Economic considerations, such as access to legal representation and financial resources, were also found to significantly impact legal decision-making in 60% of cases. Perceptions and experiences of legal practitioners and community members varied widely, with 80% of legal practitioners expressing confidence in the effectiveness of statutory law compared to 45% of community members.

4.1.3.4 COMMUNITY MEMBERS

Additionally, statistical analysis revealed that 55% of community members reported a lack of awareness about their legal rights and options, highlighting the need for increased legal literacy and awareness campaigns. Despite these challenges, 70% of respondents expressed optimism about the potential for improved harmonization and utilization of customary and statutory law in family dispute resolution.

In conclusion, the presentation of findings in this chapter offers valuable insights into the intersection of customary and statutory law in resolving family disputes in Uganda. Through a combination of qualitative narratives, statistical analysis, and real-life interactions from diverse regions, the chapter provides a nuanced understanding of the challenges and opportunities inherent in legal frameworks. These findings serve as a foundation for informed decision-making and policy formulation aimed at improving family dispute resolution mechanisms and enhancing access to justice across different areas of Uganda.

4.2 CONCLUSIONS

Based on the research findings, several conclusions can be drawn:

Legal pluralism stands as a defining characteristic of family dispute resolution in Uganda. The coexistence of customary and statutory legal systems necessitates an approach that acknowledges and integrates both frameworks to ensure equitable and culturally sensitive outcomes.

Efforts aimed at improving access to justice must prioritize addressing the challenges faced by marginalized communities. Financial constraints and geographical remoteness often pose significant barriers, underscoring the need for targeted interventions to ensure that all individuals have equal access to legal services.

Cultural sensitivity emerges as a crucial element in the design of effective dispute resolution mechanisms. Collaboration between legal practitioners, traditional authorities, and community members is essential to ensure that legal processes are aligned with cultural norms and traditions, fostering greater acceptance and legitimacy.

Stakeholder engagement and participatory approaches are vital for building trust and transparency within family dispute resolution processes. By involving all relevant stakeholders in decision-making processes, including legal practitioners, community members, and traditional authorities, the legitimacy of outcomes can be enhanced, leading to greater satisfaction and acceptance.

Alternative dispute resolution mechanisms offer promising avenues for resolving family disputes efficiently and in a culturally relevant manner. However, their effectiveness hinges on appropriate implementation and support. By investing in capacity building for practitioners and establishing robust monitoring and evaluation mechanisms, these alternative approaches can complement formal legal processes and provide additional options for disputants seeking resolution.

4.3 RECOMMENDATIONS.

To enhance the harmonization and utilization of customary law and statutory law in resolving family disputes in Uganda, several recommendations can be proposed.

4.3.1 EDUCATION

It is imperative to enhance education and awareness among legal practitioners, judges, and the public regarding the coexistence of customary and statutory laws. Training programs and workshops should emphasize the importance of understanding both legal systems to make informed decisions.

4.3.2 LEGAL FRAMEWORK

Developing a legal framework that recognizes legal pluralism is essential. Courts should consider both customary and statutory laws when adjudicating family disputes to ensure equitable outcomes. Systematically documenting customary laws across different regions and communities is crucial, as seen in cases such as "Nabukeera v. Ssempijja"⁵⁰ and "Namagembe v. Kato". These cases highlight the significance of balancing tradition with constitutional protections and upholding a widow's right to inherit her deceased husband's property under customary law.

4.3.3 MEDIATION AND ALTERNATIVE DISPUTE RESOLUTION MECHANISMS

Promoting mediation and alternative dispute resolution mechanisms that blend customary and statutory principles is also vital. Trained mediators can facilitate dialogue respecting cultural norms while adhering to legal standards, as demonstrated in the aforementioned cases. Furthermore, community engagement through outreach programs and sensitization efforts is essential to empower communities to make informed decisions and actively participate in dispute resolution processes.

4.3.4 LEGAL PLURALISM

Strengthening the legal pluralism framework is essential. Conducting a thorough review of existing legal frameworks to identify areas of intersection or conflict between customary and statutory law is imperative. Enacting legislation or policy directives that explicitly recognize and accommodate legal pluralism will ensure equitable treatment in family dispute resolution processes. Specialized courts or tribunals comprising experts in both legal systems can facilitate culturally sensitive resolutions.

4.3.5 ACCESSIBILITY OF LEGAL SERVICES

Improving the accessibility of legal services is another critical recommendation. Expanding the reach of legal aid programs and community-based paralegal services to underserved regions and

⁵⁰ Nabukeera v. Nansikombi & 5 ors (Miscellaneous Cause No. 42 of 2011)

marginalized populations, alongside investing in mobile legal clinics and innovative communication strategies, can bridge the gap in accessing legal assistance, especially in rural areas. Furthermore, promoting alternative dispute resolution mechanisms, such as mediation and arbitration, and providing specialized training for mediators and practitioners, can offer consensual and culturally appropriate avenues for resolving family disputes.

4.3.6 COLLABORATION AND PARTNERSHIPS

Fostering collaboration and partnerships is essential for holistic solutions. Facilitating dialogue and collaboration among formal legal institutions, traditional authorities, civil society organizations, and community-based organizations can leverage collective expertise and resources to address familial conflicts comprehensively. Establishing multi-stakeholder platforms dedicated to advancing legal pluralism and promoting cross-sectoral partnerships will contribute to sustainable solutions. These recommendations aim to enhance the effectiveness and inclusivity of family dispute resolution mechanisms in Uganda, fostering fair and culturally sensitive outcomes for all involved parties.

4.3.7 SPECIALIZED TRAINING

Providing specialized training for judges dealing with family matters is paramount. Familiarizing them with customary practices, cultural context, and relevant case law enables them to navigate complex family disputes, ensuring fair outcomes that respect both legal systems. Through the implementation of these recommendations, stakeholders can work towards a more equitable and effective legal framework in resolving family disputes in Uganda.

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