MEDIATION

CYNTHIA CECILIA NANNYONGA

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DECLARATION

I NANNYONGA CYNTHIA CECILIA, steadfastly attest that to all this research herein contained as my original work and where other texts or any other authorities have been used verbatim, they have duly been acknowledged and its in my knowledge that this research has never been submitted for the award of any degree in any other University.

RESEARCHER: NANNYONGA CYNTHIA CECILIA

SIGNATURE:

DATE : 28th April, 2025

SUPERVISOR: MR.MUHEREZA NICHOLAS

SIGNATURE:

DATE : 21/06/2025

ABSTRACT

Access to justice remains a significant concern within uganda's legal framework particularly due to delays, costs, and procedure complexities associated with the formal court system. Mediation has emerged as a promising alternative dispute resolution mechanism to address these challenges.

This study examines the role and effectiveness of mediation in Uganda's dispute resolution system. Recognizing challenges in the formal court processes, it explores mediation's potential to improve access to justice. The research focuses on the legal and institutional framework, practical implementation, and barriers to mediation's success. Using qualitative methods, including doctrinal analysis and empirical data from legal practitioners, the study identifies key gaps and proposes reforms to strengthen mediation as an element of justice delivery in Uganda. The study concludes by proposing practical recommendations to enhance the effectiveness and acceptance of mediation. Strengthening institutional support, conducting public sensitization campaigns and enhancing the capacity of mediators are essential steps towards the realization of mediations promise as a cornerstone of Uganda's justice system .

Contents

CHAPTER ONE GENERAL BACKGROUND

1.0 Introduction

Access to justice is a fundamental right and a key component of the rule of law. In Uganda, the formal court system is often slow, expensive, and adversarial, which creates challenges for many litigants, especially the poor. As a result, there has been growing interest in Alternative Dispute Resolution (ADR) mechanisms, particularly mediation, as a means of promoting timely, cost-effective, and amicable dispute resolution. This study seeks to explore mediation as an emerging cornerstone in the administration of justice in Uganda.

1.1 Background

Traditional Foundations of Mediation in Uganda

Long before formal legal institutions were introduced, Ugandan societies had well-established indigenous systems of conflict resolution that emphasized reconciliation, community harmony, and restorative justice. Disputes were typically handled within clans or villages through dialogue facilitated by respected elders, clan heads, or chiefs. These traditional mechanisms valued the restoration of social relationships over punitive outcomes and reflected a collective approach to justice.

An example of this is the **culu kwor** tradition practiced by the **Lango people** in Northern Uganda. In cases of homicide, the offender's clan initiated a reconciliation process with the bereaved family. This process involved public expressions of remorse, compensation (often in the form of cattle or goods), and the involvement of elders to mediate and restore peace between the parties. Similar traditional mechanisms existed across various ethnic groups, including the **Mato Oput**process among the Acholi and **Kayo Cwiny** among the Alur, all of which emphasized forgiveness and reintegration rather than punishment.

These traditional mediation practices have persisted, particularly in rural communities, and continue to play an important role in resolving disputes involving land, marriage, and family relations, especially where access to formal courts is limited.

Introduction of Mediation into the Formal Legal System

With the advent of colonial rule, Uganda inherited a British-style adversarial legal system that prioritized formal litigation. This system was often alien to local communities, being more rigid, expensive, and time-consuming than traditional dispute resolution methods. Nevertheless, early efforts to recognize non-adversarial approaches can be traced to the **Arbitration Act of 1930**, which was the first legislative step towards integrating Alternative Dispute Resolution (ADR) into Uganda's statutory legal framework.

Despite its presence in the law, ADR remained largely underutilized and underdeveloped throughout much of the 20th century. It was often viewed with skepticism by legal practitioners who considered it informal and secondary to court litigation. However, growing concerns about **delays**, **case backlog**, and **limited access to justice**—especially for indigent and unrepresented litigants—sparked renewed interest in ADR towards the end of the 1990s.

In response, the **Judiciary of Uganda**, in collaboration with development partners such as the **Justice Law and Order Sector (JLOS)**, piloted **court-annexed mediation** programs in select High Court circuits. These pilot projects aimed to assess whether mediation could ease pressure on the courts by offering a faster, more amicable dispute resolution process. The success of these early initiatives provided the foundation for formally embedding mediation into the justice system.

Current Legal and Institutional Framework for Mediation

Following the success of the pilot programs, Uganda formally adopted mediation as part of its civil procedure system. The enactment of the **Judicature (Mediation) Rules, 2013** under the **Civil Procedure Act** institutionalized mediation as a mandatory stage in certain civil suits. According to these rules, before any civil case proceeds to trial, the court must refer the matter to mediation.

Under this legal regime, parties are required to file a **case summary**, and they may choose a mediator—who must meet the qualifications set out in the Rules. If the parties do not choose one, the court appoints a qualified mediator. The process is designed to conclude within **60 days**, with a provision for a **10-day extension** where settlement appears probable. The process is **confidential**, **non-binding**, and **voluntary**, with the goal of helping parties reach a mutually acceptable solution.

Mediation in Uganda today operates in two main forms:

- **Court-annexed mediation**, overseen by the judiciary and integrated into the court process; and
- **Private mediation**, conducted outside the court system through institutions such as the **Centre for Arbitration and Dispute Resolution (CADER)** and the **International Centre for Arbitration and Mediation in Kampala (ICAMEK)**.

Despite the availability of this legal framework, **mediation remains underutilized** in Uganda due to a range of challenges. These include limited public awareness, inadequate training for mediators, lack of enforcement mechanisms for settlement agreements, cultural resistance in some communities, and insufficient infrastructure to support mediation services nationwide.

Relevance of the Study

Given Uganda's dual justice system—comprising both formal courts and customary justice mechanisms—this study examines how mediation can bridge the gap between these systems to enhance access to justice. It explores the effectiveness of existing legal provisions, assesses

implementation gaps, and proposes reforms to strengthen the use of mediation as a cornerstone of Uganda's justice system.

1.2 Statement of the Problem

Uganda has taken notable steps toward incorporating mediation into its legal framework, particularly through the enactment of the **Judicature (Mediation) Rules, 2013**, and its integration into the **Civil Procedure Rules**. These developments were introduced to address chronic challenges in the judicial system—most notably **delays**, **case backlog**, **high legal costs**, and the adversarial nature of formal litigation. Mediation was envisioned as a more accessible, efficient, and amicable alternative to traditional court proceedings.

However, despite this formal recognition and the establishment of court-annexed mediation, the uptake and effectiveness of mediation as a dispute resolution mechanism remain limited in practice. Many litigants and legal practitioners continue to favour litigation over mediation, often viewing the latter as less authoritative or reliable. As a result, the intended benefits of mediation—such as reduced case backlog, quicker dispute resolution, and increased access to justice—are far from being fully realized.

Several barriers contribute to the underutilization of mediation in Uganda. These include:

- **Low public awareness** and understanding of the mediation process;
- **Limited training and accreditation** for mediators;
- **Inadequate enforcement mechanisms** for agreements reached through private mediation;
- **Resource and institutional constraints** within the judiciary;
- And **cultural preferences** for either formal litigation or traditional dispute resolution methods, depending on the community.

Furthermore, although Uganda has rules in place to mandate mediation in civil proceedings, there is currently **no standalone Mediation Act** to comprehensively govern both court-annexed and private mediation. This legal gap has led to inconsistencies in practice, confusion regarding roles and responsibilities, and a lack of uniform standards for mediation services across the country.

In light of these challenges, this study seeks to critically examine why mediation has not achieved its full potential in Uganda's justice system. It will assess the strengths and weaknesses of the current legal and institutional framework, explore the practical implementation of mediation, and identify obstacles that hinder its effectiveness and public acceptance. Ultimately, the research aims to offer practical recommendations to promote and strengthen mediation as a central mechanism for delivering timely and equitable justice in Uganda.

1.3 Objectives of the Study

1.3.1General Objective

To critically examine the role and effectiveness of mediation in dispute resolution in Uganda.

1.3.2 Specific Objectives

a) To identify the legal and institutional framework governing mediation in Uganda.

b) To critique the implementation of mediation practices in Uganda's judicial system.

c) To recommend practical solutions to improve the use and acceptance of mediation as a dispute resolution mechanism.

1.4 Research Questions

- What laws and policies govern mediation in Uganda?

- How is mediation implemented within and outside the court system?

- What challenges hinder the effective use of mediation in Uganda?

- What measures can be taken to promote and improve mediation?

1.5 Significance of the Study

This study contributes to the academic and legal discourse on ADR in Uganda. It provides useful insights for legal practitioners, policymakers, and the judiciary on how to strengthen the use of mediation. It is also useful for the public to understand the advantages of mediation and how it can enhance access to justice.

1.6 Justification of the Study

The increasing case backlog and delays within Uganda's formal court system have highlighted the urgent need for more efficient and user-friendly dispute resolution mechanisms. Mediation, as a form of Alternative Dispute Resolution (ADR), presents a promising solution to many of the challenges facing the judiciary. It offers a more flexible, cost-effective, and time-saving alternative to litigation, while also fostering reconciliation between parties.

Despite its formal integration into the legal framework through the **Judicature (Mediation) Rules, 2013**, the extent to which mediation is achieving its intended goals remains unclear. There is limited empirical research evaluating the practical effectiveness of mediation in Uganda, especially in terms of accessibility, consistency in implementation, and public perception. Furthermore, the absence of a unified **Mediation Act** has created gaps in legal clarity and standardization, particularly concerning private mediation.

This study is therefore essential for several reasons:

- It **assesses whether mediation is fulfilling its intended role** as an effective, accessible, and reliable alternative to litigation in Uganda's justice system;
- It identifies **policy and institutional gaps** that hinder the broader adoption and effectiveness of mediation;
- It offers **evidence-based recommendations** to inform law reform, judicial practice, and institutional development in the area of dispute resolution;
- It contributes to ongoing discussions on **judicial efficiency**, **access to justice**, and **the harmonization of formal and informal dispute resolution mechanisms**, particularly in culturally diverse and underserved communities.

By providing a comprehensive evaluation of the legal and practical aspects of mediation, this research supports efforts to strengthen justice delivery and ensure that Uganda's legal system is more responsive to the needs of its people.

1.7 Scope of the Study

1.7.1 Temporal Scope

The study focuses on the period from 2013 (when the Judicature (Mediation) Rules were enacted) to 2025.

1.7.2Geographical Scope

The study covers Uganda as a whole but may focus more on selected courts or regions where mediation is more frequently practiced.

1.7.3Thematic Scope

The study addresses the legal framework, implementation, effectiveness, challenges, and reforms related to mediation in Uganda.

1.8 Literature Review (Brief Overview)

Several scholars have examined mediation globally and locally, focusing on its benefits, challenges, and implementation. However, limited literature critically assesses the practical effectiveness of mediation in Uganda post-2013. This study builds upon existing scholarship by providing updated insights and evaluating current practices within the judiciary.

1.9 Methodology

The study adopts a qualitative approach, involving a doctrinal analysis of statutes, case law, and secondary sources. It also includes empirical aspects such as interviews or questionnaires with legal practitioners, judicial officers, and disputants to gather views on mediation practice and effectiveness

1.10Outline of Chapters

- Chapter One: Introduction, background, problem statement, objectives, significance, scope, methodology.
- Chapter Two: Literature Review - exploring theories and previous studies on mediation.
- Chapter Three: Legal Framework Governing Mediation in Uganda.
- Chapter Four: Analysis of the Implementation and Challenges of Mediation.
- Chapter Five: Findings, Recommendations, and Conclusion

CHAPTER TWO: NON-LEGAL ASPECTS OF MEDIATION

2.0 Introduction

This chapter explores factors influencing mediation, including theoretical models, socio cultural dynamics, and economic implications. Understanding these dimensions is essential for assessing why mediation succeeds or fails in certain contexts within Uganda.

It also explores the meaning, nature, and theoretical underpinnings of mediation. It seeks to provide a solid conceptual foundation for understanding mediation in the context of Uganda's legal system. The discussion includes the definitions, principles, types, and benefits of mediation, as well as theoretical frameworks that justify and shape its use in dispute resolution

Meaning and Nature of Mediation

Mediation is a form of alternative dispute resolution (ADR) which emphasizes collaborative problem-solving. The mediator facilitates communication, clarifies issues, and explores potential solutions without making binding decisions. This process is widely used in various contexts, such as family disputes, workplace conflicts, commercial disagreements, and community issues.
Here's a classic example of how mediation works. The kitchen has one apple, and two cooks need it. One cook wants apple juice for a fruit drink and the other needs an apple rind for cake icing. The mediator helps them discover their real interests (apple juice and apple rind) as opposed to their stated needs (the apple). The problem can be reframed into "who gets the apple at what time." If the second cook gets the apple after the juice has been squeezed out, both can satisfy their real interests.

Mediation is a voluntary, confidential, and structured process where a neutral third party— the mediator—assists disputing parties in reaching a mutually acceptable agreement. Unlike arbitration or litigation, the mediator does not impose a decision but facilitates communication and negotiation between the parties.

In Uganda, mediation is recognized both culturally and legally:

Traditional roots or culturally

Meditation, a practice with a history spanning **over 5,000 years, was initially discovered by ancient Indian yogis. This technique predates Buddhism by 2,500 years** and has since evolved in civilizations, including Ancient Greece and Rome. Scholars believe that mediation has roots in ancient Sumerian society.

In Uganda, mediation is a relatively new practice, yet its principles are deeply ingrained in traditional Ugandan culture. Historically, Ugandan communities relied on elders and community leaders to mediate disputes, emphasizing reconciliation and maintaining relationships.

Recognizing these cultural practices, the Ugandan judiciary, in the **late 1990s and early 2000s**, began exploring mediation as part of judicial reforms aimed at reducing case backlogs and improving access to justice.Pilot projects were launched in selected High Court circuits, and their success paved the way for the formal incorporation of mediation into Uganda's legal framework. In **2013, the Civil Procedure (Mediation) Rules were introduced under the Civil Procedure Act,** making mediation a mandatory step in certain civil cases before they could proceed to trial. This significant shift embedded mediation within the formal justice system, aligning it with Uganda's cultural values of dialogue and peaceful resolution.

Legally

In recent years, there has been a significant increase in the use of institutionalized mediation, and Uganda is not far behind. Mediation is now a mandatory procedure for all civil cases in Uganda. The Civil Procedure Rules provide that when the court perceives that there is an opportunity for settlement through Alternative Dispute Resolution (ADR), it has the authority to order for ADR. This is outlined in Order 12 of the Civil Procedure Rules. Additionally, the Mediation Rules, 2013, which govern the judicature in Uganda, also provide for mediation. Rule 4 (1) of the Mediation Rules

states that regardless of the intensity or complexity of the dispute, the court must refer every civil action to mediation before proceeding with trial. Parties to a civil action are required to file a case summary, and they have the option of choosing their own mediator instead of the court-appointed mediator. Rule 3 clarifies that if parties choose their own mediator, they are responsible for paying the mediator's fees. A civil action referred to mediation is expected to conclude within 60 days. However, if there is a likelihood of settlement, parties are permitted to extend or add ten days to the mediation process. After which, the matter proceeds to court for litigation. Mediators are also allowed to request additional information from a party if it is deemed relevant to the mediation process. In such cases, the information remains confidential between the mediator and the party who disclosed it. Rule 7 mandates that parties must be notified of the commencement date of mediation by the court within fourteen days after the completion of their pleadings.

Scholars like Moore (2003) define mediation as *"an extension of the negotiation process that involves a neutral third party who helps the disputing parties find a mutually acceptable solution*

Case Example: In *Uganda Development Bank Ltd v Kasirye Byaruhanga & Co. Advocates [2007]*

UGSC 20, the Supreme Court recognized mediation as a valid tool to promote settlement and reduce case backlog, aligning with the values of justice and efficiency..

2.1 Theoretical Frameworks

- **Transformative Mediation Theory**: Emphasizes empowerment and mutual recogniti on. It is especially relevant in community and family disputes, where restoring relatio nships is critical.
- **InterestBased Negotiation** (Fisher& Ury): Focuses on reconciling underlying interest s rather than positional bargaining. Effective in commercial and workplace disputes.
- **Restorative Justice Theory**: Used particularly in juvenile justice and customary set tings. It seeks to repair harm and restore social harmony.

These theories provide a conceptual basis for Uganda’s mediation practice, especially in cul turally sensitive or non-commercial disputes.

2.2 Sociocultural Perspectives

- **Customary Justice and Traditional Mediation**: Ugandan communities, especially i n rural areas, traditionally resolve disputes through clan leaders and elders. These pr ocesses are informal, emphasize reconciliation, and align with mediation principles.
- **Cultural Acceptance**: In some regions, mediation is more accepted due to historical reliance on communal problemsolving. However, in others, it may be viewed as weak or ineffective compared to litiga tion.
- **Gender and Power Dynamics**: Women's voices may be underrepresented in tradition al mediation settings, requiring safeguards for fair participation.

2.3 Economic Implications

Cost Effectiveness: Mediation is typically cheaper than litigation, saving parties legal fees and court costs.

- **Time Savings**: It reduces delays and allows quicker resolution, helping especially sm all businesses and low-income litigants.
- **Economic Empowerment**: By preserving relationships, especially in commercial or l andlordtenant disputes, mediation can maintain business continuity and community ties.

2.4 Conclusion

Mediation is deeply embedded in Ugandan society, although its acceptance varies. Theoretical and socioeconomic benefits support its expansion, but effective integration requires sensitivity to cultural and structural realities.

CHAPTER THREE: LEGAL REGIME GOVERNING MEDIATION IN UGANDA

3.0 Introduction

This chapter explores the international, regional, and domestic legal frameworks that govern mediation in Uganda. It examines relevant statutes, rules, judicial decisions, and policy i instruments that shape mediation practice. Understanding the legal foundation is essential for assessing the legitimacy, enforceability, and institutionalization of mediation in Uganda.

Uganda has developed a comprehensive legal framework to govern mediation, integrating both court-annexed and private mediation processes. This framework aims to enhance access to justice, reduce case backlogs, and promote amicable dispute resolution. Below is an in-depth overview of the legal regime governing mediation in Uganda:

3.1 International Legal Framework

Although Uganda has not ratified all international conventions on mediation, several instru ments inform national policy and legal reform:

- **UNCITRAL Model Law on International Commercial Conciliation (2002)**: This model law promotes harmonized legal standards for mediation. While no t binding, it guides commercial mediation policy development.
- **United Nations Convention on International Settlement Agreements Resulting f rom Mediation (Singapore Convention, 2019)**: This treaty facilitates the enforcement of mediated settlement agreements across borders. Uganda has not yet ratified it, but its provisions may inspire future legislative reforms to bolster international commercial mediation.
- **Sustainable Development Goal 16**: Promotes access to justice and effective, accountable institutions. Mediation contributes directly to this goal by reducing court backlog and enhancing dispute resolution

3.2 Regional Legal Framework

At the regional level, mediation is recognized under:

- **African Union Agenda**

  2063: Encourages member states to strengthen justice systems, including through n on-adversarial mechanisms like mediation.

- **East African Community (EAC) Treaty** – Article 6(d) and Article

  123: Promote peaceful settlement of disputes and encourage use of ADR mechanisms in member states.

Though these instruments are aspirational, they provide normative support for Uganda's development of mediation systems.

3.3 Domestic Legal Framework

Mediation in Uganda is governed by a combination of statutes, subsidiary legislation, and court practice directions. Key legal instruments include:

a. The Constitution of the Republic of Uganda, 1995

- **Article 126(2)(d)**: Provides that justice shall be administered

  "without undue regard to technicalities"—a foundational principle supporting ADR.

- **Article**

  126(2)(e): Mandates that courts promote reconciliation among parties, which aligns with mediation principles.

b. Civil Procedure Act, Cap. 71

- While the Act does not specifically provide for mediation, it gives the general mandate for dispute resolution, which is expanded through rules.

c. Civil Procedure Rules (S.I. 71-1) as amended

- **Order 12, Rule 1**: Introduced mandatory court annexed mediation for civil suits before scheduling conferences.
- **Order 12, Rule 2**: States that the judge or registrar shall refer the case to mediation before proceeding g to trial.
- **Order 12, Rule 3-5**: Outline the procedure, duration (60 days), and reporting obligations during mediation.

d. The Judicature (Mediation) Rules, 2013 (S.I. No. 10 of 2013)

These rules operationalize court-annexed mediation and are the primary regulations on mediation in Uganda.

Key provisions:

- **Rule 4**: Allows the court to refer any civil matter to mediation at any stage.
- **Rule 5**: Stipulates qualifications for mediators, including judicial officers, advocates, or ac credited mediators.
- **Rule 9**: Mediation proceedings are confidential.
- **Rule 13**: Mediation must be concluded within 60 days, with possible extension.

These rules establish the structure, timelines, and procedures for conducting mediation in the judiciary.

e. Advocates (Professional Conduct) Regulations, 1977

- **Regulation**

  7: Requires advocates to encourage clients to consider amicable resolution, which ma y include mediation.

f. Children Act, Cap. 59 (as amended)

- **Section**

  89: Encourages the use of reconciliation and mediation in resolving disputes involving g children, particularly in custody and maintenance cases.

g. Arbitration and Conciliation Act, Cap. 4

- While mainly addressing arbitration, the Act also includes provisions on **conciliation** , which shares similarities with mediation, especially under **Sections 67–81**.

3.4 Conclusion

Uganda has made significant legal progress in institutionalizing mediation, especially through court-annexed systems under the Civil Procedure Rules and the Judicature (Mediation) Rules, 2013. However, gaps remain in harmonizing private mediation, enforcement of agreements, and integrating customary justice systems. The absence of a comprehensive Mediation Act limits uniformity. The next chapter will analyze the practical implementation, challenges, and potential reforms of Uganda's mediation regime

CHAPTER FOUR: ANALYSIS OF IMPLEMENTATION, CHALLENGES, AND REFORMS

4.0 Introduction

This chapter evaluates the implementation of mediation in Uganda, particularly the court-annexed model introduced in2013. It identifies key actors, processes, and mechanisms involved in practice. It also highlights persistent challenges and proposes reforms to improve t he efficiency and acceptance of mediation as a dispute resolution method.

4.1 Implementation of Mediation in Uganda

a) Court-Annexed Mediation

It is used within the court system and controlled by the court. Often judges or other court officials serve as mediators.

Order 12 Rule 2 of the CPR where parties do not reach an agreement, the court may, if it is of the view that the case has a good potential for settlement, order alternative dispute resolution before a member of the bar or the bench, named by the Court.

The Judicature Mediation rules, 2013 under rule 4 (1) provides that regardless of the intensity or complexity of the dispute, the court shall refer every civil action for mediation before proceeding for trial.

In Enoth Mugabi v. Palm Developments (U) Ltd (Miscellaneous Application 01 2016) the issue before court was whether court annexed mediation amount to "any other proceeding" within the meaning of 0.25. r. 1 (1) CPR). Court held that Mediation is alternative dispute resolution process that does not amount to "any other proceeding" within the meaning of

0.25. r. 1 (1) CPR)

b) Private Mediation

Conducted outside the court system by private institutions like the **Centre for Arbitration and Dispute Resolution(CADER)** and the **International Centre for Arbitration and Mediation in Kampala(ICAMEK)**. Parties voluntarily engage mediators, and agreements reached are enforceable as contracts. Justice Stephen Mubiru in Dilipkumar P. Patel and Others v. Kashyapkumar B. Patel and Others Miscellaneous Application No. 0768 of 2021 stated that, "a settlement agreement is nothing more than a contract. A settlement agreement is the parties' document. It will reflect whatever the parties have agreed to."

c) Customary and Community-Based Mediation

- Often practiced informally through local leaders or clan structures, especially in rural areas.
- Lacks legal standardization, but widely respected in family, land, and inheritance disputes.

4.2 Challenges in Mediation Practice

1. **Limited Public Awareness and Understanding**

Many Ugandans are unfamiliar with mediation processes, leading to underutilization. This lack of awareness is particularly prevalent in rural areas, where traditional dispute resolution methods are more common. Without adequate public education, individuals may not consider mediation a viable option for resolving disputes.

2. **Cultural Resistance and Preference for Traditional Methods**

In various communities, there is a strong preference for traditional dispute resolution methods involving community elders or local leaders. These customary practices are deeply rooted in the cultural fabric and are often perceived as more accessible and trustworthy than formal mediation processes. This cultural inclination can result in resistance to adopting formal mediation mechanisms.

3. **Insufficient Training and Professionalism Among Mediators**

The effectiveness of mediation is compromised by the limited training and professionalism of mediators. Many mediators, especially those affiliated with courts, may lack comprehensive training in mediation techniques. Additionally, the absence of standardized accreditation and continuous professional development opportunities hampers the quality of mediation services.

4**. Inadequate Enforcement of Mediated Agreements**

While mediated agreements can be legally binding, enforcing them remains a challenge. Particularly in community-based mediations, the lack of formal documentation and legal recognition can lead to difficulties in enforcement. This undermines the credibility and reliability of mediation as a dispute resolution mechanism.

5. **Perception of Mediation as Inferior to Litigation**

There exists a perception among some legal practitioners and the public that mediation is a secondary or less authoritative process compared to litigation. This viewpoint can discourage parties from opting for mediation and may lead to a lack of commitment to the process when it is undertaken.

6. **Resource Constraints and Limited Accessibility**

The expansion of mediation services is hindered by resource constraints, including limited funding, inadequate infrastructure, and a shortage of trained mediators. These limitations restrict the accessibility of mediation services, especially in remote or underserved regions.

7. **Potential Power Imbalances Between Parties**

Mediation relies on the voluntary and equal participation of parties. However, in cases where there is a significant power imbalance—such as disparities in socioeconomic status, education, or legal knowledge—there is a risk that the weaker party may be disadvantaged.
Without appropriate safeguards, mediation may not yield fair outcomes in such scenarios.

8. **Inapplicability in Criminal Cases**:

Mediation is generally unsuitable for serious criminal matters where public interest must be upheld. This is why it is not taken as serious by many people.

9.**Risk of Injustice**: The informal nature may lead to agreements that do not reflect legal rights, especially where parties lack legal advice.

Scholarly View Galanter (2004) cautions that while ADR promotes access, it may undercut procedural safeguards provided in formal litigation.

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4.3 Proposed Reforms and Best Practices

a) Enactment of a Mediation Act

- A consolidated statute to unify and regulate both court-annexed and private mediation would close legislative gaps, clarify roles, and improve enforcement.

b) Training and Accreditation

- ▫ Scale up training of judicial officers, advocates, and community leaders as mediators. ▫ Establish a **Mediation Accreditation Committee** with clear ethical standards.

c) Integration with Customary Justice

Develop protocols to harmonize customary mediation with the formal justice system, particularly in land and family disputes.

d) Public Awareness Campaigns

- ▫ Civic education to demystify mediation and promote it as a first-line dispute resolution tool.

e) Institutional Strengthening

- Allocate courtrooms and time slots specifically for mediation.
- Incentivize compliance by integrating performance metrics for judicial officers.

f) Gender-Sensitive Mediation Practices

- ▫ Promote inclusive processes and safeguard vulnerable parties through trained mediators and procedural protections.

4.4 Conclusion

Despite progress in implementing mediation, Uganda faces multiple legal, institutional, and sociocultural hurdles. Court-annexed mediation under the

2013 rules has shown promise in reducing case backlogs, yet broader reform is necessary. Strengthening legal frameworks, promoting awareness, and investing in institutional capacity will help reposition mediation as a central pillar of Uganda's justice system

CHAPTER FIVE: SUMMARY OF FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS

5.0 Introduction

This final chapter presents a synthesis of the key findings from the research, draws conclusions based on the analysis, and offers actionable recommendations to enhance the use of mediation as an effective dispute resolution mechanism in Uganda.

5.1 Summary of Findings

a) Legal Framework

- Uganda has established a legal foundation for mediation, primarily through the **Judicature (Mediation) Rules, 2013** and **Order 12 of the Civil Procedure Rules**.
- There is **no comprehensive Mediation Act**, which leads to fragmentation and limited guidance on private and community-based mediation.

b) Implementation

- **Court-annexed mediation** has been institutionalized in Uganda's formal judiciary, sh owing success in reducing case backlogs.
- However, the system suffers from **understaffing**, **resource constraints**, and **inconsistent application**, especially in magistrates' courts and rural areas. **c) Non-Legal Factors**
- **Cultural practices** support mediation in some communities but clash with formal processes
- **Economic benefits** of mediation are evident, particularly in terms of time and cost savings for litigants.
- **Sociocultural barriers**, including low awareness and gender imbalance, hinder full participation and fairness.

d) Challenges

- Lack of awareness and public confidence in mediation.
- Limited training and accreditation for mediators.
- Inadequate infrastructure and funding.
- Enforcement difficulties for agreements reached in private mediation.
- Absence of uniform standards and monitoring tools for evaluating mediation success.

5.2 Conclusions

Mediation is a valuable tool in Uganda's justice system and aligns with constitutional goals of promoting access to justice and reconciliation. While court annexed mediation has gained traction, its full potential remains unrealized due to legal ga ps, institutional weaknesses, and societal attitudes.

A more cohesive, inclusive, and resource-backed mediation regime is needed. This includes legislative reform, public engagement, and alignment with traditional justice systems to ensure mediation is not only available but also effective, accessible, and equitable.

5.3 Recommendations

a) Legal Reform

- Enact a **comprehensive Mediation Act** to consolidate mediation law, define private mediation procedures, and ensure enforceability of agreements.
- Ratify international instruments such as the **Singapore Convention on Mediation** t o support cross-border commercial mediation.

b) Institutional and Capacity Building

- Increase funding for the judiciary to establish **dedicated mediation centers** and hir e **full-time mediators**.
- Train more judicial officers, advocates, and community leaders in mediation skills. **c) Public Awareness**
- Launch **nationwide civic education campaigns** through media, schools, and local g government structures to promote mediation literacy.

d) Integration of Customary Mediation

- Develop formal **protocols and guidelines** to align traditional mediation practices wit h constitutional and human rights standards, particularly in land and family dispute s.

e) Gender and Equity Measures

- Implement gender-sensitive practices, including use of **female mediators** and protective procedures for vulnerable parties.

f) Monitoring and Evaluation

- Establish a **national database or registry** for mediation cases to assess impact, compliance , and trends.
- Require periodic **judicial reports** on mediation outcomes to inform policy and practice e.

Final Remark

By addressing both legal and nonlegal barriers to mediation, Uganda can realize the full promise of this mechanism in delivering timely, affordable, and people-

centered justice. The study reaffirms the need for strategic reforms to elevate mediation as a cornerstone of the country's justice system

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