

MAKERERE



UNIVERSITY

**ARBITRATION AS AN EFFECTIVE MECHANISM FOR RESOLVING LAND
DISPUTES IN UGANDA: A COMPARATIVE ANALYSIS**

**BY
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2023/HD08/2133U**

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DEDICATION

I dedicate this thesis to my mother Ms. Mulungirwa Judith....., so that you know that the dream to becoming a Doctor is still alive.. I promised....

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LIST OF ABBREVIATIONS

ADR	Alternative Dispute Resolution
CADER	Centre for Arbitration and Dispute Resolution
CEDP	Competitiveness and Enterprise Development Project
FAO	Food and Agriculture Organization
GDP	Gross Domestic Product
GIS	Geographic Information Systems
HiIL	Hague Institute for Innovation of Law
ICAMEK	International Centre for Arbitration and Mediation, Kampala
IFIs	International Financial Institutions
JLOS	Justice, Law and Order Sector
LC	Local Council
LDC-LAC	Law Development Centre-Legal Aid Clinic
LGAF	Land Governance Assessment Framework
MoJCA	Ministry of Justice and Constitutional Affairs
MWE	Ministry of Water and Environment
NDP IV	Fourth National Development Plan
ODR	Online Dispute Resolution
PTSL	Prona Tanah Sistematis Lengkap (Complete Systematic Land Registration)
SDGs	Sustainable Development Goals
SPSS	Statistical Package for the Social Sciences
TSMC	Taiwan Semiconductor Manufacturing Company
UG	Uganda
UGX	Uganda Shillings
UN	United Nations
UNCITRAL	United Nations Commission on International Trade Law
UNCST	Uganda National Council for Science and Technology
USAID	United States Agency for International Development
WHO	World Health Organization

ABSTRACT

Land disputes represent a critical challenge to property rights, social stability, and economic development in Uganda, affecting approximately 33% of landholding households and imposing estimated economic costs of 5–11% of agricultural Gross domestic product annually. Despite the existence of a comprehensive legal framework for arbitration under the Arbitration and Conciliation Act (Cap. 5), and arbitration's demonstrated effectiveness in Uganda's commercial, construction, and oil and gas sectors, its application to land dispute resolution remains minimal. This study investigated the structural and institutional barriers to arbitration adoption in land disputes and assessed arbitration's potential effectiveness as an alternative dispute resolution mechanism in Uganda.

The study employed a sequential exploratory mixed-methods design, combining documentary analysis of legal frameworks, policy documents, and institutional reports with in-depth qualitative interviews, direct observation of dispute resolution proceedings, and a structured quantitative survey of 55 participants drawn from across Uganda's four major regions. Qualitative data were analysed thematically using NVivo 14, while quantitative data were subjected to descriptive and inferential statistical analysis using SPSS 28, including ANOVA, chi-square tests, and correlation analysis.

The findings revealed multiple interconnected barriers preventing arbitration adoption. Economic barriers were most pervasive, with arbitration costs – estimated at Uganda Shillings 2–4 million for standard proceedings – placing services beyond the reach of the majority of rural landholders. Institutional barriers included limited arbitrator expertise in land law and tenure systems, the geographic concentration of arbitration services in urban centres, and inadequate coordination with existing dispute resolution mechanisms. Legal framework gaps – particularly the absence of land-specific arbitration procedures – and cultural preferences for public, community-based resolution processes further constrained adoption. Notwithstanding these barriers, comparative analysis demonstrated arbitration's significant advantages: resolution averaged six months compared to 42 months through court litigation, and stakeholders broadly acknowledged arbitration's potential, with 63.6% viewing it as suitable for certain land dispute categories.

The study's primary output is the Integrated Arbitration Development Framework (IADF), a structured, evidence-based model for institutionalising arbitration within Uganda's land governance system. The framework is organised around four interdependent pillars: legal and regulatory reform, capacity development and professionalisation, institutional infrastructure and accessibility, and quality assurance and public awareness. Key recommendations include amending the Arbitration and Conciliation Act to address land-specific matters, establishing regional arbitration centres, developing a national register of certified land arbitrators with specialised training in land tenure and customary law, integrating arbitration into court referral systems, and implementing public education campaigns to build awareness and trust. This research concludes that arbitration holds considerable, largely unrealised potential for improving land dispute resolution in Uganda. Realising this potential requires coordinated, simultaneous action across legal, institutional, economic, and cultural dimensions rather than piecemeal reform.

Keywords: *Arbitration, land disputes, Uganda, alternative dispute resolution, access to justice*

CHAPTER ONE

INTRODUCTION

1.1 Background to the Study

Land disputes represent a complex and persistent challenge in many developing countries, with significant social, economic, and legal implications. In Uganda, these disputes have emerged as a critical issue that undermines property rights, social stability, and economic development. While various dispute resolution mechanisms exist, arbitration has demonstrated remarkable effectiveness in resolving conflicts in industries such as commercial, construction and oil and gas. However, its application in land dispute resolution remains surprisingly limited, presenting a compelling research opportunity to understand the barriers and potential transformative mechanisms. The problem of land disputes extends beyond mere territorial disagreements, encompassing intricate social, historical, and legal dimensions. These conflicts often reflect deeper societal tensions rooted in historical land tenure systems, colonial legacies, and evolving property rights frameworks. In the Ugandan context, land disputes are particularly delicate, involving multiple tenure systems, customary practices, and complex legal interpretations that challenge traditional dispute resolution approaches.

Arbitration, as an alternative dispute resolution mechanism, offers a potentially more flexible, efficient, and context-sensitive approach to resolving land conflicts. Unlike court litigation, which follows standardised procedural rules regardless of case complexity or the parties' circumstances, arbitration empowers the parties to select their decision-maker, agree on applicable procedures, and determine the timeline for resolution. These features are particularly relevant in the context of Uganda's land disputes, which span multiple tenure systems – customary, freehold, mailo, and leasehold – and often involve not only competing legal claims but also complex historical, social, and familial dimensions that demand procedural sensitivity. Arbitration's capacity to accommodate technical expertise, including surveyors and land administration specialists as arbitrators or expert witnesses, addresses a recognised weakness in the general court system, where judges and magistrates are not always equipped with the specialist knowledge that land disputes frequently require. Its potential therefore lies not merely in reducing cost and time compared to litigation, but in offering a qualitatively different form of dispute resolution – one capable of producing outcomes that are both legally binding and responsive to the social and cultural context in which land disputes arise.

The historical trajectory of land tenure and dispute resolution in Uganda is deeply intertwined with colonial and post-colonial political transformations. Before British colonial intervention, land was primarily governed by customary law, characterised by communal ownership and complex social systems of land access and use (West, 1972). The introduction of British colonial rule in 1894 dramatically transformed these established systems, introducing new land tenure categories that fundamentally altered traditional land governance structures. The colonial administration implemented significant land reforms, including the establishment of mailo land in Buganda and freehold tenure in other regions. These reforms superimposed formal legal frameworks onto existing customary practices, creating a complex and often contradictory land governance environment.

Post-independence political changes further complicated this landscape, with the 1975 Land Reform Decree under Idi Amin's regime declaring all land as public property, effectively disrupting existing land ownership patterns (Deininger & Castagnini, 2006). The 1995 Constitution and the 1998 Land Act represented significant attempts to address these historical complexities by recognising four distinct land tenure systems: customary, freehold, Mailo, and leasehold. These legal reforms aimed to provide a more comprehensive and inclusive framework for land ownership and dispute resolution. However, despite these efforts, land conflicts have continued to persist and even escalate in recent years. Empirical evidence highlights the magnitude of land dispute challenges in Uganda. The Judiciary Annual Performance Report for the Financial Year 2022/2023 revealed that legal aid clinics planned to handle 2,500 cases but ultimately managed 5,648 cases, including 475 land matters (Judiciary Annual Performance Report, 2023). Moreover, the total number of reported land conflicts increased to 52,068, with 30,242 cases mediated or resolved during the same period (MWE, 2023). This overwhelming caseload underscores the critical need for alternative and more efficient dispute resolution mechanisms.

The persistence of land disputes can be attributed to multiple interconnected factors. These include the limited capacity of formal court systems, high litigation costs averaging 6 million Uganda shillings for enforcement actions (Northern Uganda Land Platform, 2012), complex legal procedures, limited accessibility for rural and marginalised populations, and underlying issues of corruption and political interference in land administration (Joireman, 2018). Such systemic challenges necessitate innovative approaches to dispute resolution that can address the multifaceted nature of land conflicts. Arbitration has emerged as a promising alternative dispute resolution mechanism in Uganda. The Arbitration and Conciliation Act Cap 5 as amended established a legal framework promoting arbitration as a viable option for resolving

disputes outside traditional court systems. This Act is the principal law that lays foundation for Arbitration in Uganda and also the Succession (Amendment) Act 2022 provides for Arbitration of disputes between executors and administrators and beneficiaries of the deceased estates. It goes without saying that most of the property in issue for inheritance is land. Courts have increasingly recognized the role of arbitration, its effectiveness and upheld it as a means of dispute resolution; notable cases include *National Social Security Fund & Anor v Alcon International Ltd (Civil Appeal 15 of 2009) [2013] UGSC 4* and *Smile Communications Uganda Limited v ATC Uganda Limited and Another (Arbitration Cause 4 of 2022) [2023]*, among others, where the High Court upheld an arbitral award as binding and enforceable. Additionally, during the 2023 reporting period, the Ministry of Justice and Constitutional Affairs (MoJCA) handled 187 cases through various Alternative Dispute Resolution mechanisms herein after referred to as ADR, including negotiation, mediation, conciliation, and arbitration (JLOS Sector Annual Performance Report, 2023).

Furthermore, ADR has been successfully applied in other areas of legal dispute resolution. For instance, at the Law Development Centre-Legal Aid Clinic (LDC-LAC), 1,366 cases were resolved through mediation and plea bargaining; among these were 1,152 cases handled via plea bargaining with a success rate of 90% with 141 cases mediated & 73 cases subjected to reconciliation (JLOS Sector Annual Performance Report, 2023). This demonstrates the potential for ADR to expedite not only land disputes but also other civil matters and also criminal. The Ministry of Justice & Constitutional Affairs between March and May 2024 trained 21 conciliators and mediators, the said mediators received and mediated 5,513 cases and during the same period Justice Centres Uganda registered 1,427 mediations and successfully concluded 1,282 mediations in 544 mediation sessions leading to the recovery of UGX 146,410,007/= and 7 acres of land (JLOS-Sub Programme Annual Report 2023-2024).

In the financial year 2019/2020, the judiciary registered 14,142 land cases with 29,225 cases brought forward from the previous year and no Arbitration were recorded in this sector while in the commercial sector/division 2,730 cases were registered inclusive of 46 mediations and 5 arbitration cases with 51 arbitration cases brought forward from the previous year (JLOS Annual report 2019/2020) and as of October 2020, the commercial court had 46 arbitration cases pending, 192 mediation cases pending against the completed 216 mediation inclusive of files from the previous year. Despite its potential benefits, challenges remain regarding public response and acceptance of arbitration as a preferred method for resolving land disputes. Many Ugandans still favour traditional methods or clan-based resolutions over formal arbitration processes. Reports suggest that only about 20% of land disputes are reported to

formal institutions (Kakooza, 2007). Therefore, while arbitration offers a structured approach to dispute resolution that can alleviate pressure on formal courts, its integration into local practices leaves a lot to be desired.

1.2 Problem Statement

Uganda faces a land dispute crisis of significant proportions, with approximately 33% of landholding households affected and economic costs estimated at 5–11% of agricultural Gross Domestic Product annually (Uganda Bureau of Statistics, 2021; World Bank, 2020). With the country's population projected to reach 60 million by 2030 and pressure on finite land resources intensifying, the need for efficient, accessible, and credible dispute resolution mechanisms has never been more urgent. The formal court system – the primary recourse for most litigants – has proven structurally incapable of meeting this demand. Land cases before the courts average 42 months to resolve and cost approximately Uganda Shillings 4.2 million, placing formal justice beyond the reach of the majority of rural landholders (Judiciary Annual Performance Report, 2023; JLOS Annual Performance Report, 2021). The result is an overwhelmed system: in the financial year 2022/2023 alone, legal aid clinics managed 5,648 cases against a planned capacity of 2,500, while the total number of recorded land conflicts reached 52,068 nationally (MWE, 2023).

The core problem this study addresses is not simply that land disputes are prevalent, but that a demonstrably effective resolution mechanism – arbitration – exists within Uganda's legal framework yet remains almost entirely absent from land dispute resolution in practice. The Arbitration and Conciliation Act (Cap. 5) has been in force since 2000 and has underpinned successful arbitration practice in the commercial, construction, and oil and gas sectors. Yet no land arbitration cases were recorded in the judiciary's land case statistics for the financial year 2019/2020, and only 13.2% of legal professionals in this study had ever handled a land-specific arbitration matter. The problem is therefore structural and institutional: it lies not in the absence of a legal basis for land arbitration, but in the failure to operationalise that framework – a failure rooted in inadequate institutional infrastructure, limited arbitrator capacity in land matters, awareness gaps among both practitioners and the public, and the absence of land-specific arbitration procedures that can accommodate Uganda's complex, pluralistic land tenure systems.

Previous research has examined individual dispute resolution mechanisms in isolation, and no study has provided a systematic, comparative analysis of arbitration's specific barriers and potential advantages in the land sector. This research addresses that gap by providing the first comprehensive investigation of arbitration's underutilisation in Uganda's land dispute

resolution landscape, identifying the specific impediments to adoption, and developing an evidence-based framework for integration of arbitration into the existing institutional architecture for land governance.

1.3 Research Objectives

1.3.1 General Objective

To examine the potential of arbitration as a mechanism for resolving land disputes in Uganda.

1.3.2 Specific Objectives

1. To investigate the factors that have prevented the widespread adoption of arbitration in land dispute resolution.
2. To assess the effectiveness of arbitration in resolving land disputes.
3. To develop a framework to advance the adoption and contextual adaptation of arbitration in resolving land disputes in Uganda.

1.4 Research Questions

1. What primary institutional, legal, and cultural barriers have hindered the adoption of arbitration in land dispute resolution in Uganda?
2. To what extent can arbitration provide a more efficient, cost-effective, and satisfactory dispute resolution mechanism.
3. How does arbitration compare to existing land dispute resolution mechanisms in Uganda and what framework is required to enhance adaptation of arbitration in resolving land disputes?

1.5 Theoretical Framework

This research integrates multiple complementary theoretical perspectives to provide a robust analytical lens for understanding land dispute resolution mechanisms in Uganda.

1.5.1 Theory of Legal Pluralism

The Theory of Legal Pluralism, pioneered by Sally Falk Moore and elaborated by Merry (1988), serves as a central theoretical pillar for this study. This theory recognises the coexistence of multiple legal systems within a single social field, a situation particularly evident in the Ugandan context. Legal pluralism provides a framework for understanding how state law, customary law, religious law, and other normative orders interact and

sometimes compete in resolving land disputes. In Uganda, legal pluralism manifests in the simultaneous operation of formal courts, traditional authorities, local council courts, and alternative dispute resolution mechanisms, including arbitration. These systems do not operate in isolation but influence and transform each other through ongoing interactions. The theory helps explain why certain dispute resolution mechanisms may be preferred in specific contexts and how different systems can complement or undermine each other. Legal pluralism is particularly relevant for examining arbitration's position within Uganda's complex legal landscape. It provides insights into how arbitration might bridge formal and informal legal systems, potentially offering a mechanism that incorporates elements of both state law and customary norms in ways that enhance access to justice for diverse populations.

1.5.2 Economic Theory of Dispute Resolution

Steven Shavell's Economic Theory of Dispute Resolution (1995) provides a complementary analytical framework that examines dispute resolution mechanisms through an efficiency lens. This theory evaluates different mechanisms based on their transaction costs, time requirements, and overall resource utilisation. From this perspective, arbitration can be analysed as a potentially cost-efficient and time bound alternative to litigation. The theory helps identify the economic barriers to arbitration adoption, such as setup costs, lack of arbitration infrastructure, and information asymmetries among potential users. It also provides a framework for comparing the economic efficiency of arbitration against other dispute resolution mechanisms in the specific context of land disputes. The economic theory of dispute resolution is particularly valuable for addressing questions about the cost-effectiveness and efficiency of arbitration in land disputes, factors that are crucial for both policymakers and individual disputants considering different resolution options.

1.5.3 Theory of Negotiated Justice

Carrie Menkel-Meadow's Theory of Negotiated Justice (2017) offers a third theoretical perspective that emphasises the procedural and substantive aspects of dispute resolution. This theory focuses on how dispute resolution mechanisms can create participatory, consensual approaches to conflict resolution by fostering dialogue and collaborative problem-solving.

The theory of negotiated justice provides a framework for assessing arbitration's potential to deliver outcomes that parties perceive as fair and legitimate. It highlights the importance of procedure design, arbitrator neutrality, party autonomy, and equitable participation in creating

effective dispute resolution processes. These factors are particularly relevant in the Ugandan context, where power imbalances and procedural concerns can significantly impact the legitimacy of dispute resolution outcomes.

1.5.4 Integrated Theoretical Framework

These three theoretical perspectives – legal pluralism, the economic theory of dispute resolution, and the theory of negotiated justice – are integrated to form a comprehensive analytical framework for this research, as illustrated in Figure 1. The framework is not merely the sum of three separate lenses; rather, each theory addresses a dimension of the research problem that the others cannot fully account for, and together they produce a richer analysis than any single perspective would permit.

Legal pluralism theory, as developed by Merry (1988), provides the structural context: it explains why Uganda's land dispute resolution landscape is characterised by coexisting and competing systems – formal courts, customary authorities, Local Council courts, and arbitration – and why parties navigate between these systems based on anticipated outcomes. This theory directly informs the investigation of barriers to arbitration adoption (Specific Objective One), particularly those arising from the interaction of statutory and customary legal orders.

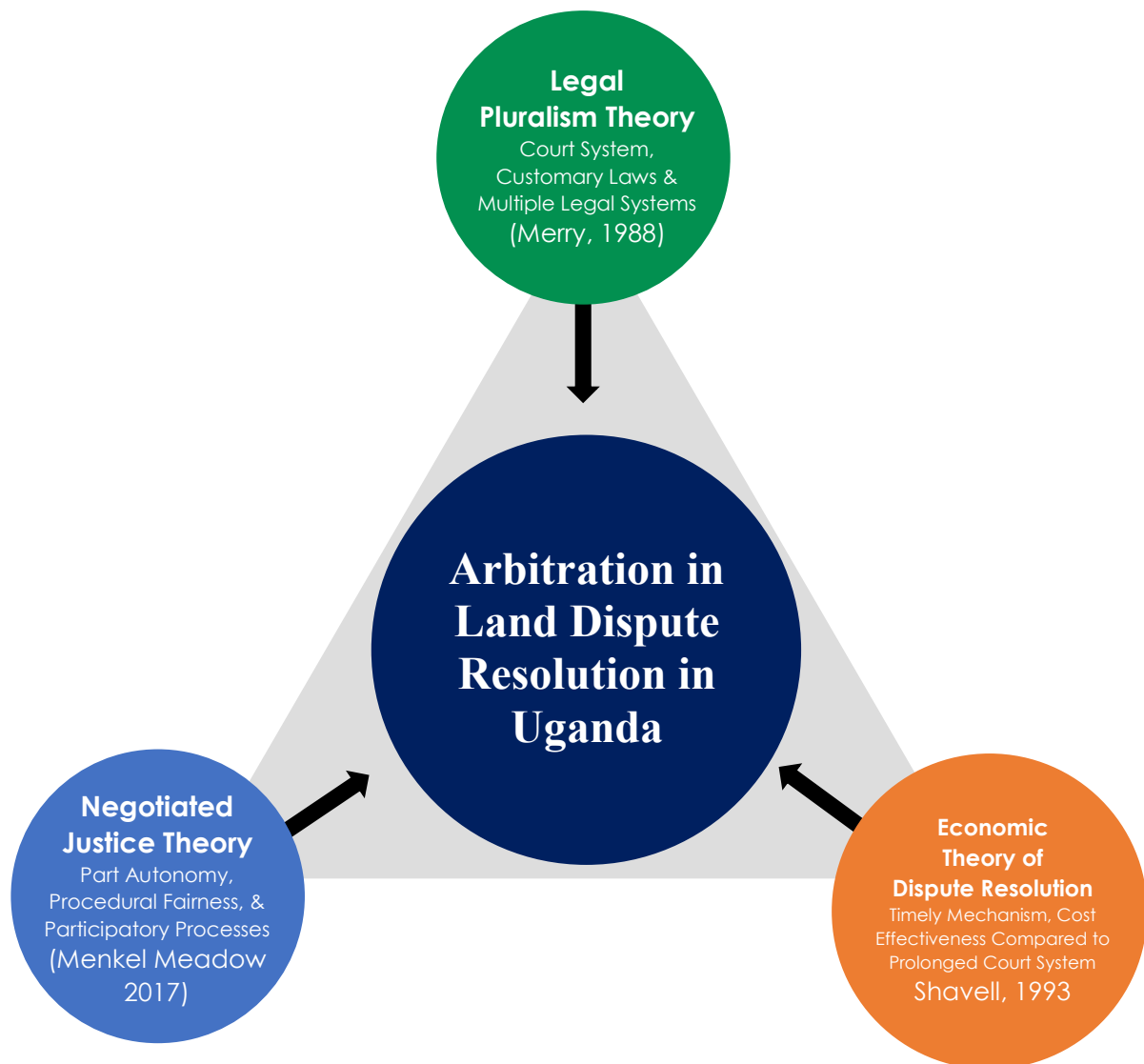
The economic theory of dispute resolution (Shavell, 1995) provides the evaluative lens for assessing comparative effectiveness. It enables systematic comparison of mechanisms on the basis of transaction costs, time requirements, and resource efficiency – the dimensions addressed by Specific Objective Two. Where legal pluralism explains *which* systems exist and why, economic theory helps explain *which* system rational actors will choose, and under what conditions arbitration becomes a preferred option.

The theory of negotiated justice (Menkel-Meadow, 2017) addresses the procedural and legitimacy dimensions that purely structural or economic analyses overlook. It provides a framework for understanding why stakeholders may reject or accept arbitration based not only on cost and speed but on perceptions of fairness, participatory adequacy, and cultural resonance. This theory is particularly relevant to the framework development objective (Specific Objective Three), ensuring that the proposed IADF is designed around principles of procedural fairness and social legitimacy as well as institutional efficiency.

The arrows in Figure 1 represent bidirectional analytical relationships: each theory not only contributes to the research but is itself tested and extended by the empirical findings. The

framework thus guides the methodology, informs the data collection instruments, and provides the analytical lenses through which findings are interpreted and theorised.

Figure 1: Integrated theoretical framework



1.6 Significance of the Study

This research on arbitration in land dispute resolution in Uganda holds significant relevance within existing legal, policy, and academic frameworks. The study directly engages with Uganda's National Land Policy (2013), which explicitly recognised the need for "efficient, effective and equitable land dispute resolution mechanisms" (Ministry of Lands, Housing and Urban Development, 2013, p. 37). By examining arbitration's potential, the research responds to Policy Statement 127 of this document, which calls for strengthening alternative dispute resolution mechanisms to address land conflicts. The research aligns with Uganda's National

Development Plan IV (NDP IV) 2025/26–2029/30, which continues the preceding plan's emphasis on land governance and dispute resolution as critical enablers for economic transformation. The NDP IV's commitment to strengthening institutions and improving access to justice provides explicit policy grounding for the study's focus on arbitration as an instrument for expanding and improving land dispute resolution options. The preceding NDP III (National Planning Authority, 2020) had similarly identified "strengthening systems for effective and efficient land dispute resolution" as a strategic objective, confirming the cross-plan continuity of this reform agenda. The present study's findings and recommendations remain relevant across both planning frameworks.

From an academic perspective, this research builds upon Rugadya's (2009) systematic documentation of escalating land conflicts, extending her analysis by investigating specific resolution mechanisms. It addresses the research gap identified by Adenyuma and Sserunkuma (2022), who noted the "limited exploration of alternative dispute resolution mechanisms in Uganda's land sector." The comparative approach employed connects with Cotula's (2007) work on legal pluralism in African land systems, offering empirical evidence from the Ugandan context to advance theoretical understandings. The study also responds to international frameworks, including the United Nations' Sustainable Development Goals (SDGs), particularly SDG 16 on "Peace, Justice and Strong Institutions" and target 16.3 on ensuring equal access to justice. By investigating arbitration's potential to expand access to dispute resolution, the research contributes to Uganda's implementation of these global commitments (United Nations, 2015). For practitioners, the research aligns with the Uganda Judiciary's Strategic Plan 2019/20-2023/24, which emphasises "reducing case backlog through alternative dispute resolution" (Uganda Judiciary, 2019, p. 23). The empirical findings will provide evidence-based guidance for implementing the Judiciary's strategic objective of expanding ADR mechanisms to enhance access to justice.

This study provides stakeholders and dispute resolution practitioners with a dual focus to the *adoption* and *adaptation* of arbitration as a mechanism of resolving land disputes with *Adoption* being the process of taking up arbitration as a mechanism within Uganda's land dispute resolution system; *adaptation* being the necessary contextual modification of arbitration procedures to reflect Uganda's pluralistic land tenure systems, cultural practices, and institutional arrangements. this helped to achieve the objectives of this study which encompassed both dimensions.

1.7 Justification of the Study

This research is justified by a specific and documented institutional failure: Uganda possesses both a pressing need for effective land dispute resolution and a legal framework that, in principle, supports arbitration as a solution, yet the two remain almost entirely disconnected in practice. The gap between legal provision and operational reality is the central motivation for this study. Existing research has documented the scale of the land dispute problem (Rugadya, 2009; Deininger & Castagnini, 2006) and the limitations of the court system (JLOS, 2021), but no prior work has systematically investigated why arbitration – demonstrably effective in other sectors of Uganda's economy – has failed to take root in the land sector. This study is justified by the need to diagnose that failure empirically and to provide policymakers, practitioners, and institutions with evidence-based guidance for closing the gap. The following paragraphs set out the legal, economic, and development policy foundations that further contextualise this core justification. Uganda's Constitution (1995) guarantees the right to property under Article 26, yet empirical studies demonstrate persistent challenges in protecting these rights. The Uganda Bureau of Statistics (2021) documents that land disputes affect approximately 33% of landholding households, demonstrating the scale of the problem requiring intervention. The Arbitration and Conciliation Act (Cap 5) provides a legal foundation for arbitration in Uganda, yet its application to land disputes remains limited. As noted by Adenyuma and Sserunkuma (2022), despite the comprehensive legal framework for arbitration, its application in land matters remains underexplored and underutilised. This research addresses this implementation gap by examining the barriers to operationalising existing legal provisions for land dispute resolution.

Economic justification for the research is supported by empirical evidence from the World Bank's (2020) Uganda Economic Update, which estimated that land disputes cost the Ugandan economy approximately 5-11% of agricultural GDP annually through reduced productivity and investment. The Uganda Investment Authority (2019) identified land disputes as a significant barrier to both domestic and foreign investment, directly impacting national development priorities outlined in Vision 2040. The study responds to documented gaps in access to justice. The Justice Law and Order Sector (JLOS) Annual Performance Report (2021) reveals that court cases involving land disputes take an average of 3.7 years to resolve, with costs exceeding what 67% of rural landholders can afford. This data underscores the need for alternative mechanisms that can provide more accessible and timely justice, particularly for marginalised groups. The research aligns with current policy

developments, including the ongoing land administration reforms under the Land Information System Project and the Competitiveness and Enterprise Development Project (CEDP), which aim to strengthen land governance but acknowledge the need for improved dispute resolution mechanisms (Ministry of Lands, Housing and Urban Development, 2020).

1.8 Scope of the Study

1.8.1 Geographical Scope

The research encompasses Uganda as the primary geographical focus, examining the national landscape of land dispute resolution mechanisms with particular emphasis on arbitration. While the study adopts a nationwide scope aligned with the country's land governance framework, data collection employed a strategic sampling approach targeting key jurisdictional areas representative of Uganda's diverse land dispute contexts. The respondents were from arbitration centres and courts of law in Uganda among others, which serve as the primary institutional hubs for formal dispute resolution, as well as selected sites in central, northern, eastern, and western regions to ensure comprehensive national representation. This nationwide approach acknowledges the regional variations in land tenure systems, dispute patterns, and resolution practices across Uganda's geographical landscape. By examining the national context holistically, the research provides insights applicable to Uganda's overall land governance framework while recognising the regional nuances that influence dispute resolution processes. The study also situates Uganda's experience within broader international practices by drawing on documented arbitration and land dispute resolution experiences from comparable jurisdictions, including Kenya, Rwanda, and South Africa, as well as international legal frameworks. This comparative situating is used to contextualise Uganda's findings rather than to conduct a structured cross-national comparative study; the primary analytical focus remains the Ugandan context.

1.8.2 Contextual Scope

The research concentrates on land disputes across various tenure systems recognised in Uganda: customary, freehold, mailo, and leasehold. The contextual boundaries encompass both rural and urban land conflicts, examining a comprehensive range of dispute types, including but not limited to boundary disagreements, inheritance issues, ownership conflicts, trespass cases, land grabbing, development rights, easement disputes, and competing claims between individuals, communities, and institutions. The study specifically investigates the

potential of arbitration as a dispute resolution mechanism across these diverse land tenure contexts.

1.8.3 Temporal Scope

The research primarily analyses land dispute resolution mechanisms and arbitration practices from the implementation of the Constitution of the Republic of Uganda, 1995 and Land Act 1998 to the present day. This period represents a critical phase of land governance reform in Uganda, providing a rich context for understanding the evolution of dispute resolution mechanisms. The comparative analysis includes historical perspectives dating to the British colonial period (1894–1962), with particular reference to the transformations in land tenure introduced under the 1900 Buganda Agreement and the subsequent evolution of customary and statutory systems through independence. This historical grounding provides essential context for understanding the persistence of legal pluralism and its implications for contemporary arbitration practice.

1.9 Organisation of the Thesis

This dissertation is organised into six chapters:

Chapter One provides an introduction to the research, presenting the background, problem statement, research objectives and questions, theoretical framework, significance, justification and scope of the study.

Chapter Two presents an extensive literature review on land disputes and dispute resolution mechanisms, beginning with global perspectives and narrowing to the specific context of arbitration in Uganda. It synthesises existing knowledge and identifies research gaps that this study addresses.

Chapter Three details the research methodology, describing the research design, data collection methods, sampling strategies, analytical approaches, and ethical considerations that guided the empirical investigation.

Chapter Four presents the empirical findings and analysis, systematically addressing each research objective and question.

Chapter Five discusses the findings presented in Chapter four, situating them within existing literature and offering commentary on them.

Chapter Six concludes the thesis with conclusions, recommendations, and suggestions for further research.

CHAPTER TWO

LITERATURE REVIEW AND THEORETICAL FRAMEWORK

2.1 Introduction to the Literature Review

This chapter provides a comprehensive review of existing literature on land disputes and resolution mechanisms, with a particular focus on arbitration. The review is structured to progress from global perspectives to the specific context of Uganda, offering a systematic analysis of scholarly contributions, empirical studies, policy documents, and legal frameworks. By adopting this approach, the chapter establishes the broader context of land dispute resolution before examining the unique challenges and opportunities within Uganda's land governance system. The chapter begins with an understanding of the concept of Arbitration, an examination of global perspectives on land disputes and resolution mechanisms, followed by a regional focus on African contexts. It then narrows to the national context of Uganda, exploring the historical evolution of land tenure systems and contemporary challenges. The review specifically examines existing literature on arbitration as a dispute resolution mechanism and analyses the barriers to its adoption in land disputes. The chapter concludes with a synthesis of the literature, highlighting the research gaps that this study addresses.

2.2 Understanding Arbitration: Definition, Legal Framework, and Sectoral Applications

2.2.1 Defining Arbitration as a Dispute Resolution Mechanism

Arbitration represents a distinct form of alternative dispute resolution that combines elements of adjudication with the flexibility and efficiency advantages of non-judicial processes. As defined by Born (2014), arbitration is "a process by which parties consensually submit a dispute to a non-governmental decision-maker, selected by or for the parties, to render a binding decision resolving a dispute in accordance with neutral, adjudicatory procedures affording each party an opportunity to be heard". This definition encompasses the essential characteristics that distinguish arbitration from other dispute resolution mechanisms: consensual submission, neutral decision-making, binding outcomes, and procedural flexibility.

The consensual nature of arbitration distinguishes it fundamentally from litigation, where parties are compelled to participate through court jurisdiction. In arbitration, the parties' agreement to arbitrate, whether contained in a contract clause or reached after a dispute arises, forms the foundation of the arbitrator's authority to decide the matter (Moses, 2017). This consensual basis provides parties with significant autonomy in structuring the resolution process, including selection of arbitrators, determination of procedural rules, and specification of applicable law or decision-making standards.

Arbitration differs from mediation and negotiation in producing binding, enforceable decisions rather than facilitated agreements between parties. While mediation relies on the mediator's skill in helping parties reach voluntary settlements, and negotiation depends entirely on the parties' willingness to compromise, arbitration provides certainty of resolution through an authoritative third-party decision (Goldberg et al., 2012). The arbitrator's award has the same binding effect as a court judgment, enforceable through the legal system while avoiding the delays and complexities often associated with court proceedings.

The procedural flexibility of arbitration allows adaptation to the specific characteristics and requirements of different dispute types. Unlike court litigation, which follows standardized procedural rules regardless of case complexity or subject matter, arbitration can be tailored to address the particular technical, cultural, or logistical considerations relevant to specific disputes (Shavell, 1995). This adaptability has proven particularly valuable in specialized sectors where technical expertise, confidentiality, or speed of resolution are paramount considerations.

A terminological distinction relevant throughout this study concerns the terms *conflict* and *dispute*, which are often used interchangeably in everyday language but carry different meanings in the context of dispute resolution scholarship. Competition over natural resources like land is always present and dynamic. In the context of land management, a *land conflict* refers a social fact in which at least two parties are involved, the roots of which are different interests over property rights to land; the right to use the land, to manage the land, generate income from the land, to exclude others from the land, to transfer it and the right to compensation for it (Wehrmann, 2008), also cited in Abden & Bentina, M (2021). A *dispute*, by contrast, is a formalised, articulated claim that has been raised by one or more parties and presented to a forum – whether a court, a traditional authority, a mediator, or an arbitrator – for resolution (Goldberg et al., 2012). In some cases, the competition for natural resources between individuals or groups is limited in nature and claims can be addressed under existing law, such cases are considered to be disputes while as in other cases, competing claims are

made by groups, reflect broader and deeper competing interests, and may not be easily resolved within the existing legal framework. There may be no agreement as to the applicable law, and the parties often have fundamentally different views of the nature of the disagreement, such as considered to conflicts (FAO,2017). This distinction matters for the present study because arbitration, as a formal mechanism, engages with *disputes* rather than *conflicts* in the broader sense: it presupposes that the parties have identified and articulated their competing claims in a manner that can be adjudicated. Throughout this thesis, *conflict* is used to describe the general social phenomenon of competing land interests, while *dispute* refers specifically to those disagreements and competing claims that have been, or could be, submitted to a formal or semi-formal resolution process such as arbitration.

2.2.2 Legal Framework for Arbitration in Uganda

Uganda has established a comprehensive legal framework for arbitration that aligns with international best practices while accommodating domestic legal traditions. The Arbitration and Conciliation Act, (Cap 5) serves as the primary legislation governing arbitration practice in Uganda, substantially adopting the UNCITRAL Model Law on International Commercial Arbitration to ensure compatibility with global arbitration standards (Kakungulu-Mayambala, 2006).

The Act provides a complete framework for arbitration proceedings, addressing all phases from the formation of arbitration agreements through the enforcement of awards. Section 5 of the Arbitration and Conciliation Act recognizes arbitration agreements in writing, establishing the consensual foundation for arbitration while providing flexibility in how such agreements may be documented. The legislation specifically validates both pre-dispute arbitration clauses and post-dispute submission agreements, accommodating different approaches to arbitration adoption.

Arbitrator selection and appointment procedures are detailed in Part III of the Act, providing mechanisms for party autonomy in arbitrator choice while establishing default procedures when parties cannot agree. The legislation recognizes both individual arbitrators and arbitral tribunals, with specific provisions for multi-arbitrator panels in complex disputes (Arbitration and Conciliation Act, Cap 5). Importantly, the Act establishes qualification requirements and disclosure obligations for arbitrators, ensuring competence and impartiality in decision-making.

Procedural provisions in Part IV of the Act grant arbitral tribunals broad powers to conduct proceedings efficiently while maintaining fairness to all parties. These powers include determining procedural rules, ordering interim measures, compelling document production, and conducting hearings in the manner most appropriate to the dispute (Arbitration and Conciliation Act, Cap 5). The legislation explicitly empowers arbitrators to decide matters of law and fact, providing the authority necessary for comprehensive dispute resolution. Most importantly the law provides parties with liberty to agree on the time within which the dispute should be resolved and the default timeline within which an arbitrator has to deliver an award is two months from the time he or she has been called upon to act as an arbitrator.

The Act's enforcement provisions align with international standards, particularly the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, which Uganda ratified in 1992. Section 36 of the Arbitration and Conciliation Act (Cap 5) establishes that arbitral awards have the same force and effect as High Court judgments, providing strong enforcement mechanisms. The limited grounds for challenging awards, restricted to procedural irregularities, excess of authority, or violations of public policy, ensure finality while protecting fundamental fairness.

Section 272 of the Succession Act as amended provides Arbitration as a mode of disputes resolution between executors and administrators and beneficiaries of the deceased estates. It goes without saying that most of the inheritance disputes in Uganda are about land hence the law is timely.

Orders 47 and 12 provide that where parties to a dispute before the courts of law agree to arbitration the court shall make an order referring parties to conduct arbitration as a mode of dispute resolution (Civil Procedure Rules S.I 71-1), this demonstrates how far arbitration as a mode of dispute resolution is embedded in the laws of Uganda.

Court support for arbitration has evolved significantly since the Act's implementation. In *National Social Security Fund & Anor v Alcon International Ltd*, the Supreme Court emphasized that courts should support arbitration rather than undermine it, establishing a pro-arbitration judicial attitude (*National Social Security Fund & Anor v Alcon International Ltd*, 2013). More recently, in *Smile Communications Uganda Limited v ATC Uganda Limited and Another*, the Commercial Court reinforced this approach by upholding an arbitral award and limiting judicial intervention to the narrow grounds specified in the Act (*Smile Communications Uganda Limited v ATC Uganda Limited and Another*, 2023).

The Court of Appeal of Uganda has noted the importance of arbitration as a mode of ending finality to dispute resolution. It is now settled that the nature of arbitration is such that when

parties agree to arbitration as a mode of dispute resolution, they must submit to the Arbitrator's award as the final order, should the parties envision an appeal to the conventional courts then their intention must be reflected in the same document (*Industrial development corporation of South Africa Ltd versus Aya Investment (U) Ltd*, 2023).

2.2.3 Institutional Infrastructure for Arbitration

Uganda's arbitration infrastructure has developed substantially since the enactment of the Arbitration and Conciliation Act, with several institutions established to support arbitration practice. The Centre for Arbitration and Dispute Resolution (CADER), established in 2009, serves as the primary arbitration institution in Uganda, providing administrative services, maintaining panels of qualified arbitrators, and developing arbitration rules adapted to Ugandan conditions (Kane et al., 2011).

The International Centre for Arbitration and Mediation, Kampala (ICAMEK), founded in 2010, focuses particularly on international commercial arbitration while also handling domestic disputes. ICAMEK has developed specialized expertise in complex commercial disputes and maintains strong connections with international arbitration networks. The Uganda Law Society has also played a supportive role, through promoting awareness of alternative dispute resolution mechanisms like Arbitration through Continuance Legal Education (www.uls.org.ug).

In compliance with Section 2 of the Arbitration and Conciliation Act Cap 5, the government of Uganda appointed ICAMEK as an appointing authority for purposes of appointing arbitrators and conciliators where parties fail to agree on the arbitrator yet they have an agreement to arbitrate (Legal Notice No. 4 of 2020) hence creating an institutional framework as required by law.

These institutional developments have been complemented by capacity building initiatives that have enhanced the quality and availability of arbitration services. The East African Centre for Arbitration, ICAMEK and Praxis conflict centre ltd have conducted training programs for arbitrators, lawyers, and other dispute resolution professionals, contributing to the development of specialized expertise. Additionally, partnerships with international arbitration organizations have facilitated knowledge transfer and standard-setting aligned with global best practices.

2.2.4 Distinguishing Arbitration from Other Dispute Resolution Mechanisms

Understanding arbitration's unique characteristics requires clear distinction from other dispute resolution approaches commonly employed for land disputes in Uganda. Litigation, the traditional court-based approach, differs from arbitration in several fundamental respects. Courts have inherent jurisdiction over disputes within their territorial and subject matter competence, while arbitration derives authority entirely from party agreement (Born, 2014). Court proceedings follow standardized rules of procedure and evidence regardless of case characteristics, while arbitration allows procedural adaptation to dispute-specific requirements.

The public nature of court proceedings contrasts with arbitration's private character, which may be particularly relevant for land disputes involving sensitive family or community relationships. Court decisions create binding precedent that influences future cases, while arbitral awards generally lack precedential effect beyond the specific dispute (Moses, 2017). The appellate system in litigation provides multiple levels of review, while arbitration typically produces final decisions with very limited grounds for challenge.

Mediation and arbitration both fall within the alternative dispute resolution category but operate through fundamentally different mechanisms. Mediation relies on facilitated negotiation, with the mediator helping parties identify common interests and develop voluntary agreements (Menkel-Meadow, 2017). The mediator has no power to impose decisions, and the process succeeds only if parties reach consensus. Arbitration, conversely, empowers the arbitrator to render binding decisions after hearing evidence and arguments from all parties.

Negotiation represents the most informal dispute resolution approach, involving direct communication between parties to reach voluntary settlements. While negotiation may be assisted by legal representatives or other advisors, it requires no neutral third party and imposes no procedural structure (Shavell, 1995). The flexibility of negotiation can be advantageous for simple disputes, but complex or contentious matters often require the structure and authority that arbitration provides.

Traditional and customary dispute resolution mechanisms, widely used for land disputes in Uganda, share some characteristics with arbitration while differing in significant respects. Traditional authorities, like arbitrators, serve as neutral decision-makers empowered to resolve disputes. However, traditional mechanisms typically emphasize restoration of social

harmony rather than strict adjudication of legal rights, and their decisions may lack enforceability in formal legal systems (Merry, 1988).

2.2.5 Successful Application of Arbitration in Other Sectors

Arbitration has demonstrated remarkable effectiveness in resolving complex disputes across many other sectors in Uganda, providing valuable precedents for its potential application to land conflicts. Kakembo, Tumwesigye-Atenyi, Asimwe & Page (2019) state that the oil and gas sector has extensively utilized arbitration for resolving disputes arising from exploration agreements, production sharing contracts, and infrastructure development projects. The complex technical and commercial issues involved in petroleum operations, combined with the significant financial stakes and the involvement of international parties, have made arbitration particularly attractive for this sector, this is backed by Article 24 of the Model Production sharing agreement for exploration, development and production (Kakembo et al. 2019).

According to the National Sports Act (2023), Arbitration is the mode of resolving disputes in the sports industry and all associations must have arbitration clauses in their contracts. The success of arbitration in this sector reflects both the technical expertise and the parties' recognition that arbitration provides more predictable and efficient outcomes for disputes.

The construction industry has similarly embraced arbitration as a preferred dispute resolution mechanism, particularly for major infrastructure projects. Construction disputes often involve technical issues requiring specialized knowledge, tight project timelines that demand expeditious resolution, and commercial relationships that benefit from confidential proceedings. The study by Bahemuka (2021) reveals that 86.9 construction industry practitioners escalate their disputes to arbitration sometimes after failing to negotiate and he concludes that arbitration is an effective technique for resolving disputes in the construction industry in Uganda.

In the recent past, Uganda has taken strides by developing a framework for mining sector where it has expressly recognised arbitration as the mechanism viable for resolving disputes for mining and the investments Code Act Cap 74 which provides avenues for arbitration in disputes between investors and the government (Lule & Nakalema, 2024) .

Banking and financial services disputes have also increasingly turned to arbitration, particularly for commercial lending disagreements, investment disputes, and regulatory compliance matters. The Bank of Uganda has endorsed arbitration as an appropriate

mechanism for resolving certain categories of financial disputes, recognizing its advantages in preserving business relationships while providing expert determination of complex financial and regulatory issues (Banks to embrace mediation, Independent, 2018).

International commercial arbitration has flourished in Uganda, with Kampala emerging as a regional arbitration hub for East African disputes. The presence of quality arbitration institutions, the strong legal framework, and Uganda's political stability have attracted international parties seeking neutral venues for dispute resolution. This regional prominence demonstrates Uganda's arbitration infrastructure's capability to handle complex, high-value disputes efficiently and fairly.

The success factors identified across these sectors provide valuable insights for potential land dispute applications. Technical expertise in arbitrator selection has proven crucial, with parties specifically choosing arbitrators with relevant sectoral knowledge (Goldberg et al., 2012). Procedural flexibility has allowed adaptation to sector-specific requirements, such as site inspections in construction disputes or confidentiality protections in commercial matters. The enforceability of arbitral awards has provided parties with confidence that resolution will be final and effective.

Importantly, these successful applications demonstrate that arbitration can accommodate Uganda's legal pluralism and cultural diversity while maintaining international standards. Local arbitrators familiar with Ugandan law and customs have worked effectively alongside international experts, creating hybrid approaches that respect local contexts while ensuring procedural fairness and technical competence (Kane et al., 2011).

The documented success of arbitration across multiple sectors establishes a strong foundation for considering its application to land disputes. The same characteristics that have made arbitration effective for oil and gas, construction, and commercial disputes, technical expertise, procedural flexibility, efficiency, and enforceability, are equally relevant to the complex challenges facing land dispute resolution in Uganda. The institutional infrastructure and legal framework that support successful arbitration in other sectors provide the necessary foundation for expansion into land dispute resolution, subject to appropriate adaptation to the unique characteristics and requirements of land conflicts.

It is acknowledged that the cases cited in this section – and those referenced in the legal framework discussion in Section 2.2.2 – are primarily drawn from Uganda's commercial, construction, and oil and gas arbitration experience. This is not an oversight but a reflection of the prevailing reality: documented land-specific arbitration cases in Uganda are exceedingly rare. As this study's own findings confirm (Section 4.5.2), only 13.2% of

professional respondents had ever handled a land-specific arbitration matter, and systematic institutional records of land arbitration proceedings are not publicly maintained by either CADER or ICAMEK. The scarcity of traceable land arbitration cases is itself significant evidence of the underutilisation that this study sets out to investigate and address. The commercial and construction cases cited serve the more limited but legitimate purpose of demonstrating that arbitration, as a mechanism, functions effectively within Uganda's legal and institutional environment – providing an evidentiary foundation for the argument that its extension to land disputes is viable and not merely theoretical.

2.3 Global Perspectives on Land Disputes and Resolution Mechanisms

Land disputes represent a persistent global challenge that transcends geographical, economic, and cultural boundaries. While the specific manifestations of these disputes vary across contexts, scholars have identified several recurring patterns and common features in land conflicts worldwide.

2.3.1 Global Trends in Land Disputes

In developing economies, land conflicts frequently involve more fundamental questions of tenure security, customary rights, and access to land as a productive resource. Deininger and Feder (2009) examined land governance across developing countries, documenting how weak governance, incomplete land rights formalisation, and historical inequities contribute to persistent disputes. Their research highlighted the economic costs of unresolved land conflicts, including reduced agricultural productivity, deterred investment, and heightened social tensions.

2.3.2 Global Approaches to Land Dispute Resolution

The global literature reveals diverse approaches to resolving land disputes, ranging from formal court litigation to various forms of alternative dispute resolution (ADR). The formal court system remains the predominant mechanism for resolving land disputes in many countries, particularly those with well-established rule-of-law traditions. However, court-based resolution of land disputes faces consistent challenges of accessibility, cost, duration, and technical complexity. Alternative dispute resolution mechanisms have gained increasing prominence in land conflict management globally. Mediation, in particular, has been widely adopted for land disputes, emphasising the identification of underlying interests rather than

positional bargaining. Arbitration has shown promising results in specialised contexts, particularly in commercial land disputes.

International development organisations have increasingly recognised the importance of effective land dispute resolution. The World Bank's Land Governance Assessment Framework (LGAF) includes dispute resolution as a key dimension of land governance (Deininger et al., 2012). Similarly, the FAO Voluntary Guidelines on the Responsible Governance of Tenure specifically address dispute resolution, advocating for accessible and effective means to resolve disputes over tenure rights (FAO, 2012).

2.4 Regional Context: Land Dispute Resolution in Africa

The African continent presents unique challenges and opportunities for land dispute resolution, shaped by colonial legacies, legal pluralism, and diverse customary practices. A substantial body of literature has examined these regional dynamics, offering important insights for understanding land conflicts and resolution mechanisms within specific African contexts.

2.4.1 Historical Context of Land Governance in Africa

Colonial legacies have profoundly shaped land governance and dispute resolution across Africa. Mamdani (1996) provided a seminal analysis of how colonial powers restructured property rights and governance systems, creating enduring tensions between customary and statutory systems. This "bifurcated" governance created parallel legal systems that continue to complicate land dispute resolution today. Berry (2002) further elaborated on the historical dimensions of African land conflicts, arguing that land disputes often represent "contested histories" where competing narratives about past ownership and use rights shape present claims. Her research demonstrated how colonial interventions created new categories of property rights that intersected with, rather than replaced, pre-existing customary systems, generating complex, layered rights that frequently led to disputes.

2.4.2 Legal Pluralism and Customary Justice

Legal pluralism, where multiple facets of law apply in the same jurisdiction, is particularly pronounced in African land governance systems. The interaction between customary and statutory law in African land systems highlights both complementarities and tensions. Legal pluralism creates opportunities for "forum shopping," where disputants strategically select dispute resolution venues based on which system might favour their claims. Customary

dispute resolution mechanisms remain significant in many African contexts. Despite limitations in handling complex modern disputes, these systems often enjoy higher legitimacy and accessibility compared to formal courts. However, their effectiveness varies significantly based on local power dynamics, gender norms, and the nature of the dispute.

2.4.3 Alternative Dispute Resolution in African Contexts

Various forms of alternative dispute resolution have been implemented across Africa, with mixed results. Kane et al. (2005) evaluated ADR programs in Ghana, Tanzania, and Uganda, finding that successful implementation required careful attention to cultural context, institutional support, and procedural fairness. Their research highlighted that ADR mechanisms were most effective when they incorporated elements of both customary and formal legal systems, creating culturally resonant but legally enforceable processes. Judicial reforms targeting land dispute resolution have been implemented in several African countries. Specialised land courts in countries like Kenya, Rwanda, and South Africa have shown improved case processing times and expertise in land matters. However, issues of accessibility for rural populations and the high cost of specialised courts remained significant challenges.

2.5 National Context: Land Disputes in Uganda

The literature on land disputes in Uganda provides a rich foundation for understanding the specific challenges and opportunities within the country's land governance system. This section examines the historical context, contemporary patterns, and impacts of land disputes in Uganda.

2.5.1 Historical Evolution of Land Tenure in Uganda

The historical development of Uganda's land tenure systems has been extensively documented in the literature. West (1972) provided a foundational analysis of land policy in Buganda, tracing the evolution of land tenure from pre-colonial through colonial periods. His research detailed how the 1900 Buganda Agreement created the mailo land tenure system, fundamentally altering traditional land governance structures and establishing patterns of inequality that continue to influence contemporary land disputes. Batungi and Ruther (2008) expounded on this historical analysis, examining how colonial interventions created a complex tapestry of tenure systems across different regions of Uganda. Their research highlighted the historical roots of regional variations in land governance, with distinct

systems emerging in Buganda, Bunyoro, Toro, and northern regions. These historical differences continue to shape regional patterns of land conflict and approaches to dispute resolution. Post-independence land policy has further complicated Uganda's land governance landscape. Mugambwa (2007) analysed the legal evolution of land tenure in Uganda, highlighting critical turning points including the 1975 Land Reform Decree, which declared all land public property under state control, and the subsequent 1995 Constitutional provisions and 1998 Land Act, which restored and recognised multiple tenure systems. This legal history provides essential context for understanding the complex jurisdictional and substantive issues that arise in contemporary land disputes.

2.5.2 Contemporary Patterns of Land Disputes in Uganda

Recent literature has documented the scale, typology, and distribution of land disputes in Uganda. Rugadya (2009) conducted a comprehensive mapping of land conflicts across Uganda, identifying distinct regional patterns and typologies of disputes. Her research revealed that boundary disputes were most common in densely populated regions, while ownership conflicts predominated in areas with historical displacement and competing tenure systems. The empirical magnitude of land disputes in Uganda is substantial. According to the Justice, Law and Order Sector Annual Performance Report (2023), legal aid clinics handled 5,648 cases in the 2022/2023 financial year, including 475 land matters. The Ministry of Water and Environment (2023) reported that the total number of recorded land conflicts increased to 52,068.

A study by the Daily Monitor (2024) revealed that 42% of Ugandans have experienced land disputes, with many citing inadequate resolution mechanisms as a primary concern. The Afrobarometer survey (2023) found that Ugandans consider clan or family structures as the most appropriate forums for resolving land disputes, reflecting a preference for local, culturally embedded resolution mechanisms. Deininger and Castagnini (2006) analysed the incidence and impact of land conflicts in Uganda, revealing that approximately one-third of rural plots were affected by disputes or conflict. Their econometric analysis demonstrated significant negative impacts of land conflicts on agricultural productivity, with disputed plots experiencing 25-45% lower productivity compared to non-disputed plots. This research quantified the economic costs of land disputes, underscoring the importance of effective resolution mechanisms.

2.5.3 Factors Contributing to Land Disputes in Uganda

The literature identifies multiple interconnected factors contributing to land disputes in Uganda. Population pressure and land scarcity feature prominently in recent analyses. Weak land administration systems represent another significant factor. The Northern Uganda Land Platform (2012) documented systemic weaknesses in Uganda's land administration, including incomplete and inaccurate records, limited surveying capacity, and inadequate dispute resolution mechanisms. Their research found that boundary disputes were particularly prevalent, accounting for approximately 48% of all land conflicts, and were often exacerbated by the absence of clear demarcation and documentation.

Legal pluralism and overlapping rights create additional complexities. Nakayi and Twesiime-Kirya (2017) analysed the challenges arising from Uganda's multiple tenure systems, highlighting how the same land parcel might be subject to competing claims under different legal frameworks. Their research demonstrated how legal pluralism creates opportunities for strategic manipulation of dispute resolution forums, with parties selecting venues based on which legal system might favour their claims.

Historical injustices and displacement continue to influence contemporary land conflicts. Joireman (2018) examined intergenerational land conflicts in northern Uganda, revealing how displacement during conflict created competing claims upon return. Her research demonstrated how historical events, including colonial appropriations and conflict-induced displacement, continue to occur in contemporary land disputes, challenging simplistic approaches to resolution.

2.6 Land Dispute Resolution Mechanisms in Uganda

The literature documents various mechanisms for resolving land disputes in Uganda, ranging from formal courts to customary approaches and alternative dispute resolution methods. This section examines the strengths, limitations, and interactions of these different mechanisms.

2.6.1 Formal Court System

The formal court system represents a significant dispute resolution mechanism for land conflicts in Uganda. Empirical evidence demonstrates substantial challenges in the court-based resolution of land disputes. The Judiciary Annual Performance Report (2023) documented a significant backlog of land cases, with land matters constituting approximately 30% of the civil case backlog. The report noted that land cases typically required 2.5 to 4 years to resolve, significantly longer than other civil matters. Accessibility represents a

critical limitation of the formal court system. Nile Post (2024) conducted a nationwide legal needs assessment in Uganda, finding that only 17% of respondents with land disputes accessed the formal court system. Their research identified multiple barriers, including geographical distance, prohibitive costs, language barriers, and procedural complexity. The Nile Post study revealed that court cases cost an average of 4.2 million UGX, placing them beyond the financial reach of most rural landholders.

2.6.2 Local Council Courts

Local Council (LC) Courts represent an important intermediate institution for land dispute resolution. These courts blend elements of formal and customary approaches, providing a hybrid forum that is particularly important in rural areas. However, LC Courts face significant limitations in land dispute resolution. The limitations include limited jurisdiction, inadequate legal knowledge, susceptibility to local power dynamics, and weak enforcement mechanisms. LC Courts successfully resolved minor boundary disputes but struggled with complex matters involving competing documentation, multiple tenure systems, or powerful actors. The legal framework for LC Courts has evolved over time. The Local Council Courts Act of 2006 clarified the jurisdiction and procedures of LC Courts. This formalisation improved procedural consistency but reduced flexibility and increased costs, highlighting the tensions between formalisation and accessibility in dispute resolution.

2.6.3 Traditional and Customary Mechanisms

Traditional and customary dispute resolution mechanisms maintain significant relevance in Uganda's pluralistic legal landscape. These mechanisms include clan councils, elder forums, and traditional rituals for conflict resolution. The cultural legitimacy of these mechanisms and their emphasis on restoring social harmony rather than simply adjudicating rights make them important elements of the dispute resolution landscape. The effectiveness of customary mechanisms varies significantly across contexts. These mechanisms typically resolved disputes more quickly and at lower cost compared to formal courts, but faced limitations in addressing inter-community conflicts or disputes involving state actors. Gender inequities represent a significant concern in customary dispute resolution. Women were often excluded from direct participation in resolution forums, had limited speaking rights, and received less favourable outcomes compared to male disputants. These findings highlight the importance of gender-sensitive reforms in all dispute resolution mechanisms.

2.6.4 Alternative Dispute Resolution Mechanisms

Alternative dispute resolution mechanisms have gained increasing prominence in Uganda's legal landscape. Kane et al. (2005) analysed the development of ADR in Uganda, noting the establishment of institutional structures including the Centre for Arbitration and Dispute Resolution (CADER) and court-annexed mediation programs. Their research documented gradual increases in ADR utilisation but identified challenges in public awareness, institutional capacity, and integration with other resolution mechanisms. Mediation has been widely implemented as an ADR approach to land disputes. Land tribunals have experienced a complex implementation history in Uganda. Nakirunda (2015) analysed the establishment, suspension, and partial reinstatement of district land tribunals, documenting how institutional instability undermined their effectiveness. Her research highlighted the challenges of establishing specialised land dispute resolution mechanisms without sustainable funding and institutional support.

2.7 Arbitration as a Dispute Resolution Mechanism

Arbitration represents a potentially valuable but underutilised approach to land dispute resolution in Uganda. This section examines the literature on arbitration generally and its specific application to land disputes.

2.7.1 Theoretical Foundations of Arbitration

The theoretical foundations of arbitration have been extensively examined in the literature. Key principles of arbitration include party autonomy, procedural flexibility, expertise, and final binding decisions. Arbitration offers several theoretical advantages for complex disputes, including the selection of subject-matter experts as arbitrators, flexible evidence rules, and streamlined procedures. The theoretical limitations of arbitration have also been examined, including limited precedential value, variable quality of arbitrators, and reduced public accountability. The importance of institutional design in addressing these limitations has been emphasised, with a focus on transparency, quality control, and appropriate appeals mechanisms.

2.7.2 Legal Framework Limitations

Despite Uganda's comprehensive arbitration legislation, specific legal barriers affect land dispute arbitration. Adenyuma and Sserunkuma (2022) identified gaps in the legal

framework, including uncertain jurisdictional boundaries between courts and arbitration for land matters, limited provisions for public interest considerations, and unclear relationships with customary law principles. These legal uncertainties create risks for parties considering arbitration for land disputes. Land-specific legal complexities present challenges for arbitration. Mugambwa (2007) analysed the multiple legal regimes governing land in Uganda, noting how disputes often involve complex intersections of statutory law, customary principles, and constitutional provisions. These complexities raise questions about whether standard arbitration frameworks adequately address the unique aspects of land disputes, particularly those involving customary land or overlapping tenure systems. Enforcement mechanisms for arbitral awards in land disputes remain problematic. Challenges in implementing arbitration decisions that require registration changes, boundary modifications, or evictions have been documented. While the legal framework theoretically supports enforcement, practical implementation often faces administrative barriers or resistance from local authorities.

2.7.3 Practical and Economic Barriers

Cost concerns represent a practical barrier despite arbitration's theoretical cost advantages. The Northern Uganda Land Platform (2012) documented perceptions that professional arbitration services remain prohibitively expensive for many disputants, with estimated costs of 2-4 million UGX for standard proceedings. These costs, while lower than court litigation, still place arbitration beyond the reach of many rural landholders. Geographical access limitations affect arbitration availability. Arbitration services remain concentrated in urban centres while land disputes are widespread in rural areas. This spatial mismatch creates significant practical barriers for rural disputants, who would incur substantial travel and accommodation costs to access arbitration services. Technical barriers related to documentation affect arbitration feasibility for many land disputes. Arbitration typically requires some documentary foundation, yet many rural land disputes involve partially or wholly undocumented claims, creating procedural challenges for conventional arbitration approaches.

2.8 Synthesis of the Literature

The literature review reveals several clear patterns and research gaps regarding arbitration in land dispute resolution, particularly in the Ugandan context. This synthesis highlights the key insights and limitations of existing research, establishing the foundation for the current study.

2.8.1 Identification of Research Gaps

The review reveals a significant empirical gap regarding the specific barriers to arbitration in land dispute resolution in Uganda. While several studies have examined general challenges in arbitration implementation (Adenyuma & Sserunkuma, 2022), there has been limited systematic investigation of the specific factors preventing arbitration adoption for land disputes. This empirical gap leaves policymakers without clear evidence to guide reforms aimed at expanding arbitration's application to land conflicts. A methodological gap exists in the comparative assessment of dispute resolution mechanisms for land conflicts in Uganda. While individual mechanisms have been examined in isolation, few studies have directly compared the effectiveness, efficiency, and satisfaction outcomes across different resolution approaches. This gap limits understanding of arbitration's relative advantages and disadvantages compared to other available mechanisms.

A theoretical gap exists in understanding how arbitration might be adapted to address the unique characteristics of land disputes in Uganda. While the general theory of arbitration is well-developed, its application to contexts characterised by legal pluralism, limited documentation, and complex historical claims remains undertheorized. This theoretical gap constrains the development of contextually appropriate arbitration models for Ugandan land disputes. A practical gap exists in evaluating pilot implementations of land dispute arbitration in Uganda. This practical gap limits the evidence base for scaling effective arbitration approaches for land disputes.

2.8.2 Relationship Between Literature and Research Objectives

The literature review directly informs and justifies the research objectives of this study. The first objective, investigating factors that have prevented arbitration adoption, addresses the empirical gap regarding specific impediments in the Ugandan context. The second objective, assessing arbitration's effectiveness compared to existing mechanisms, addresses the methodological gap in comparative evaluation. The third objective, developing and suggesting a framework, addresses the practical gap in implementing effective arbitration for land disputes. The literature provides important methodological guidance for addressing these objectives. Previous studies by Kane et al. (2005) demonstrate the value of mixed-methods approaches that combine qualitative insights with quantitative assessment. The rigorous documentary analysis employed by Nakayi and Twesiime-Kirya (2017) offers methodological models for examining legal and institutional frameworks. The stakeholder

interviews conducted by Northern Uganda Land Platform (2012) provide templates for accessing diverse perspectives on dispute resolution preferences and experiences. All the above informed choice of the methodology used in the present study.

The reliance on the literature cited more so the studies conducted before 2015 is to demonstrate the historical understanding of the subject at hand, the principles, theories and paradigms have been developed overtime and not changed to-date, this is also proof of the limited studies on the subject under investigation making them relevant in achieving the research objectives of the study.

2.8.3 Contribution to Knowledge

This research makes several distinctive contributions to the existing literature. First, it provides the first comprehensive analysis of barriers to arbitration in Ugandan land disputes, addressing a significant empirical gap. Second, it offers a comparative assessment of arbitration against other resolution mechanisms, contributing methodological innovations in evaluation. Third, it develops contextually-appropriate recommendations for arbitration implementation, addressing practical gaps in policy guidance. By integrating global perspectives with local realities, this research contributes to both theoretical and practical understandings of land dispute resolution. It extends existing theories of legal pluralism by examining how arbitration interfaces with multiple legal systems, adds empirical depth to economic analyses of dispute resolution by quantifying costs and benefits in the Ugandan context, and enhances understanding of negotiated justice by examining arbitration's potential to deliver procedurally fair and substantively just outcomes in land disputes.

CHAPTER THREE

RESEARCH METHODOLOGY

3.1 Introduction to Research Methodology

This chapter puts forward methodology employed to investigate arbitration as a mechanism for resolving land disputes in Uganda. and to address the research objective a mixed-methods approach that combines qualitative and quantitative techniques. This comprehensive approach enabled the collection and analysis of diverse data types, providing an understanding of the complex interplay of factors affecting arbitration in land dispute resolution.

3.2 Research Philosophy and Approach

3.2.1 Epistemological Stance

This research was guided by a pragmatic epistemological stance, which recognises that knowledge emerges from practical engagement with real-world problems and contexts. Pragmatism, as described by Morgan (2014), offers a philosophical foundation that bridges positivist and interpretivist approaches, allowing researchers to employ multiple methods and perspectives based on their utility in addressing the research questions. This approach was particularly appropriate for this study, which aimed to understand both subjective experiences and objective patterns in land dispute resolution. The pragmatic stance acknowledged that understanding arbitration in land dispute resolution requires both objective assessments of institutional frameworks and subjective interpretations of stakeholders' experiences and perceptions. This philosophical orientation allowed for the integration of different types of knowledge, legal, social, economic, and experiential, to develop a comprehensive understanding of the research problem. In practice, the pragmatic stance shaped this study's design in several concrete ways. It led to the choice of a mixed-methods sequential exploratory approach rather than a purely qualitative or quantitative design, on the grounds that understanding both the subjective experiences of stakeholders and the measurable patterns in their perceptions required different but complementary forms of evidence. It also justified the use of documentary analysis as a Phase One foundation, recognising that understanding the formal legal and institutional context was a necessary precondition for meaningful engagement with practitioners and disputants in subsequent phases.

3.2.2 Research Paradigm

Within the pragmatic philosophical framework, the study adopted a transformative research paradigm, which emphasises the potential for research to contribute to social change and improvement. As articulated by Mertens (2009), transformative research explicitly addresses issues of social justice, focusing on how power relations affect access to resources and opportunities. This paradigm was appropriate for a study examining barriers to justice in land dispute resolution, a domain where power imbalances significantly impact outcomes. The transformative paradigm guided the research design in several ways. First, it informed the decision to include diverse stakeholder perspectives, particularly those of marginalised groups who often face the greatest barriers to accessing justice. Second, it shaped the analytical approach, which focused not only on identifying problems but also on developing actionable recommendations for improving access to justice. Third, it influenced the ethical framework, emphasising respect for participants' agency and the potential impacts of the research process itself. In concrete terms, the transformative paradigm shaped this study in three ways. First, it informed the deliberate inclusion of disputants – including rural landholders with direct experience of land disputes as a key stakeholder category, rather than relying exclusively on practitioner and official perspectives. Second, it oriented the analytical approach toward identifying not only problems but also actionable pathways for improvement, ensuring that findings translated into the practical framework (IADF) that constitutes the study's primary output. Third, it reinforced the ethical commitment to presenting findings in accessible formats to participating communities and institutions, rather than limiting dissemination to academic audiences.

3.2.3 Methodological Approach

The study employed a mixed-methods approach, integrating qualitative and quantitative research techniques to address the complex nature of the research problem. This methodological choice was informed by Creswell and Plano Clark's (2018) articulation of mixed methods as particularly valuable for addressing complex research questions that benefit from multiple forms of evidence. The integration of methods followed a sequential exploratory design, with qualitative data collection and analysis preceding and informing the quantitative phase. This approach allowed for an in-depth exploration of the contextual factors surrounding land dispute resolution, followed by a systematic quantitative assessment that validated and extended the initial qualitative insights. The qualitative phase identified

key themes and variables, which informed the development of survey instruments for the quantitative phase. This sequential design provided a comprehensive understanding of both the subjective experiences and objective patterns in land dispute resolution.

3.3 Research Design

3.3.1 Mixed-Methods Design

The research employed a mixed-methods design to investigate arbitration in land dispute resolution comprehensively. This approach combined the strengths of qualitative methods, which provide depth, nuance, and contextual understanding, with those of quantitative methods, which offer breadth, generalizability, and statistical validation. The integration of these complementary approaches allowed for a more complete understanding of the complex factors affecting arbitration in land disputes. The mixed-methods design followed Creswell's (2018) sequential exploratory model, which proceeds from qualitative to quantitative phases. This model was selected because the research aimed to first explore and understand the barriers to arbitration and then assess their prevalence and relationships quantitatively. The sequential design enabled each phase to build upon and inform the next, creating a cumulative research process that progressively deepened understanding of the research problem.

3.3.2 Research Phases

The research was conducted in three distinct but interconnected phases. The first phase involved comprehensive document review and analysis of legal frameworks, policy documents, court records, and institutional reports related to land dispute resolution and arbitration in Uganda. This documentary analysis established the formal context of land dispute resolution and identified preliminary themes for further investigation in subsequent phases. The second phase employed in-depth interviews with key stakeholders involved in land dispute resolution, including judicial officers, arbitration practitioners, land officials, traditional leaders, and disputants. This qualitative phase aimed to understand stakeholders' experiences, perceptions, and insights regarding barriers to arbitration and its potential effectiveness. The third phase involved a structured survey of land dispute participants and practitioners, designed to quantify key variables identified in the qualitative phase and assess their relationships and prevalence across different contexts. This quantitative phase enabled

systematic comparison of different dispute resolution mechanisms and validation of findings from earlier phases.

3.3.3 Integration of Methods

Following Fetter et al. (2013), the integration of qualitative and quantitative methods occurred at multiple levels. Design integration structured the research to allow qualitative findings to inform quantitative instruments and sampling. Methods integration ensured that qualitative and quantitative data collection techniques were designed to complement each other, with interview questions and survey items addressing similar constructs from different angles. Analysis integration systematically compared and synthesised findings from qualitative and quantitative analyses to identify convergence, complementarity, and divergence. Interpretation integration combined insights from both methodological approaches to develop a comprehensive understanding of the research problem. This multi-level integration ensured that the mixed-methods approach was not merely the parallel implementation of different methods but a genuinely integrated research strategy that leveraged the strengths of each approach.

To illustrate how this integration operated in practice: the qualitative phase (documentary analysis and interviews) identified economic barriers, inadequate arbitrator expertise in land matters, and cultural preferences for community-visible processes as the three dominant themes constraining arbitration adoption. These themes were directly operationalised as structured Likert-scale items and categorical questions in the quantitative survey instrument, allowing their prevalence and relative weight to be tested across a broader and geographically representative sample. Similarly, the qualitative finding that rural disputants faced compounded barriers of cost and geographic distance shaped the stratified sampling strategy for the quantitative phase, ensuring adequate representation of respondents from non-central regions. This sequential logic – qualitative findings building the architecture of quantitative inquiry – is what distinguishes a genuinely integrated mixed-methods design from the parallel use of two separate methods.

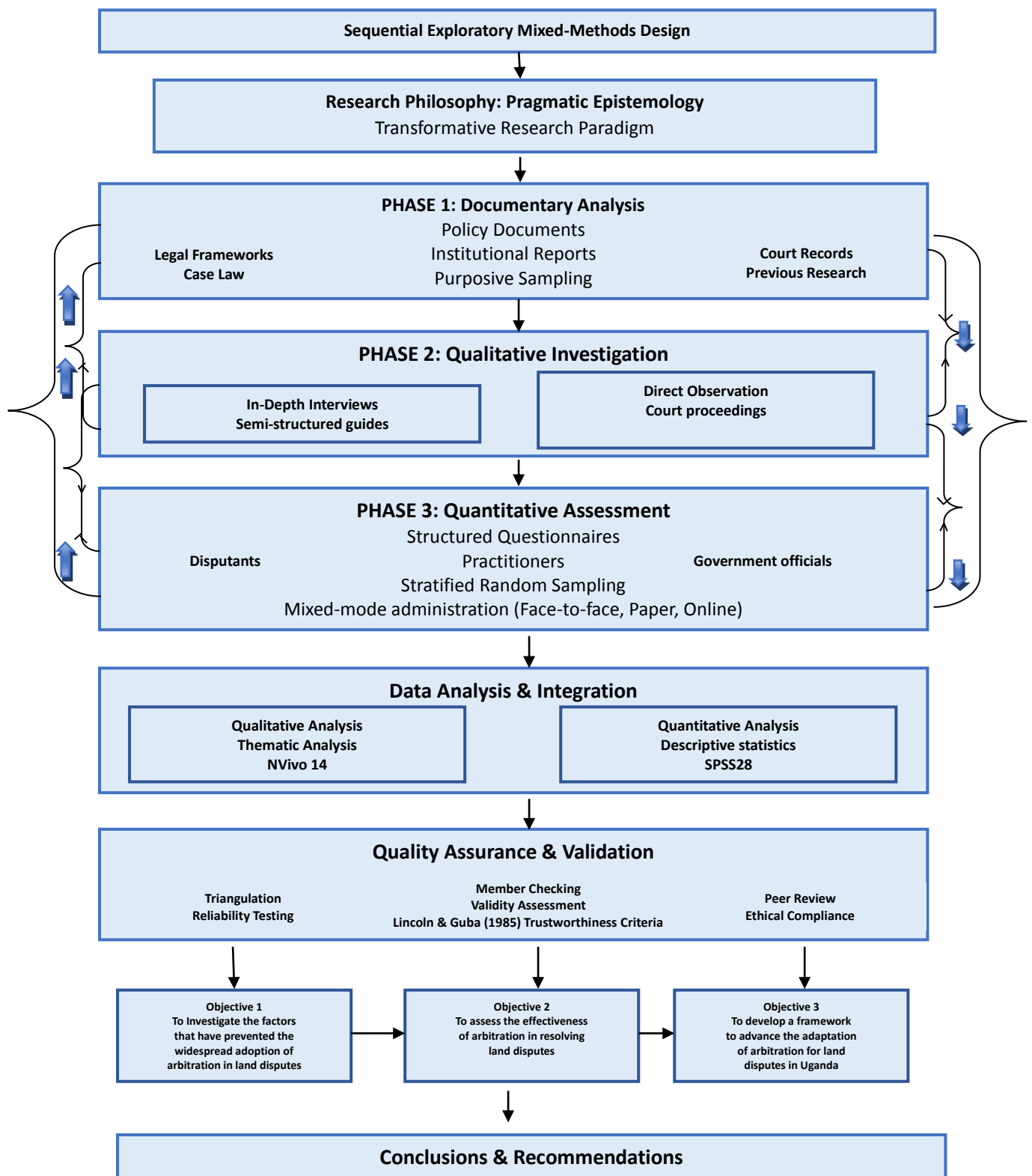


Figure 2: Visual representation of methodology

3.4 Sampling Strategy

3.4.1 Target Population

The target population for this research encompassed a representation of stakeholders involved in land dispute resolution in Uganda. This included land dispute participants (claimants and respondents), legal practitioners (lawyers, judges, and magistrates), arbitration practitioners and government officials, land administration officials, traditional and cultural leaders, civil society organisations working on land rights, and policy makers and government officials. This comprehensive definition of the target population ensured that the research captured diverse perspectives on land dispute resolution, reflecting the complex multi-stakeholder nature of land governance systems in Uganda. Within this population, land dispute participants – referred to throughout this study as *disputants* rather than *claimants* or *respondents* (the latter terminology being more appropriate in court proceedings) – included individuals who had been party to a formally raised land dispute, whether through the court system, a Local Council court, or an alternative dispute resolution process. These participants were not identified through court registers, which would have required access to confidential judicial records, but were reached through legal practitioners and civil society organisations who had represented or assisted them. This method of access introduced a degree of self-selection, which is acknowledged as a limitation in Section 3.9.3.

3.4.2 Sampling Techniques

The research employed a multi-stage sampling approach that combined purposive and probability sampling techniques appropriate to each research phase. For the documentary analysis, documents were selected using purposive sampling based on relevance to the research questions. The sampling criteria included temporal relevance (focusing on documents from the post-1995 constitutional era), institutional significance, and topical relevance to land dispute resolution and arbitration.

For the qualitative phase, participants were selected using purposive sampling techniques designed to capture diverse perspectives. The sampling approach combined expert sampling to identify participants with specialised knowledge, maximum variation sampling to select participants representing diverse contexts, and snowball sampling to build the sample by asking initial participants to suggest other knowledgeable individuals. This purposive approach ensured that qualitative data collection captured the full range of perspectives and

experiences relevant to understanding arbitration in land dispute resolution. It should be noted that the reference to distinct qualitative and quantitative sampling phases does not imply the use of two separate populations; rather, the same broadly defined target population of land dispute resolution stakeholders was approached using different sampling techniques depending on the nature of data being collected. Purposive sampling was appropriate for the qualitative phase because depth of knowledge and diversity of perspective, rather than statistical representativeness, were the primary criteria. Stratified random sampling was applied in the quantitative phase because the aim was to produce distributional findings with some degree of statistical generalisability across categories. This sequential, phase-differentiated sampling strategy is consistent with Creswell's (2018) sequential exploratory model adopted for the study.

For the quantitative phase, the research employed stratified random sampling to ensure representation across key variables including geographical regions (Central, Northern, Eastern, and Western Uganda), dispute types (boundary, ownership, inheritance, etc.), and stakeholder categories (disputants, practitioners, officials). This stratified approach ensured that the quantitative sample was representative of the diversity of land dispute contexts in Uganda while maintaining the random selection necessary for statistical inference.

3.4.3 Sample Size Determination

The sample size for each research phase was determined based on methodological considerations appropriate to each approach. Sampling followed the principle of saturation as articulated by Guest et al. (2006), continuing until no new substantive insights emerged from additional interviews. This approach guided the data collection process to ensure comprehensive coverage of stakeholder perspectives while maintaining research feasibility. Sample size was determined based on the research objectives and available resources for comprehensive data collection across Uganda's diverse geographical and institutional contexts.

The relevant population for this study comprised all institutional stakeholders with direct, professional involvement in land dispute resolution or arbitration practice in Uganda. This population was operationalised by reference to the established institutional landscape documented in official government reports. Specifically, the total population of 73 was derived from the following categories, each with demonstrable relevance to the research objectives:

Table 1: Source of Population of study

Stakeholder Category	Population Count	Source
Ministry of Lands Zonal Offices	22	Ministerial Policy Statement FY 2023/2024
High Court Circuits and Divisions (Land, Family & Commercial) for practitioners and disputants	41	Judiciary Annual Performance Report, 2024
Arbitration Institutions (CADER and ICAMEK)	2	Institutional records
Civil Society / Not-for-Profit Organisations	6	JLOS stakeholder register
Government Ministries (MoJCA and MWE)	2	Official directories
Total	73	

This population represents the universe of institutionally situated stakeholders whose professional roles place them at the intersection of land disputes and dispute resolution mechanisms in Uganda, spread across the four major regions of the country: North, East, Central, and Western. The population size of 73, while relatively modest in absolute terms, reflects the specialised and expert nature of the study's focus: this research was not designed to survey the general public but to capture the views of those with direct, professional knowledge of arbitration and land dispute resolution. In this respect, the population is bounded and well-defined, consistent with the research objectives and the pragmatic epistemological stance adopted. The modest population size also made it practicable to apply Yamane's formula for finite populations to determine a statistically appropriate sample, rather than relying on arbitrary or convenience-based sample sizes.

The sample size for this study was determined using Yamane's formula for finite populations putting into context the 73 respondents and the required sample size determined to be 62 respondents across the above categories as explained below:

The formula is given as:

$$n = N / (1 + N(e)^2)$$

Where: n = required sample size, N = population size, e = margin of error (commonly 0.05 for 95% confidence level)

Given: N = 73 (total population size of relevant respondents), e = 0.05

Calculation:

$$n = 73 / (1 + 73(0.05)^2)$$

$$n = 73 / (1 + 73(0.0025))$$

$$n = 73 / (1 + 0.1825)$$

$$n = 73 / 1.1825$$

$$n \approx 62$$

Out of the calculated required sample size of 62 respondents, the actual achieved sample was 55 reached through questionnaires and interviews, representing 88.7% of the sample size.

The response rate of 70% and over is very good and ensures a representative sample for meaningful generalisation (Mugenda & Mugenda, 2003). Etyang (2018), opined that a response rate threshold of 67% is a guarantee of generalisation. The preceding assertions were also embraced by Bahemuka (2021) to validate his study. It is crystal clear that at 88.7% response rate, the findings of this study ensure validity in achieving the objectives of the study.

The sampling strategy prioritized quality and diversity of responses over large sample size, focusing on purposively obtaining comprehensive insights from knowledgeable participants across different regions and institutional contexts. This sample size provides sufficient data for descriptive analysis and identification of key patterns and relationships relevant to the research objectives.

3.5 Data Collection Methods

It is important to distinguish, for the purposes of this chapter, between *research methods* and *research instruments* (or tools). Research methods refer to the broader approaches employed to gather data – in this study, documentary analysis, in-depth interviews, direct observation, and structured questionnaire surveys. Research instruments refer to the specific devices through which each method is operationalised: the analytical framework used to extract information from documents, the semi-structured interview guides, the observation protocol, and the questionnaire forms administered to respondents. Both are described in the subsections that follow.

3.5.1 Documentary Analysis

Documentary analysis served as a foundation for understanding the formal frameworks and institutional contexts of land dispute resolution in Uganda. This method involved systematic collection and analysis of documents, including legal and policy documents such as the

Constitution of Uganda (1995), Land Act (1998) and amendments, Succession Act of Uganda with its amendments, Arbitration and Conciliation Act (2000) with its amendments, National Land Policy (2013), and relevant case law and judicial decisions. The analysis also included institutional reports and statistics from the Judiciary, Justice Law and Order Sector (JLOS), Land Ministry, and arbitration centres, as well as previous research and evaluations.

The documentary analysis employed a structured analytical framework focused on four key dimensions: legal provisions, institutional arrangements, procedural requirements, and implementation challenges. This structured approach ensured systematic extraction of relevant information and facilitated comparison across document types. The documentary analysis was conducted according to Bowen's (2009) methodological guidelines, which emphasise systematic identification, review, and interpretation of documents. This involved identifying relevant documents through database searches and institutional contacts, assessing document authenticity and credibility, developing an analytical framework for systematic content extraction, coding document content according to key themes, and synthesising findings across documents. Documentary sources were identified through searches of the Uganda Judiciary's online case repository, the JLOS annual reports database, the Uganda Legal Information Institute (ULII) for case law and legislation, institutional archives at CADER and ICAMEK, and academic databases including HeinOnline, Google Scholar, and the World Bank Open Knowledge Repository. Physical documents, including policy statements, ministerial circulars, and annual performance reports, were obtained directly from the relevant government ministries and institutional offices during fieldwork.

3.5.2 Qualitative Data Collection

Qualitative data collection employed in-depth interviews as the primary method, supplemented by direct observation of dispute resolution processes where access was permitted. This combination of methods provided rich insights into both reported experiences and actual practices in land dispute resolution.

In-depth interviews were conducted using semi-structured interview guides tailored to each stakeholder category while maintaining core questions to enable cross-category comparison. The interview guides were developed based on preliminary documentary analysis and organised around four key domains: experiences with land dispute resolution mechanisms, perceptions of barriers to arbitration adoption, comparative assessments of different resolution mechanisms, and recommendations for improving land dispute resolution.

Interviews were conducted in English where appropriate, with translation services utilised for participants more comfortable in local languages.

Where permission was granted, direct observation of dispute resolution proceedings provided valuable contextual understanding. Observation sessions included formal court hearings of land cases, Local Council court proceedings, traditional dispute resolution gatherings, land tribunal hearings, and arbitration proceedings. A structured observation protocol guided data collection, focusing on procedural elements, participant interactions, power dynamics, and decision-making processes. Field notes were recorded during and immediately after observation sessions to capture details accurately.

3.5.3 Quantitative Data Collection

Quantitative data collection employed structured questionnaires administered to three distinct respondent categories, identified by their daily interface with land disputes and the dispute resolution mechanisms including but not limited to arbitration in Uganda: disputants with land conflict experience, legal and dispute resolution practitioners, and land administration officials. These questionnaires were developed based on insights from the qualitative phase and validated through pilot testing. The questionnaires combined closed-ended items (using Likert scales, categorical responses, and numerical ratings) with a limited number of open-ended items to capture additional insights. The instrument design followed Dillman et al.'s (2014) tailored design method, which emphasises respondent-friendly design, clear question wording, and logical question sequence.

Three distinct questionnaire versions were developed. The disputant questionnaire focused on experiences with land disputes, resolution mechanisms used, costs incurred, satisfaction levels, and perceptions of different resolution approaches. The practitioner questionnaire targeted legal and dispute resolution practitioners, focusing on professional experiences, comparative assessments of resolution mechanisms, and perceived barriers to arbitration. The official questionnaire was designed for land administration and government officials, focusing on institutional perspectives, policy implementation challenges, and resource allocation.

All questionnaires contained core items addressing key research variables to enable cross-group comparison while including specialised sections relevant to each respondent category. The survey was administered using a mixed-mode approach to maximise response rates and representation across different geographical and socioeconomic contexts, including face-to-

face administration in rural areas, self-administered paper questionnaires for practitioners and officials, and an online survey platform.

3.6 Data Analysis Methods

3.6.1 Qualitative Data Analysis

Qualitative data analysis employed a systematic approach combining thematic analysis with elements of grounded theory to identify patterns, themes, and conceptual relationships in the interview and observational data. The analysis followed sequential steps beginning with data preparation, where interview recordings were transcribed verbatim, with translations verified for accuracy, and field notes from observations were digitised and organised. All qualitative data were imported into NVivo 12 qualitative data analysis software to facilitate systematic analysis. Initial coding involved reviewing all textual data to identify initial concepts and categories, followed by thematic development, where initial codes were grouped into emerging themes and sub-themes through an iterative process. Theme development was guided by both the research questions (deductive approach) and emergent patterns in the data (inductive approach).

Cross-case analysis examined themes across different stakeholder categories, geographical regions, and institutional contexts to identify patterns, variations, and contextual factors influencing perspectives on arbitration in land dispute resolution. The qualitative findings were then integrated with documentary analysis to identify consistency, contradictions, and complementary insights. Throughout the analysis, methodological rigour was maintained through techniques including constant comparison, negative case analysis, and memo writing to document analytical decisions and emerging theoretical insights.

3.6.2 Quantitative Data Analysis

Quantitative data analysis employed both descriptive and inferential statistical techniques to analyse survey data and identify patterns, relationships, and significant factors affecting arbitration in land dispute resolution. Data preparation and screening involved entering survey data into SPSS 26 statistical software, with appropriate coding of variables and data cleaning procedures to identify and address missing values, outliers, and inconsistent responses.

Descriptive analysis provided an overview of sample characteristics and response patterns through frequency distributions, measures of central tendency, and cross-tabulations. Inferential analysis employed statistical tests to examine relationships between variables and identify significant predictors of key outcomes. Chi-square tests examined associations between categorical variables, while independent samples t-tests and one-way ANOVA compared means across groups. Multiple regression analysis identified predictors of key outcomes, including satisfaction with dispute resolution outcomes, willingness to use arbitration, and perceived effectiveness of different resolution mechanisms. Factor analysis identified underlying dimensions in multi-item scales measuring perceptions and attitudes toward different resolution mechanisms. Statistical significance was assessed at the conventional $p < 0.05$ level, with appropriate corrections for multiple comparisons where necessary.

3.6.3 Integration of Analyses

The integration of qualitative and quantitative analyses followed a systematic approach to triangulate findings and develop a comprehensive understanding of the research problem. This integration included side-by-side comparison of findings from qualitative and quantitative analyses to identify convergence, complementarity, and divergence; joint displays through tables and matrices to visually represent the integration of qualitative themes and quantitative results; follow-up explanation using qualitative findings to explain and interpret unexpected or complex quantitative results; and theme quantification to assess the prevalence of key qualitative themes across the broader sample. This integrated analytical approach ensured that the strengths of both qualitative and quantitative methods were leveraged to develop robust findings that addressed the research questions comprehensively.

3.7 Quality Assurance and Validity

Ensuring the quality, validity, and reliability of research findings was a central concern throughout the research process. Multiple strategies were employed to enhance the trustworthiness of both qualitative and quantitative components of the study.

3.7.1 Qualitative Trustworthiness

For the qualitative components, Lincoln and Guba's (1985) criteria for trustworthiness guided quality assurance strategies. Credibility was enhanced through prolonged engagement in the

field, triangulation of data sources, member checking, and peer debriefing with colleagues familiar with land governance research. Transferability was addressed through the thick description of research contexts and participant characteristics, purposive sampling to capture diverse perspectives and contexts, and detailed documentation of methodological decisions. Dependability was ensured through maintaining a comprehensive audit trail of research decisions and procedures, consistent application of analytical procedures, and regular methodological reflection and documentation. Conformability was strengthened through reflexive journaling to document researcher perspectives and potential biases, transparent documentation of analytical processes, and use of participant quotations to ground interpretations in data.

3.7.2 Quantitative Reliability

For the quantitative components, conventional criteria for validity and reliability guided quality assurance. Reliability was assessed through internal consistency of multi-item scales, test-retest reliability for a subset of respondents, and standardised administration procedures to minimise measurement error. Internal validity was strengthened through pilot testing of survey instruments, statistical control of confounding variables in regression analyses, and examination of alternative explanations for observed relationships. External validity was enhanced through stratified random sampling to ensure representativeness, comparison of sample characteristics with population parameters, and assessment of non-response patterns to identify potential biases. Construct validity was addressed through derivation of questionnaire items from qualitative research and existing literature, expert review of survey instruments, and factor analysis to confirm hypothesised constructs.

3.7.3 Triangulation Approach

Triangulation was employed at multiple levels to enhance the overall validity of the research. Data triangulation compared findings across different data sources, including documents, interviews, observations, and surveys. Methodological triangulation contrasted results from qualitative and quantitative methods. Investigator triangulation involved multiple researchers in data collection and analysis to minimise individual biases. Theory triangulation examined findings through multiple theoretical lenses, including legal pluralism, economic theories of dispute resolution, and negotiated justice. This comprehensive triangulation approach

strengthened confidence in the validity of findings by identifying convergence across multiple sources and methods.

3.8 Ethical Considerations

Research ethics occupied a central and non-negotiable role in all aspects of this study's design and implementation. The particular nature of the subject matter made this imperative: land disputes in Uganda frequently involve vulnerable populations – rural landholders with limited education, women whose tenure rights are structurally undermined by customary norms, and disputants who may be engaged in ongoing conflicts with powerful adversaries including state actors or wealthier landowners. Obtaining candid, reliable information from such participants required building trust through strict ethical practice. Moreover, the power asymmetries inherent in land governance – between rural claimants and institutional actors, between customary and formal legal systems, and between those with and without legal representation – meant that any failure in ethical conduct could have caused material harm to participants. For these reasons, ethical principles were treated not merely as procedural requirements but as foundational commitments shaping every stage of the research, from the design of instruments to the presentation of findings.

3.8.1 Ethical Approval and Clearance

The research obtained ethical approval from relevant authorities, including institutional ethical approval from Makerere University, research clearance and administrative permissions from relevant government departments and local authorities. These formal approvals ensured that the research met established ethical standards and complied with the research regulations.

3.8.2 Informed Consent

Informed consent was obtained from all research participants using a process that ensured they understood the nature, purpose, and potential implications of their participation. This process included providing clear information about the research in appropriate language, explaining voluntary participation and the right to withdraw at any time, discussing data usage and confidentiality protections, allowing participants to ask questions before deciding to participate. The informed consent process was adapted to cultural contexts and participant characteristics while maintaining core ethical principles.

3.8.3 Confidentiality and Anonymity

Protecting participant confidentiality was a key ethical consideration, particularly given the potentially sensitive nature of land disputes. Measures to ensure confidentiality included removing identifying information from interview transcripts and survey data, using participant codes rather than names in all research documents, securing all data with access restricted to the research team, and carefully presenting findings to avoid inadvertent identification of participants. When reporting findings, care was taken to present data in ways that protected individual identities while preserving the integrity of the research.

3.8.4 Reciprocity and Benefit

The research was designed with attention to reciprocity and ensuring that participants and communities derived benefit from their involvement. This included sharing research summaries with participating organisations and communities, conducting feedback sessions to share preliminary findings and gather additional input, developing policy briefs and practical recommendations accessible to diverse stakeholders, and engaging with relevant authorities to promote implementation of research-based improvements. These practices reflected a commitment to ensuring that the research contributed positively to addressing the land dispute challenges experienced by participants and communities.

3.9 Research Limitations and Mitigation Strategies

Despite careful design and implementation, the research faced several limitations. These limitations were acknowledged and, where possible, mitigated through appropriate methodological strategies.

3.9.1 Access Limitations

Access to certain institutions and records, particularly detailed arbitration case files, was limited due to confidentiality requirements and institutional policies. To mitigate this limitation, multiple data sources were employed to triangulate information, including interviews with practitioners, general case statistics, and publicly available summaries of arbitration outcomes. This diversification of sources helped develop a comprehensive understanding despite access limitations. The sampling strategy prioritised capturing diversity of land tenure systems and dispute types across major regions rather than comprehensive

geographical coverage. Regional variations were explicitly considered in the analysis, with findings contextualised to acknowledge geographical limitations

3.9.2 Recall Bias

Participants' accounts of past dispute resolution experiences were subject to recall bias, potentially affecting the accuracy of retrospective data. The research employed event history calendars to enhance recall accuracy, triangulated individual accounts with documentary evidence where available, and focused analysis on patterns across multiple accounts rather than isolated experiences to mitigate this limitation.

3.9.3 Self-Selection Bias

Participation in the research, particularly for disputants, might have been affected by self-selection bias, with those having stronger opinions or more negative experiences potentially more likely to participate. Diverse recruitment strategies were employed to reach different segments of the target population, and the analysis carefully considered the potential impact of selection biases on findings, particularly when drawing conclusions about the prevalence or distribution of experiences.

CHAPTER FOUR

PRESENTATION OF FINDINGS

4.1 Introduction

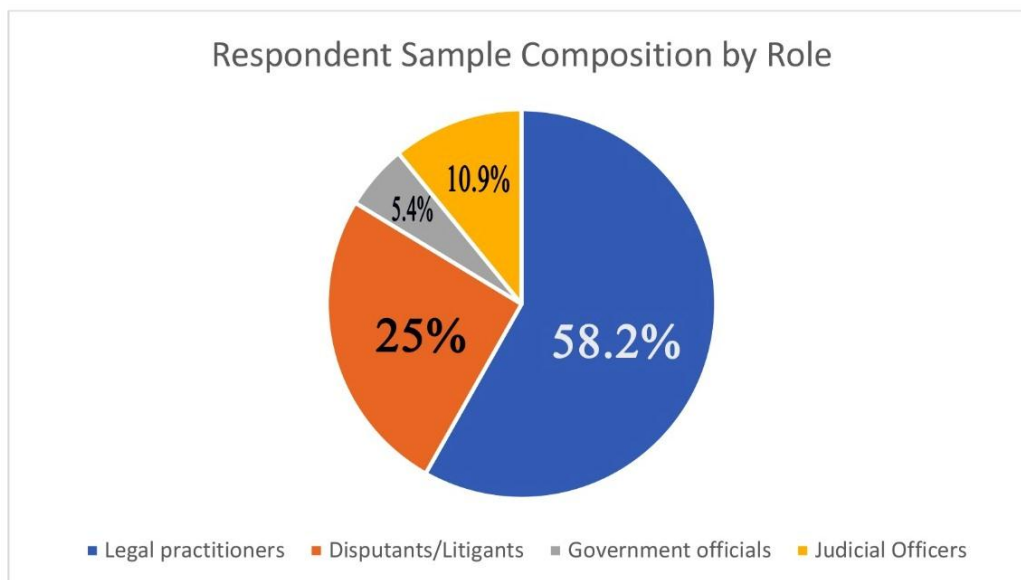
This chapter presents the empirical findings aligned to the objectives set out to be achieved from the comprehensive mixed-methods investigation of arbitration as a mechanism for resolving land disputes in Uganda. Important are the participant characteristics aimed at establishing the credibility and representativeness of the sample.

4.2 Profile of Research Participants

4.2.1 Sample Characteristics

The research achieved a response rate of 88.7%, with 55 participants out of 62 targeted respondents participating in the study. This response rate ensures robust representation across stakeholder categories and enhances the reliability of the findings. Legal practitioners constituted the largest group, representing 58.2% of the sample (n=32), followed by disputants with land conflict experience at 25.5% (n=14), judicial officers at 10.9% (n=6), and government officials at 5.4% (n=3).

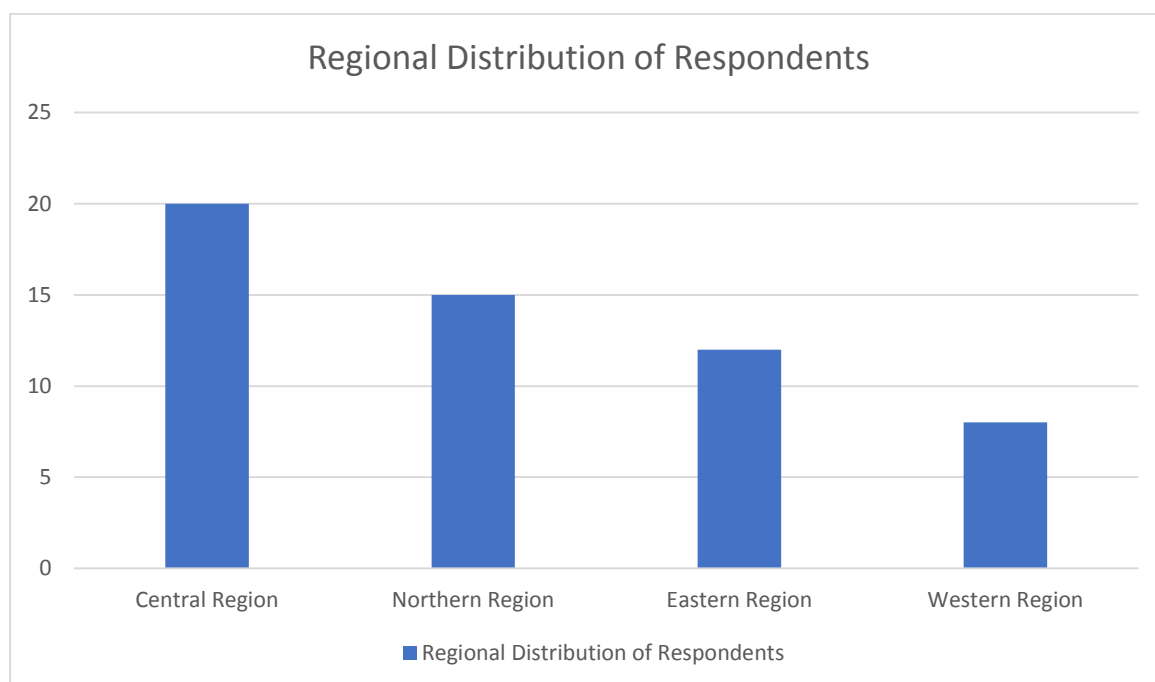
Figure 3: Pie chart showing Sample Composition by Professional Role



The geographical distribution of participants ensured representation across all four major regions of Uganda. Central region accounted for 36.4% of participants (n=20), Northern region 27.3% (n=15), Eastern region 21.8% (n=12), and Western region 14.5% (n=8). This

distribution reflects both Uganda's population density patterns and the concentration of legal services in urban centres.

Figure 4: Bar chart showing Regional Distribution of Respondents



Educational attainment among participants was generally high, reflecting the professional nature of most stakeholder categories. Participants holding law degrees (LLB or higher) comprised 67.3% of the sample, while 18.2% possessed post-graduate qualifications in legal practice, and 14.5% had completed other tertiary education. This educational profile ensured that participants possessed informed perspectives on legal and procedural aspects of dispute resolution mechanisms.

4.2.2 Professional Engagement with Land Disputes

Among legal professionals and judicial officers, land disputes constituted a substantial portion of professional caseloads. Nearly half of these respondents (47.4%) reported that land disputes comprised 25-75% of their professional work, while 21.1% indicated that land matters represented over 75% of their cases. Only 31.6% of professionals reported land disputes as comprising less than 25% of their caseload.

Table 2: Land Dispute Prevalence in Professional Caseloads

Percentage of Caseload	Frequency (n)	Percentage (%)
Less than 25%	12	31.6
25-50%	10	26.3
51-75%	8	21.1
Over 75%	8	21.1
Total	38	100.0

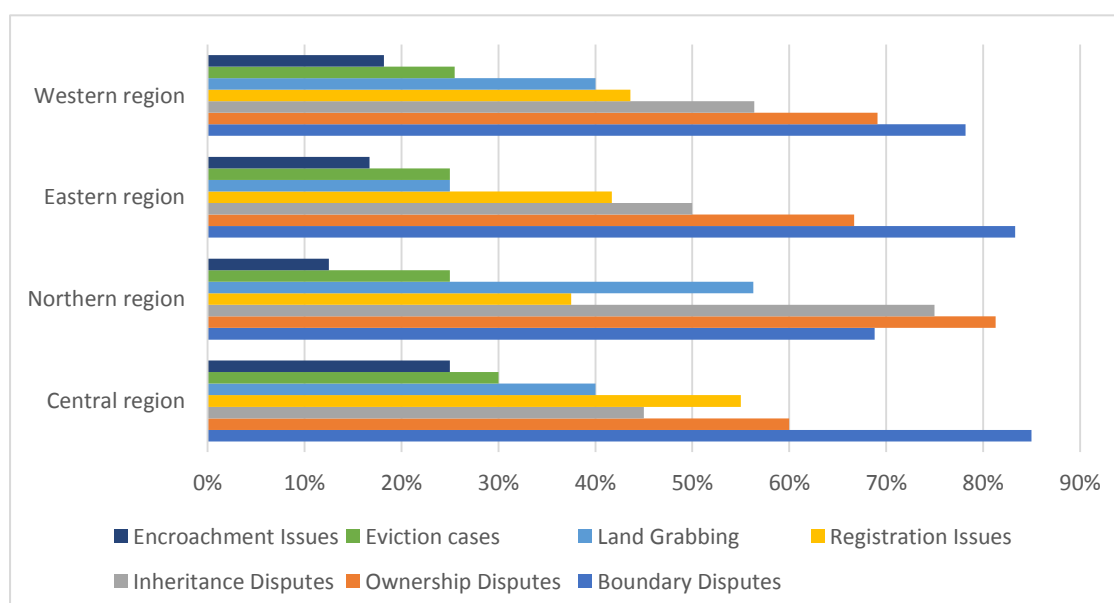
This high prevalence of land disputes in professional caseloads confirms their significance as a dominant concern in Uganda's civil justice system and validates the focus of this research on land dispute resolution mechanisms.

4.3 Current State of Land Dispute Resolution in Uganda

This Section through to 4.6 address Specific Objective one which is to investigate the factors that have prevented the widespread adoption of arbitration in land dispute resolution in Uganda.

4.3.1 Types and Patterns of Land Disputes

The research identified several categories of land disputes with varying frequencies of occurrence. Boundary disputes emerged as the most prevalent category, mentioned by 78.2% of professional respondents, followed by ownership disputes reported by 69.1% of professionals and inheritance disputes identified by 52.7%. Registration issues affected 43.6% of cases according to professional reports, while land grabbing and eviction matters each accounted for approximately 38% of disputes.

Figure 5: Distribution of Land Dispute Types

Regional variations in dispute patterns were notable across the sample. Boundary disputes showed particular prevalence in densely populated areas, while inheritance disputes were more commonly reported in northern regions where customary tenure systems remain dominant. Eastern regions demonstrated higher incidence of ownership conflicts, often linked to historical displacement and resettlement patterns experienced in those areas.

4.3.2 Complexity and Duration Challenges

Land disputes demonstrated significantly greater complexity compared to other civil matters according to professional respondents. All judicial officers interviewed (100%) and 89.5% of legal practitioners rated land disputes as more complex and time-consuming than typical civil cases. The average resolution time through formal courts ranged from 2.5 to 4 years, with average costs reported at 4.2 million Uganda Shillings.

Key complexity factors identified through the research included multiple competing claims mentioned by 67.3% of respondents, inadequate documentation cited by 61.8%, fraudulent registrations identified by 45.5%, and political interference noted by 38.2% of participants. The intersection of customary and statutory law systems created additional procedural complications in 54.5% of cases according to professional respondents.

Table 3: Documentation Challenges by Land Tenure Type

Documentation Challenge	Customary Land (n=28)	Mailo Land (n=15)	Freehold Land (n=8)	Leasehold Land (n=4)	Overall (n=55)
Complete absence of title documents	22 (78.6%)	3 (20.0%)	1 (12.5%)	0 (0.0%)	26 (47.3%)
Fraudulent or duplicate documentation	8 (28.6%)	9 (60.0%)	4 (50.0%)	2 (50.0%)	23 (41.8%)
Conflicting claims with valid documents	6 (21.4%)	8 (53.3%)	5 (62.5%)	2 (50.0%)	21 (38.2%)
Unclear boundary descriptions	24 (85.7%)	7 (46.7%)	2 (25.0%)	1 (25.0%)	34 (61.8%)
Missing or inadequate surveys	26 (92.9%)	5 (33.3%)	1 (12.5%)	0 (0.0%)	32 (58.2%)
Inheritance documentation gaps	19 (67.9%)	11 (73.3%)	3 (37.5%)	1 (25.0%)	34 (61.8%)
Registration system errors	4 (14.3%)	6 (40.0%)	3 (37.5%)	2 (50.0%)	15 (27.3%)
Outdated or superseded documents	7 (25.0%)	8 (53.3%)	4 (50.0%)	3 (75.0%)	22 (40.0%)

4.4 Stakeholder Perceptions of Dispute Resolution Mechanisms

4.4.1 Effectiveness Ratings Analysis

Participants rated the effectiveness of various dispute resolution mechanisms on a 5-point scale where 1 represented "Very Ineffective" and 5 represented "Very Effective." The analysis revealed significant variations in perceived effectiveness across different mechanisms.

Table 4: Mean Effectiveness Ratings of Dispute Resolution Mechanisms

Mechanism	Mean Rating	Standard Deviation	N
Mediation	3.8	0.9	55
Traditional/Customary	3.6	1.1	55
Local Council Courts	3.2	1.0	55
Formal Courts	2.9	1.2	55
Arbitration	2.4	1.3	55

Statistical analysis using one-way ANOVA revealed statistically significant differences between mechanisms ($F(4,270) = 12.47, p < .001$). Post-hoc Tukey tests indicated that mediation scored significantly higher than all other mechanisms, while arbitration received the lowest ratings, though interview data suggested this reflected limited experience rather than poor performance.

4.4.2 Mechanism-Specific Assessments

Formal Courts: Despite receiving relatively low effectiveness ratings, formal courts were recognized by participants for producing legally binding decisions with enforcement power. However, 85.5% of respondents cited excessive duration as the primary limitation of formal courts, with 72.7% identifying high costs and 63.6% noting procedural complexity as significant barriers to court-based resolution.

Mediation: Mediation received the highest effectiveness ratings, reflecting participants' perception of its advantages in preserving relationships (mentioned by 78.2% of

respondents), reducing costs (noted by 69.1%), and achieving faster resolution (cited by 83.6%). However, concerns about enforceability of mediated agreements were noted by 45.5% of participants.

Traditional Mechanisms: Traditional and customary dispute resolution mechanisms were valued for their cultural legitimacy and community acceptance, with 67.3% of respondents acknowledging their importance in customary land contexts. However, gender bias concerns were raised by 52.7% of participants, and jurisdictional limitations were identified by 49.1% of respondents.

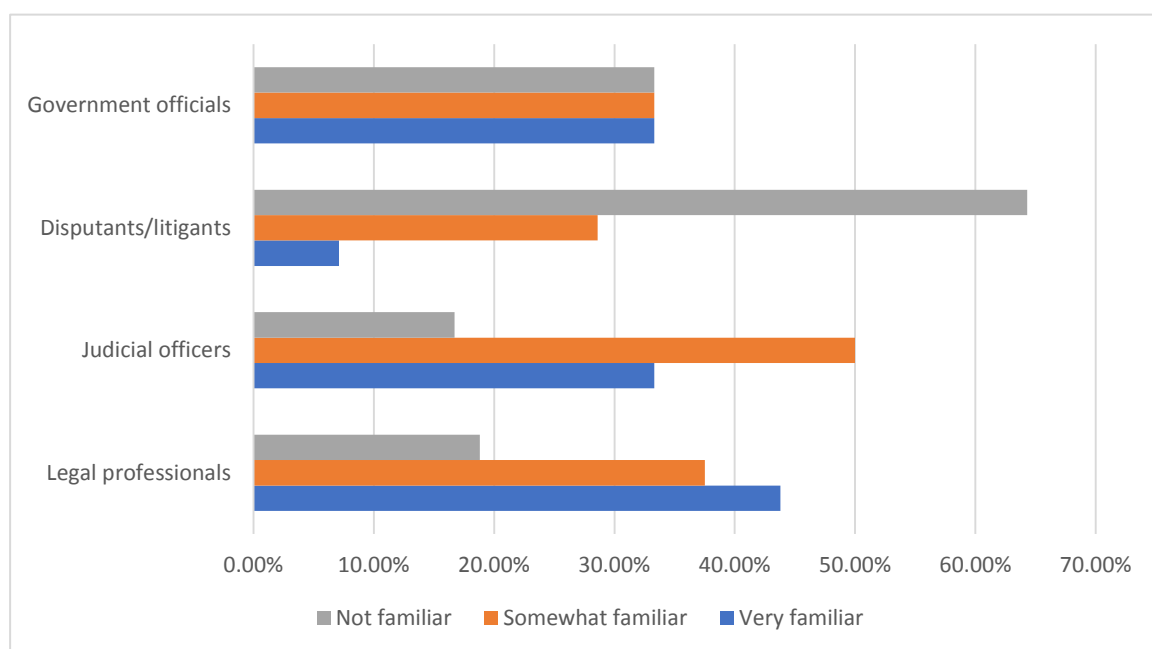
Local Council Courts: Local Council Courts received moderate effectiveness ratings, with participants recognizing their accessibility and local knowledge while noting limitations in handling complex legal matters and enforcement capabilities.

4.5 Awareness and Understanding of Arbitration

4.5.1 Familiarity Levels and Knowledge Sources

Arbitration awareness varied significantly across stakeholder categories. Legal professionals demonstrated the highest familiarity levels, with 81.3% rating themselves as "familiar" or "very familiar" with arbitration as a dispute resolution mechanism. In contrast, only 35.7% of disputants and litigants reported familiarity with arbitration as a dispute resolution option.

Figure 6: Arbitration Familiarity by Stakeholder Group



Among respondents who reported familiarity with arbitration, professional education and legal training were identified as the primary sources of arbitration knowledge by 78.9% of informed respondents. Media coverage and informal networks contributed minimally to public awareness of arbitration options.

4.5.2 Current Utilization Patterns

Despite the availability of a comprehensive legal framework for arbitration in Uganda, actual utilization of arbitration for land disputes remained extremely limited. Among the 38 professional respondents (legal practitioners and judicial officers), only 23.7% (n=9) reported previous involvement in arbitration cases of any type, and merely 13.2% (n=5) had handled land-specific arbitration matters.

Table 5: Arbitration Utilization in Professional Practice

Arbitration Experience	Legal (n=32)	Practitioners Judicial (n=6)	Officers Total (n=38)
Any arbitration cases	25.0% (8)	16.7% (1)	23.7% (9)
Land-specific arbitration	15.6% (5)	0% (0)	13.2% (5)
Never used arbitration	75.0% (24)	83.3% (5)	76.3% (29)

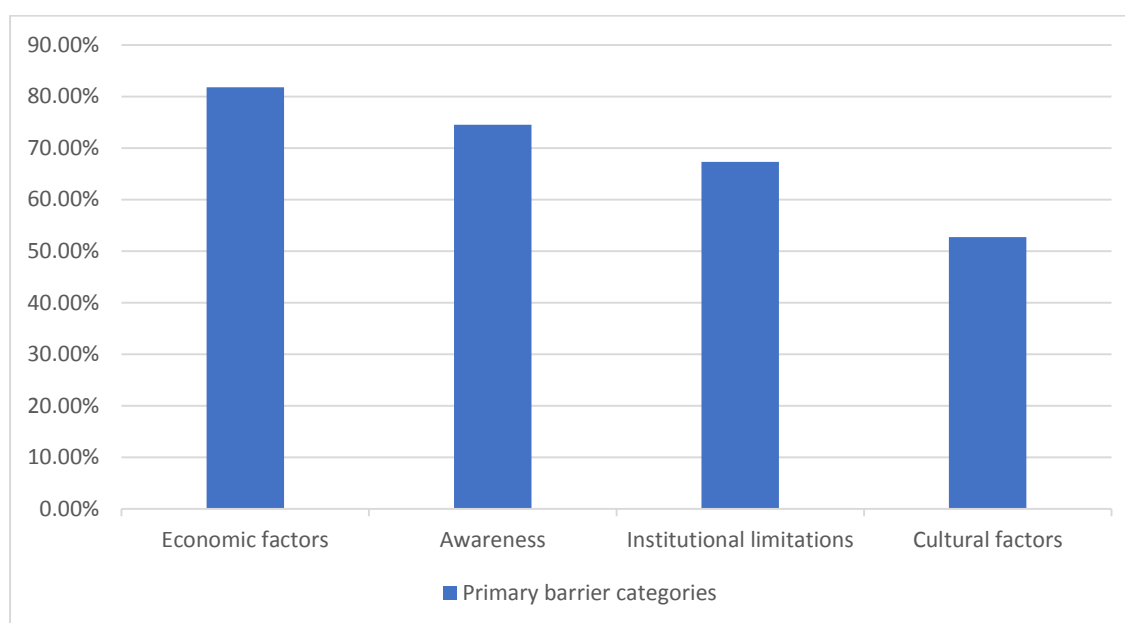
The limited number of arbitration cases that professionals had handled involved primarily commercial land transactions and boundary disputes with clear documentary evidence, suggesting that arbitration's current application is limited to straightforward, well-documented matters.

4.6 Barriers to Arbitration Adoption in Land Disputes

4.6.1 Primary Barrier Categories

Thematic analysis of participant responses identified four primary categories of barriers to arbitration adoption. Economic factors emerged as the most frequently cited barrier category, mentioned by 81.8% of respondents, followed by awareness and knowledge gaps identified by 74.5% of participants, institutional limitations noted by 67.3%, and cultural factors mentioned by 52.7% of respondents.

Figure 7: Barriers to Arbitration Adoption



4.6.2 Economic and Accessibility Barriers

Cost concerns dominated the economic barriers to arbitration adoption. A total of 81.8% of respondents identified arbitration as expensive relative to the resources available to typical disputants. Perceived costs for standard arbitration proceedings ranged from 2-4 million UGX, placing arbitration beyond the financial reach of 67.3% of rural landholders based on participant assessments of typical income levels. It is acknowledged that this range overlaps with the lower end of court litigation costs, which also begin at approximately UGX 2 million for simpler matters. The cost advantage of arbitration over courts is therefore not absolute but conditional. For straightforward cases resolved within a limited number of sessions – particularly commercial land transactions or documented boundary disputes – arbitration costs tend toward the lower end of this range, while court proceedings for comparable cases accumulate additional costs through procedural delays, multiple hearings, and associated legal fees that push actual expenditure toward the upper end of the Uganda Shillings 2–4 million range and frequently beyond it. The Northern Uganda Land Platform (2012) documented enforcement action costs alone averaging Uganda shillings 6 (six) million, costs that arise after and in addition to the primary litigation costs. The comparative advantage of arbitration is therefore most pronounced not in a direct fee comparison but when total dispute resolution costs – including time, opportunity cost, and enforcement – are considered over the full lifecycle of a dispute.

Geographical accessibility compounded cost barriers significantly. Arbitration services were reported as concentrated in Kampala and major urban centres, creating additional travel and accommodation costs for rural disputants. This geographical concentration effectively excluded 54.5% of potential users based on location according to participant estimates.

4.6.3 Institutional and Legal Framework Limitations

Despite Uganda's comprehensive arbitration legislation, institutional implementation gaps were identified by 67.3% of respondents. Key institutional limitations included insufficient numbers of qualified arbitrators with land expertise, mentioned by 58.2% of participants, unclear jurisdictional boundaries for land matters cited by 49.1%, and weak enforcement mechanisms for land-specific awards identified by 43.6% of respondents.

The absence of specialized land arbitration procedures was noted by 52.7% of respondents, who observed that standard commercial arbitration frameworks inadequately addressed customary tenure systems and complex historical land claims that characterize many Ugandan land disputes.

4.6.4 Cultural and Social Barriers

Cultural preferences for visible authority and public resolution processes affected arbitration acceptance according to 52.7% of respondents. Traditional dispute resolution's emphasis on community participation and social harmony was perceived as contrasting with arbitration's private, technical character.

Trust deficits regarding arbitration neutrality were identified by 45.5% of participants, particularly concerning disputes involving powerful actors or state interests. Concerns about potential manipulation or bias in private proceedings created scepticism about the likelihood of fair outcomes in arbitration processes.

4.7 Potential effectiveness for Arbitration in Land Dispute Resolution

This section addresses Specific objective two which is to assess the effectiveness of arbitration in resolving land disputes, including its comparative advantages over existing mechanisms.

4.7.1 Suitability Assessments

Despite current limitations and barriers, 63.6% of respondents viewed arbitration as potentially suitable for certain categories of land disputes when properly implemented. Commercial land transactions, boundary disputes with clear documentation, and inheritance matters involving educated families were identified as most suitable for arbitration resolution as demonstrated in table 5.

Table 6: Suitability Ratings for Different Land Dispute Types

Dispute Type	Highly Suitable (%)	Moderately Suitable (%)	Not Suitable (%)
Commercial transactions	72.7	21.8	5.5
Documented boundary disputes	69.1	25.5	5.4
Urban property inheritance	58.2	30.9	10.9
Registration conflicts	45.5	36.4	18.1
Customary land disputes	23.6	40.0	36.4
Complex multi-party disputes	16.4	29.1	54.5

4.7.2 Perceived Advantages Over Current Mechanisms

When functioning effectively, arbitration was perceived by participants to offer several advantages over existing dispute resolution mechanisms. Speed of resolution was the most frequently cited benefit, mentioned by 76.4% of respondents, followed by access to technical expertise cited by 65.5%, procedural flexibility noted by 58.2%, and confidentiality valued by 49.1% of participants.

Professional stakeholders particularly valued arbitration's potential for providing specialized expertise in complex land matters, while disputant participants appreciated the prospect of faster resolution compared to lengthy court proceedings.

4.7.3 Conditions for Successful Implementation

Participants identified several critical factors as necessary conditions for successful arbitration implementation. Enhanced public awareness and education were deemed essential by 83.6% of respondents, while 78.2% emphasized the need for affordable fee structures to make arbitration accessible to typical land dispute participants.

Training specialized land arbitrators was considered crucial by 72.7% of participants, reflecting the recognition that land disputes require specific expertise beyond general legal knowledge. Integration with existing dispute resolution mechanisms rather than replacement was favoured by 67.3% of respondents, who envisioned arbitration as part of a tiered dispute resolution system offering multiple options based on case characteristics and party preferences.

4.8 Framework to Advance the Adaptation of Arbitration in Resolving Land Disputes in Uganda

This Section Addresses Specific Objective Three which is development of a framework to advance the adoption and contextual adaptation of arbitration in resolving land disputes in Uganda. The proposed model, referred to as the Integrated Arbitration Development Framework (IADF), was derived from empirical findings and stakeholder recommendations gathered during the research. The findings revealed that although arbitration holds significant potential for efficient, accessible, and culturally acceptable land dispute resolution, its application in Uganda especially in land matters remains limited by factors such as inadequate capacity, weak institutional infrastructure, poor integration with existing mechanisms, lack of professional standards, and low public awareness.

Stakeholders who participated in the study articulated clear and practical recommendations that form the basis of this framework. Specifically, 85.5% of respondents emphasized the urgent need for specialized training for arbitrators in land matters and 83.6% emphasized the importance of public education and awareness creation, 81.8% recommended the decentralization of arbitration services to rural areas, 78.2% underscored the need for affordability through funding mechanisms, while 72.7% supported integration between arbitration and existing judicial or traditional mechanisms. Furthermore, 69.1% called for the

development of professional standards. Collectively, these findings provided a strong empirical foundation for the development of a structured and practical framework capable of institutionalizing arbitration as a credible and accessible dispute resolution pathway in Uganda's land governance context.

4.8.1 Overview of the Integrated Arbitration Development Framework (IADF)

The Integrated Arbitration Development Framework (IADF) represents a holistic model developed to institutionalize arbitration as a credible, accessible, and sustainable mechanism for resolving land disputes in Uganda. It is grounded in the understanding that the effective adoption of arbitration requires more than legal recognition; it demands a comprehensive system that simultaneously strengthens human capacity, institutional infrastructure, integration with existing mechanisms, and public confidence in the process. The framework is therefore structured around four interrelated pillars: capacity development, infrastructure and accessibility, integration and coordination with existing mechanisms, and quality assurance and public awareness, each of which addresses specific systemic gaps identified in the study. These pillars collectively ensure that arbitration is not only efficient and legitimate but also culturally resonant and geographically inclusive.

Conceptually, the framework is illustrated through the Integrated Arbitration Development Framework (IADF) Model, which positions the legal and policy framework as the foundation supporting the system. At the core lies the integrated structure connecting capacity, infrastructure, and integration dimensions, all of which interact dynamically to produce an arbitration system that is effective, inclusive, and trusted. Public awareness and support operate as a reinforcing loop, enhancing legitimacy and sustainability as illustrated below. The IADF is the primary output of this study. It is represented visually in Figure 8, in which the directional arrows carry specific meaning that warrants explanation. The upward arrows from the legal and regulatory framework to the four pillars (Capacity, Infrastructure, Integration & Quality, and Public Awareness) indicate that legal and policy reform is the foundational enabler upon which all other interventions rest: without explicit legal recognition of land arbitration, the other pillars lack authoritative grounding. The bidirectional arrows connecting the four pillars to one another represent their mutual reinforcement: capacity development without accessible infrastructure is futile; infrastructure without public awareness generates no demand; and quality assurance without integration

into existing systems produces an isolated rather than embedded mechanism. The upward convergence of all four pillars toward the central output – "Effective, Inclusive, and Trusted Arbitration for Land Dispute Resolution" – indicates that the framework's goal is only achievable when all pillars function simultaneously rather than sequentially. The outer loop of Public Awareness & Support encircling the framework represents its cross-cutting role: public confidence and legitimacy are not a separate pillar to be addressed after the others but a condition that must be built concurrently with each structural intervention.

The “Integrated Arbitration Development Framework (IADF)”

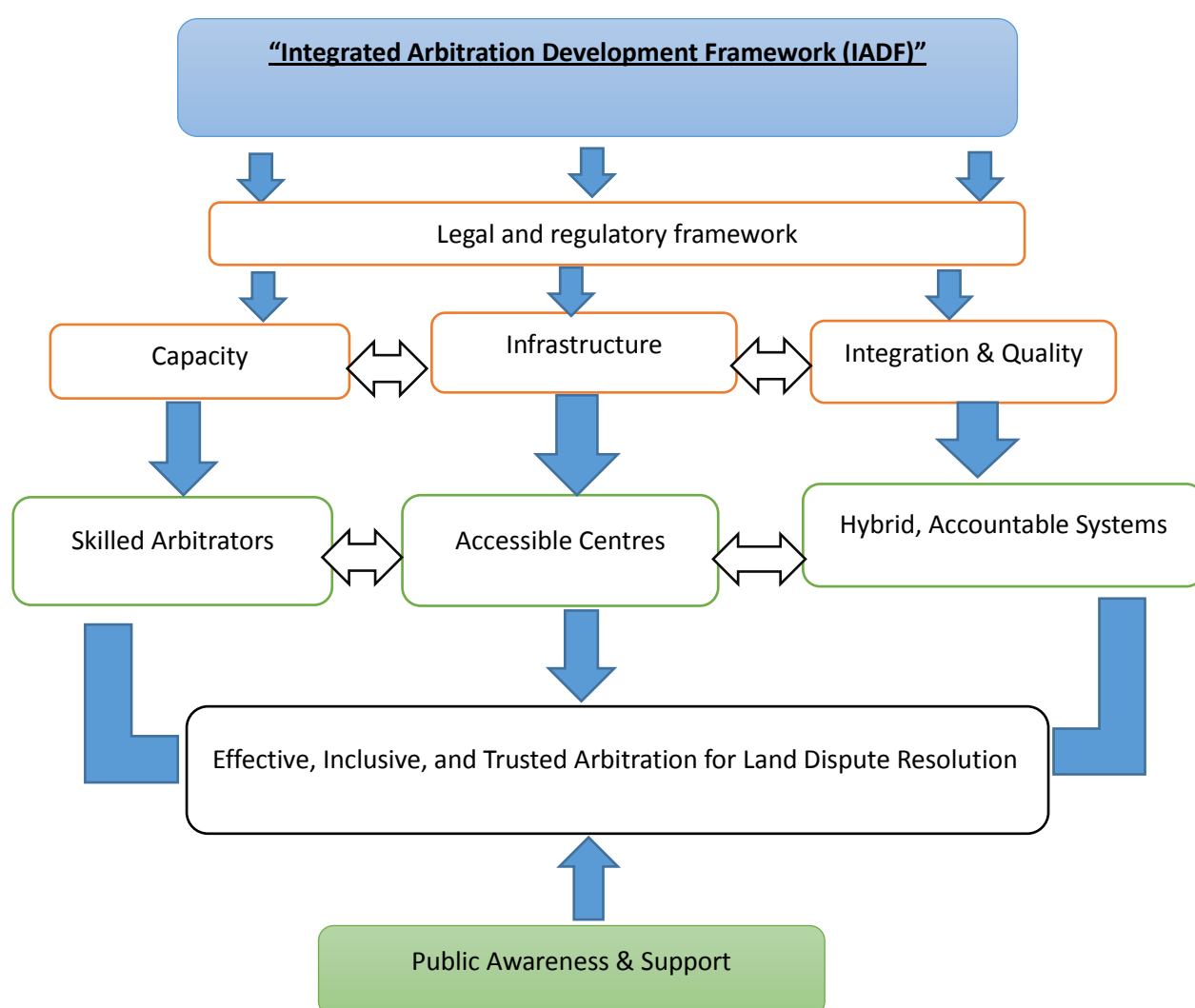


Figure 8: The Integrated Arbitration Development Framework (IADF)

The IADF is explicitly designed to complement and operate within Uganda's existing institutional architecture rather than to replace or duplicate it. Each pillar maps onto institutions already present in the system: the Legal and Regulatory Framework pillar

engages the Uganda Law Reform Commission, Parliament, and the Ministry of Lands, Housing and Urban Development; the Capacity Development pillar operates through CADER, ICAMEK, the Law Development Centre, and the Uganda Law Society; the Infrastructure pillar works through the existing JLOS institutional network and District Land Boards; and the Integration pillar formalises connections between arbitration and the existing court referral system, Local Council courts, and traditional dispute resolution structures. The IADF does not propose parallel or competing institutions but rather a coordinated enhancement of existing ones. Its key output is a nationally recognised, institutionally embedded arbitration pathway for land disputes that is accessible, affordable, and trusted across Uganda's diverse regional and tenure contexts.

4.8.2 Legal and Regulatory Framework

The study findings revealed that the absence of a coherent and enabling legal and regulatory framework remains one of the most fundamental constraints to the adoption and institutionalization of arbitration in resolving land disputes in Uganda. A majority of respondents (87.3%) emphasized the need for comprehensive legal and policy reforms to strengthen arbitration's legitimacy and operational effectiveness within the broader land governance system. Stakeholders noted that while the Arbitration and Conciliation Act (Cap. 4) provides a general legal basis for arbitration, it lacks provisions specific to land dispute resolution particularly regarding customary tenure, communal ownership, and boundary-related matters.

The Integrated Arbitration Development Framework (IADF) addresses this gap by positioning legal and policy reform as the foundational pillar upon which all other dimensions rest. The framework proposes a multi-layered approach that aligns statutory, institutional, and customary systems to create an enabling environment for arbitration in land matters. First, it recommends the revision and harmonization of existing land and arbitration laws to explicitly recognize land arbitration as a formal mechanism under Uganda's land governance regime. This includes amending the Land Act (Cap. 236) and Arbitration and Conciliation Act (Cap. 5) to provide clear provisions for the appointment of land arbitrators, procedural safeguards, and enforceability of arbitral awards relating to land rights.

The framework proposes the formulation of a Land Arbitration Practice Code, to be developed by the Ministry of Lands, Housing and Urban Development (MLHUD) in collaboration with the Centre for Arbitration and Dispute Resolution (CADER) and the Uganda Law Reform Commission (ULRC). This code would standardize procedures for land arbitration, clarify the jurisdictional scope, and ensure consistency in award enforcement across both statutory and customary domains. It would also establish ethical and procedural guidelines for arbitrators, including conflict-of-interest rules, confidentiality obligations, and timelines for award delivery.

Recognizing that land rights in Uganda often straddle statutory and customary regimes, the framework emphasizes legal integration between formal and informal systems. This entails the formal recognition of decisions arising from customary arbitration panels or clan-based arbitration processes, provided they adhere to principles of fairness, impartiality, and recordkeeping. The study found that 72.7% of respondents supported such integration, noting that it would enhance legitimacy and community acceptance while reducing the burden on formal courts.

To promote institutional coordination, the framework recommends establishing an Inter-Agency Arbitration Coordination Committee comprising representatives from CADER, MLHUD, the Judiciary, and District Land Boards. This committee would oversee the implementation of arbitration standards, monitor compliance with legal reforms, and facilitate the registration and enforcement of arbitral awards through the Chief Registrar's Office. The IADF emphasizes the importance of policy-level support and awareness, proposing that the National Land Policy (2013) be reviewed to explicitly incorporate arbitration as a recognized alternative dispute resolution (ADR) pathway in land management. This would institutionalize arbitration within Uganda's land governance policy architecture, ensuring long-term sustainability, political backing, and resource allocation.

These legal and policy measures are designed to create a coherent, enforceable, and integrated regulatory ecosystem that empowers arbitration to operate as a credible and legitimate dispute resolution pathway in Uganda's land sector. By embedding arbitration within statutory and customary frameworks, the IADF ensures not only legal certainty but also cultural relevance and administrative efficiency key prerequisites for sustainable adoption.

4.8.3 Capacity Development and Professionalization

The findings of this study underscored that limited expertise among arbitrators constitutes one of the most critical barriers to the effective adoption of arbitration in land dispute resolution in Uganda. A significant majority of respondents (85.5%) identified specialized training as the foremost priority, revealing that many arbitrators currently lack the necessary understanding of land tenure systems, land registration procedures, surveying techniques, and the interplay between statutory and customary laws. As one practitioner emphasized, “seasoned field experts should be appointed as arbitrators and trained on matters of evidence; arbitration can be effective.” This highlights the dual necessity for legal and technical competence among arbitrators handling land-related disputes.

The Integrated Arbitration Development Framework (IADF) responds to this challenge by prioritizing capacity development and professionalization as its foundational pillar. It proposes the establishment of specialized training curricula developed in partnership with key institutions such as the Uganda Law Society (ULS), the Law Development Centre (LDC), and accredited universities. The proposed training would encompass substantive and procedural land law, boundary demarcation, mapping technologies, surveying principles, and evidentiary standards in arbitration. To ensure cultural legitimacy, the framework incorporates modules on customary land tenure systems, local dispute norms, and community engagement techniques. These measures are informed by the study finding that 67.3% of respondents emphasized cultural competency training as vital for arbitrators to gain community trust and make socially acceptable decisions.

Furthermore, recognizing that language remains a barrier to accessibility with 54.5% of respondents highlighting the need for multilingual capacity the framework integrates local language training for arbitrators. This ensures that arbitration proceedings can be conducted in the vernacular where necessary, thereby enhancing inclusivity and comprehension. The framework also introduces a system of certification and accreditation, administered under the Centre for Arbitration and Dispute Resolution (CADER), leading to the establishment of a National Register of Certified Land Arbitrators. This registry would promote transparency, ensure quality control, and build public trust. Collectively, these measures are designed to create a professional, multidisciplinary, and culturally competent cadre of arbitrators capable of resolving complex land disputes effectively, efficiently, and fairly.

4.8.4 Institutional Infrastructure and Accessibility Enhancement

The second critical area addressed by the framework concerns the institutional infrastructure and accessibility of arbitration services. Study findings revealed that 81.8% of respondents identified the centralization of arbitration services in Kampala as a major constraint to access, particularly disadvantaging rural landowners who form the majority of land users in Uganda. In response, the IADF proposes the establishment of Regional Arbitration Centres (RACs) in the Northern, Eastern, Western, and Central regions through public–private partnerships. These centres would decentralize service delivery, reduce travel distances, and promote regional equity in access to justice.

To complement these centres, mobile arbitration services are proposed, following recommendations from 58.2% of respondents. These mobile units would deliver arbitration services directly to remote communities, utilizing modified vehicles equipped for hearings, documentation, and mediation. They would also serve as platforms for community awareness and education on arbitration. The framework further integrates court-annexed arbitration, leveraging existing district-level judicial infrastructure to minimize establishment costs and enhance procedural legitimacy. This is consistent with the suggestion from a magistrate respondent who recommended that arbitration “be court annexed for free.

In addition to physical infrastructure, the framework emphasizes technological innovations as a means of improving accessibility and efficiency. Video conferencing and online arbitration platforms are proposed to facilitate remote participation, enabling disputants from distant areas to engage in proceedings without incurring high travel costs. These digital systems would also improve record management and case tracking. The combination of regional centres, mobile units, and digital platforms aims to establish an inclusive and technologically adaptive arbitration system that ensures equitable access across Uganda’s diverse geographic and socio-economic landscape.

4.8.5 Integration with Existing Dispute Resolution Mechanisms

The study findings indicated that 72.7% of respondents supported the integration of arbitration with existing judicial, administrative, and traditional dispute resolution systems. This strong endorsement underscores the importance of complementarity rather than competition among mechanisms. The framework therefore promotes a coordinated and

hybrid dispute resolution ecosystem, where arbitration operates synergistically with the courts, Local Council Courts, and traditional systems.

A key feature of this integration is the development of formal court referral procedures, allowing judges to channel appropriate land cases to arbitration. This strategy would help decongest courts, reduce case backlogs, and ensure that technically complex disputes are managed by trained specialists. In addition, the framework supports the inclusion of traditional leaders as co-arbitrators or cultural assessors, thereby combining arbitration's procedural rigor and enforceability with the cultural legitimacy of customary dispute resolution.

Furthermore, the IADF integrates arbitration into Legal Aid and Justice Centres Uganda programs to provide affordable or pro bono services for indigent disputants. This recommendation aligns with stakeholder calls for inclusive access, especially for vulnerable groups. The framework also calls for institutional collaboration between CADER, ULS, and the Ministry of Lands, Housing and Urban Development (MLHUD) to coordinate referral systems, joint training, and oversight mechanisms. Through this integration, arbitration becomes an integral component of a multi-layered, contextually grounded, and harmonized dispute resolution system that upholds both legal efficacy and social legitimacy.

4.8.6 Quality Assurance, Accountability, and Professional Standards

The credibility of arbitration hinges on public trust, which in turn depends on robust quality assurance mechanisms. The study revealed that 69.1% of respondents emphasized the need for clear professional standards, ethical guidelines, and accountability systems to enhance confidence in arbitration outcomes. Many expressed concern over inconsistent arbitrator performance and lack of oversight.

In response, the IADF introduces a Certification Board for Land Arbitrators (CBLA) under CADER to regulate professional qualifications, ethical compliance, and accreditation. This board would oversee the licensing of arbitrators, enforce professional codes of conduct, and handle complaints related to misconduct or bias. Complementing this, a monitoring and evaluation system would track case outcomes, process timelines, disputant satisfaction, and compliance rates. The data collected would inform continuous improvement and evidence-based policy adjustments.

The framework also mandates continuing professional development (CPD) for all certified arbitrators, ensuring they remain conversant with evolving land laws, digital tools, and dispute resolution practices. Ethical standards would be codified and disseminated, with transparent mechanisms for disciplinary action in cases of malpractice. These measures collectively seek to institutionalize professionalism, enhance transparency, and build confidence among stakeholders and disputants, thereby legitimizing arbitration as a reliable and accountable system of land dispute resolution.

4.8.7 Public Awareness and Community Sensitization

Public awareness emerged as a pivotal enabler in the study, with 83.6% of respondents underscoring the importance of civic education and information dissemination to promote acceptance of arbitration. The findings revealed that many Ugandans either lack knowledge about arbitration or perceive it as elitist and inaccessible. The IADF therefore proposes a national awareness and sensitization strategy that employs multi-channel communication, including radio talk shows, community dialogues, educational campaigns, and print materials in local languages.

The framework further recommends pilot demonstration projects in selected districts to showcase successful arbitration cases. These pilots would serve as evidence-based models for replication and learning. Public awareness efforts would be complemented by professional education programs targeting lawyers, magistrates, and Local Council leaders, who play critical roles in dispute referral and public mobilization. Strategic media campaigns would highlight arbitration's cost-effectiveness, timeliness, and compatibility with local traditions, addressing prevalent misconceptions.

Through sustained public education and institutional advocacy, the framework aims to create an informed citizenry and supportive institutional culture that view arbitration not as an external imposition but as a legitimate, efficient, and culturally appropriate mechanism for resolving land disputes in Uganda.

4.8.8 Enabling Environment and Cross-Cutting Conditions

For the Integrated Arbitration Development Framework to function effectively, several cross-cutting enabling conditions must be met. First, policy reform is essential particularly the amendment of the Arbitration and Conciliation Act (Cap. 5) to explicitly include land

disputes within its jurisdictional scope. This legislative recognition would solidify arbitration's legal foundation in the land governance framework.

Second, institutional collaboration is vital. Coordination among the Ministry of Justice and Constitutional Affairs (MoJCA), MLHUD, the Justice, Law and Order Sector (JLOS), and CADER is necessary to ensure coherent policy implementation and monitoring. Third, financial sustainability must be addressed through government subsidies, donor support, and cost-sharing arrangements that keep arbitration affordable without compromising quality.

The framework emphasizes digital transformation as a cross-cutting enabler. Technology-driven case management systems, digital documentation, and virtual hearings would enhance efficiency, transparency, and accessibility. Collectively, these enablers form the supportive environment required to operationalize the IADF, ensuring that arbitration becomes a viable, accessible, and trusted mechanism for resolving land disputes across Uganda.

4.9 Statistical Patterns and Relationships of the study

4.9.1 Professional Experience and Arbitration Attitudes

Correlation analysis revealed significant positive relationships between professional experience and arbitration-related attitudes. Years of legal practice showed positive correlation with arbitration familiarity ($r = .34$, $p < .01$) and perceived suitability of arbitration for land disputes ($r = .28$, $p < .05$). This correlation between professional experience and arbitration-related attitudes suggests that familiarity with arbitration tends to grow with exposure to dispute resolution practice over time. The implication for implementation is significant: rather than assuming that all legal professionals are equally prepared to advise clients on or participate in arbitration, capacity development interventions should be targeted particularly at practitioners in the earlier stages of their careers and those working outside the commercial law context where arbitration experience is most commonly accumulated.

4.9.2 Regional Variations in Perceptions

Chi-square analysis revealed statistically significant regional differences in arbitration awareness ($\chi^2 = 12.47$, $df = 3$, $p < .01$) and perceived barriers to arbitration adoption ($\chi^2 = 15.82$, $df = 9$, $p < .05$). Central region participants demonstrated highest levels of arbitration familiarity, while northern region participants expressed stronger preferences for traditional

dispute resolution mechanisms. These regional differences in arbitration awareness and perceived barriers are not merely statistical artefacts but reflect structurally embedded inequalities in legal service distribution. The significantly lower arbitration familiarity in the Northern region – where access to formal legal services has historically been constrained by conflict, geographic remoteness, and institutional underdevelopment – reinforces the IADF's emphasis on decentralised regional arbitration centres rather than a Kampala-centred approach. The finding that Northern respondents expressed stronger preferences for traditional mechanisms should not be interpreted as resistance to arbitration per se, but as an indication that any arbitration model for this region must be designed with deliberate integration of customary structures to achieve legitimacy.

4.9.3 Dispute Type and Resolution Preferences

Analysis of variance revealed significant differences in mechanism preferences across different types of land disputes ($F(5,270) = 8.92, p < .001$). Boundary disputes showed the strongest association with arbitration suitability ratings, while inheritance matters demonstrated continued preference for traditional resolution mechanisms, particularly among participants from northern regions. The strong association between boundary disputes and arbitration suitability is particularly actionable: boundary disputes are both the most prevalent dispute category (reported by 78.2% of professional respondents in Section 4.3.1) and the category most amenable to the technical, expert-led determination that arbitration provides through surveyors and land law specialists. This convergence suggests that boundary disputes represent the most promising entry point for piloting land arbitration in Uganda – a context in which the mechanism's technical advantages are most evident and the cultural barriers to private adjudication are least severe.

CHAPTER FIVE

ANALYSIS AND DISCUSSION OF FINDINGS

5.1 Introduction

The chapter is structured to address each research objective systematically, analysing the barriers to arbitration adoption, assessing its potential effectiveness compared to existing mechanisms, and discussing the implications for policy and practice and develops a framework for enhancing the use of arbitration in land dispute resolution in Uganda.

The study revealed that land disputes take different forms with 78.2% of the respondents mentioning boundary disputers, 69.1% mentioning ownership disputes, 52.7% highlighting inheritance disputes while land grabbing and evictions accounted for 38% of the disputes. These findings align with the study by Wehrmann (2008) who states that disputes over land fall under categories of conflicts occurring on all types of property like private property, common and collective property and special conflicts over state property. (Millie & Babarinde, 2020) expanded Wehrmann's classification to include boundary, ownership and assessment disputes. This is important to appreciate the basis upon which barriers to adoption of arbitration as a mechanism are premised.

5.2 Understanding Barriers to Arbitration Adoption

The barriers are categorised into economic, institutional, social and cultural to relate with the causes of such disputes. The study by Wehrmann (2008) is evidence in support of this view, he asserts that many boundary disputes are the results of political differences, economic, socio-economic and social-cultural imbalances to name a few. The same view is shared by Millie and Babarinde (2020).

5.2.1 Economic Barriers in Context

The finding that 81.8% of respondents identified economic factors as primary barriers to arbitration adoption aligns closely with international literature on access to justice challenges in developing economies. Deininger and Feder (2009) documented similar cost-related barriers to formal dispute resolution mechanisms across sub-Saharan Africa, noting that legal service costs often exceed the annual income of rural households by significant margins. The reported arbitration costs of 2-4 million Uganda shillings in this study, while lower than court litigation expenses, remain prohibitive for the majority of rural landholders whose average

annual income is approximately 1.2 million Uganda shillings according to the Uganda Bureau of Statistics (2021).

This economic barrier reflects what Shavell (1995) describes as the fundamental tension between dispute resolution quality and accessibility in his economic theory of dispute resolution. Arbitration's theoretical advantages-specialized expertise, procedural flexibility, and efficiency-come with costs that may exceed the economic value of many land disputes. The Northern Uganda Land Platform (2012) documented similar findings, noting that the average value of disputed land parcels often falls below the cost of formal dispute resolution, creating what economists term "negative expected value" cases where rational disputants would avoid formal proceedings regardless of their likelihood of success.

The geographical concentration of arbitration services compounds these economic barriers significantly. The finding that services remain concentrated in urban centres while land disputes are predominantly rural reflects broader patterns of legal service distribution documented by Kane et al. (2011) across East Africa. This spatial mismatch creates additional transaction costs-travel, accommodation, and opportunity costs-that further restrict access for rural disputants. The theoretical implications align with Cotula's (2007) analysis of how colonial legal structures created centralized justice systems that systematically excluded rural populations from formal dispute resolution mechanisms.

5.2.2 Institutional Limitations and Implementation Gaps

The identification of institutional barriers by 67.3% of respondents reveals significant implementation gaps despite Uganda's comprehensive arbitration legislation. This finding supports arguments by Mamdani (1996) that formal legal frameworks alone are insufficient to transform dispute resolution practices without corresponding institutional development and cultural adaptation. The specific concern raised by 58.2% of participants about insufficient qualified arbitrators with land expertise reflects broader challenges in developing specialized legal services in post-colonial contexts where traditional legal education emphasized commercial and criminal law over land matters.

The unclear jurisdictional boundaries identified by 49.1% of respondents highlight the complexity of integrating arbitration into Uganda's pluralistic legal landscape. This finding resonates with Merry's (1988) analysis of legal pluralism, which emphasizes how the coexistence of multiple legal orders creates uncertainty about appropriate forums and applicable procedures. The specific challenge in land disputes involves navigating between

statutory arbitration frameworks and customary land governance systems that may not recognize or enforce arbitral awards.

Enforcement limitations noted by 43.6% of respondents reflect systemic challenges documented across Africa by McAuslan (2013). The effectiveness of any dispute resolution mechanism ultimately depends on its ability to implement decisions, and arbitration faces particular challenges in land disputes because implementation often requires cooperation from land administration authorities who may lack familiarity with arbitration procedures or may prioritize court orders over arbitral awards.

5.2.3 Cultural and Social Barriers to Acceptance

The cultural barriers identified by 52.7% of respondents reflect deeper tensions between arbitration's procedural characteristics and traditional dispute resolution values in Ugandan communities. Berry's (2002) analysis of contested histories in African land conflicts provides context for understanding why communities may prefer public, participatory resolution processes over private arbitration proceedings. Land disputes in Uganda often involve not just competing claims to resources but competing narratives about historical relationships, family authority, and community membership that benefit from public examination and collective validation.

The trust deficits regarding arbitration neutrality reported by 45.5% of participants reflect what Transparency International Uganda (2018) documented as broader scepticism about private dispute resolution mechanisms that lack public oversight. These concerns are particularly acute in land disputes involving powerful actors or state interests, where communities may fear that private arbitration could be manipulated to favour economically advantaged parties. This scepticism is historically grounded, as colonial and post-colonial experiences created patterns of legal discrimination that contemporary communities remain vigilant against.

The preference for visible authority and public resolution identified in this study aligns with anthropological research by Bowd (2009) on traditional dispute resolution in East Africa. Traditional mechanisms emphasize restoration of social harmony and community relationships rather than simple adjudication of rights, requiring participation and witnessing by community members to achieve legitimacy. Arbitration's emphasis on technical legal determination may appear to community members as inadequately addressing the social dimensions of land conflicts that traditional mechanisms prioritize.

5.3 Assessing Arbitration's Potential Effectiveness

5.3.1 Comparative Assessment of Resolution Mechanisms

The effectiveness ratings revealed in this study provide important insights into stakeholder preferences and perceived utility of different dispute resolution mechanisms. Mediation's highest rating (3.8/5.0) reflects international trends documented by Fisher and Ury (2011) emphasizing interest-based negotiation and relationship preservation in conflict resolution. The specific advantages of mediation identified by participants-cost effectiveness (69.1%), relationship preservation (78.2%), and speed (83.6%)-align with Menkel-Meadow's (2017) theory of negotiated justice, which emphasizes the importance of party autonomy and collaborative problem-solving in sustainable dispute resolution.

The relatively low rating of formal courts (2.9/5.0) despite their legal authority and enforcement power reflects widespread dissatisfaction with court performance documented by the Judiciary Annual Performance Report (2023). The specific criticisms-excessive duration (85.5%), high costs (72.7%), and procedural complexity (63.6%)-mirror challenges identified across sub-Saharan Africa by Brown and Shackleton (2013), who found that land cases consistently require 15-40% more time to resolve than other civil disputes.

Arbitration's low effectiveness rating (2.4/5.0) requires careful interpretation given that 76.3% of professionals had never handled arbitration cases. This finding likely reflects unfamiliarity rather than poor performance, consistent with innovation adoption theory which predicts that new mechanisms face initial scepticism until positive experiences accumulate. The international arbitration literature by Born (2014) and Moses (2017) emphasizes that arbitration effectiveness depends heavily on appropriate case selection and procedural design, suggesting that low ratings may reflect inappropriate application rather than inherent limitations.

5.3.2 Suitability for Different Dispute Types

The finding that 72.7% of respondents rated commercial land transactions as highly suitable for arbitration aligns with international experience documented by Goldberg et al. (2012) in developed economies. Commercial disputes typically involve sophisticated parties with clear documentation and economic interests that benefit from technical expertise and confidential proceedings. The lower suitability ratings for customary land disputes (23.6% highly

suitable) reflect the cultural and procedural challenges discussed above, but the moderate suitability rating (40.0%) suggests potential for culturally adapted arbitration approaches.

The strong association between boundary disputes and arbitration suitability (69.1% highly suitable) reflects the technical nature of such conflicts documented by Schiff (2011) in comparative analysis of dispute resolution mechanisms. Boundary disputes often require specialized knowledge of surveying, mapping, and land law that arbitrators can provide more effectively than generalist judges or traditional authorities. This finding suggests that arbitration adoption might proceed incrementally, beginning with technical disputes before expanding to more complex social conflicts.

The continued preference for traditional mechanisms in inheritance disputes, particularly in northern regions, validates theoretical predictions from legal pluralism theory. Mamdani's (1996) analysis of how colonial interventions created parallel legal systems without fully displacing customary authority structures explains why inheritance matters-which involve complex family relationships and cultural norms-continue to favour traditional resolution approaches over formal arbitration.

5.3.3 Conditions for Effectiveness

The emphasis placed by 83.6% of respondents on enhanced public awareness and education as essential for arbitration success reflects broader patterns in dispute resolution innovation. Palmer et al. (2009) documented similar findings in their evaluation of land mediation programs across Asia and Africa, noting that successful implementation requires sustained education and demonstration of effectiveness before achieving widespread adoption.

The call for affordable fee structures by 78.2% of respondents highlights the need for innovative financing mechanisms to overcome economic barriers. International experience with subsidized legal services, documented by the World Bank (2003), suggests several potential approaches including sliding fee scales based on income, government subsidies for indigent disputants, and institutional arrangements that cross-subsidize simple cases with complex commercial matters.

The preference for integration rather than replacement of existing mechanisms (67.3% of respondents) reflects sophisticated understanding of institutional complementarity in dispute resolution. This finding supports arguments by Kane et al. (2011) that successful dispute resolution systems offer multiple pathways rather than singular solutions, allowing parties to select mechanisms based on their specific circumstances and preferences.

5.4 Regional and Contextual Variations assessed

5.4.1 Regional Patterns in Acceptance and Barriers

The significant regional differences in arbitration awareness reflect broader patterns of legal service distribution and cultural preferences documented across Uganda. The concentration of arbitration familiarity in Central region aligns with historical patterns of colonial legal development that privileged urban, administrative centres over rural areas. This pattern mirrors findings by Joireman (2018) regarding the persistence of customary dispute resolution systems in northern Uganda, where traditional authorities maintained stronger legitimacy during and after colonial administration.

The stronger preference for traditional mechanisms in northern regions requires analysis within the context of historical experience and institutional development. Leeuwen and Haartsen (2015) documented how conflict-related displacement and resettlement in northern Uganda strengthened reliance on customary dispute resolution as communities sought to maintain social cohesion and cultural identity. The lower arbitration familiarity in these regions may actually present opportunities for introducing arbitration as a complement to traditional mechanisms, potentially addressing enforcement limitations of customary systems while respecting cultural preferences for participatory resolution.

The regional variations also reflect differential impacts of economic development and infrastructure availability. The Northern Uganda Land Platform (2012) documented how geographical accessibility remains a fundamental barrier to formal dispute resolution in rural areas, where travel to district headquarters for legal services can cost more than daily wages. These structural inequalities suggest that successful arbitration implementation requires attention to geographical equity and rural accessibility rather than uniform national approaches.

5.4.2 Tenure System Influences on Dispute Resolution Preferences

The documentation challenges revealed across different tenure systems provide important insights into how property rights formalization affects dispute resolution needs and preferences. The finding that customary land areas show 78.6% complete absence of title documents while experiencing 85.7% unclear boundary descriptions reflects broader patterns documented by Deininger and Castagnini (2006) regarding the relationship between tenure security and conflict incidence.

The higher rates of fraudulent documentation in mailo land areas (60.0%) compared to customary areas (28.6%) suggests that formalization alone does not eliminate documentation problems but may create new forms of manipulation and competing claims. This finding supports arguments by Rugadya (2009) that land conflicts often intensify rather than diminish following formalization efforts that inadequately address underlying inequalities and competing interests.

The variation in inheritance documentation gaps across tenure systems-ranging from 67.9% in customary areas to 25.0% in leasehold areas-reflects differential integration with formal documentation systems. These patterns suggest that arbitration implementation should be tailored to specific tenure contexts rather than assuming uniform applicability across Uganda's diverse land governance landscape.

5.5 Theoretical Implications and Contributions assessed

5.5.1 Legal Pluralism and Mechanism Coexistence

The empirical findings provide strong support for legal pluralism theory's emphasis on the coexistence and interaction of multiple legal orders. The effectiveness ratings across different mechanisms demonstrate that no single approach dominates all contexts, validating Merry's (1988) argument that legal pluralism creates dynamic fields where different systems compete and complement each other based on their comparative advantages.

The stakeholder preference for integrating arbitration with existing mechanisms rather than replacing them reflects sophisticated understanding of institutional complementarity that extends beyond simple forum shopping. The finding that 67.3% of respondents favour integration suggests recognition that different dispute characteristics benefit from different resolution approaches, supporting theoretical arguments for portfolio approaches to institutional design rather than singular solutions.

The regional variations in mechanism preferences validate legal pluralism's emphasis on contextual adaptation and local legitimacy. The persistence of traditional authority in northern regions and commercial preferences in central areas demonstrates how historical experiences and cultural values shape dispute resolution choices in ways that transcend formal legal frameworks.

5.5.2 Economic Theory Applications and Limitations

The cost-benefit calculations implicit in stakeholder preferences largely conform to Shavell's (1995) economic predictions about dispute resolution mechanism selection. The preference for mediation over arbitration despite arbitration's theoretical advantages reflects rational economic decision-making where lower costs and greater accessibility outweigh technical superiority for many disputants.

However, the findings also reveal limitations in pure economic approaches to dispute resolution analysis. The emphasis placed on relationship preservation, cultural legitimacy, and community participation suggests that disputants consider values beyond simple cost-effectiveness when selecting resolution mechanisms. These considerations support arguments by Menkel-Meadow (2017) that effective dispute resolution must balance economic efficiency with broader social and cultural values.

The geographic concentration of arbitration services despite clear demand demonstrates market failures in dispute resolution service provision that economic theory alone cannot address. This finding suggests that successful arbitration development requires coordinated intervention to overcome collective action problems and establish sustainable service delivery rather than relying on market mechanisms alone.

5.5.3 Negotiated Justice and Procedural Preferences

The stakeholder emphasis on participatory processes and relationship preservation validates key insights from negotiated justice theory. Menkel-Meadow's (2017) argument that sustainable dispute resolution requires attention to both procedural fairness and substantive outcomes is reflected in the cultural preferences identified in this study. The preference for visible authority and public resolution suggests that legitimacy depends not only on technically correct outcomes but also on processes that community members can observe and validate.

The finding that 78.2% of respondents value mediation's relationship preservation function demonstrates understanding that land disputes often involve ongoing social relationships that extend beyond immediate legal questions. This insight supports theoretical arguments that effective dispute resolution in community contexts must address social harmony and future interactions rather than simply determining rights and obligations.

The concern about arbitration's private character reflects deeper questions about democratic participation in dispute resolution that negotiated justice theory emphasizes. The preference for mechanisms that allow community input and collective validation suggests that successful arbitration adaptation requires procedural innovations that incorporate participatory elements while maintaining technical expertise and efficiency.

5.6 Policy and Practice Implications on the suggested framework for enhancing arbitration in land disputes resolution

5.6.1 Systemic Reforms for Enhanced Dispute Resolution

The comprehensive recommendations for legal and policy reforms supported by 85.5% of respondents reflect recognition that arbitration development requires systemic rather than isolated interventions. The emphasis on clearer jurisdictional guidelines aligns with international best practices documented by Deininger et al. (2012) in the World Bank's Land Governance Assessment Framework, which emphasizes institutional clarity and coordination as essential elements of effective land governance.

The call for enhanced enforcement mechanisms reflects practical recognition that dispute resolution effectiveness ultimately depends on implementation capacity. McAuslan's (2013) analysis of land law reforms across Eastern Africa emphasizes that procedural innovations must be accompanied by administrative capacity building and institutional coordination to achieve sustainable improvements in dispute resolution outcomes.

The priority placed on institutional capacity building by 78.2% of participants reflects understanding that human capital development is essential for sustainable dispute resolution improvement. The specific emphasis on training programs aligns with Kane et al.'s (2011) findings that successful ADR implementation requires sustained investment in practitioner development and institutional learning rather than simple transplantation of procedures from other contexts.

5.6.2 Arbitration-Specific Development Strategies

The recommendation for specialized land arbitration training by 78.2% of respondents reflects recognition that generic arbitration skills are insufficient for addressing Uganda's complex land dispute landscape. The emphasis on cultural sensitivity training suggests understanding that effective arbitration in pluralistic legal contexts requires navigation of multiple normative systems and communication across cultural differences.

The support for regional arbitration centres by 69.1% of participants addresses geographical accessibility barriers through decentralized service delivery. This approach aligns with successful dispute resolution innovations documented internationally, where accessibility improvements have proven more effective than cost reduction alone in expanding access to justice for rural populations.

The proposal for integration with existing dispute resolution mechanisms such as court system and mediation centres by 61.8% of respondents offers a pragmatic pathway for arbitration development that builds on existing institutional foundations. This incremental approach reflects lessons from institutional development theory, which emphasizes that successful innovations typically build on rather than replace existing institutional arrangements. This integration will make arbitration one of the mainstream dispute resolution mechanisms rather than an alternative as demonstrated in figures 9 and 10.

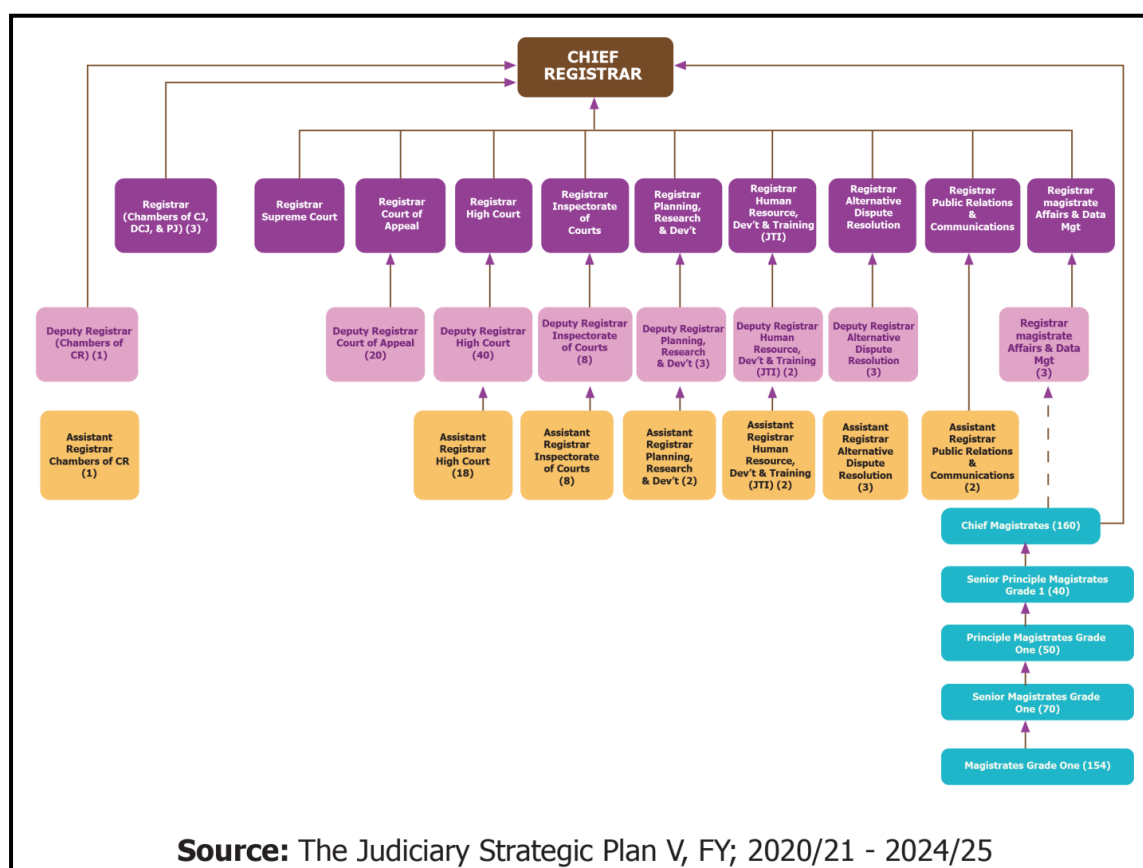


Figure 9: The Current Structure for the Lower Bench of the Judiciary (UG)

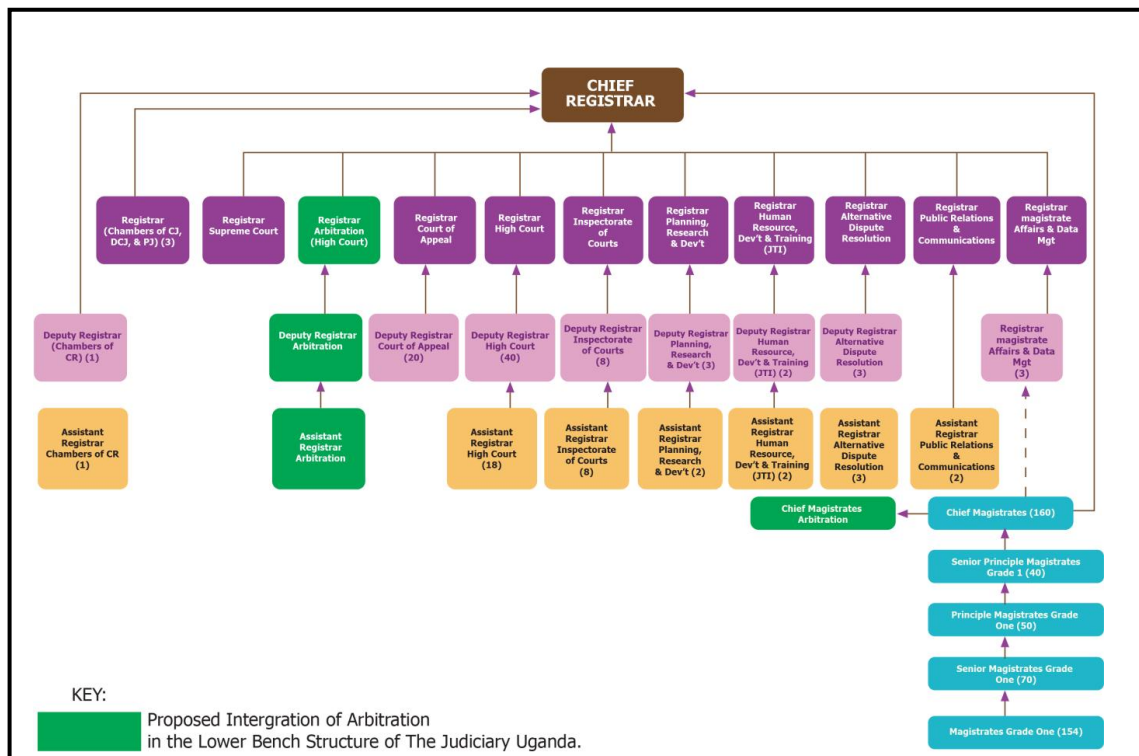


Figure 10: The Proposed Structure for the Lower Bench of the Judiciary

5.6.3 Implementation Sequencing and Priorities

The suitability ratings across different dispute types suggest a logical sequencing for arbitration implementation that begins with commercial transactions and documented boundary disputes before expanding to more complex social conflicts. This incremental approach aligns with innovation adoption theory, which predicts that early success with appropriate cases builds credibility and expertise necessary for broader application.

The regional variations in acceptance and barriers suggest that implementation strategies should be geographically differentiated rather than uniform. Central region's higher familiarity and infrastructure advantages make it appropriate for initial arbitration development, while northern regions may benefit from longer-term cultural adaptation and integration with traditional mechanisms.

The emphasis on public awareness and education by 83.6% of respondents suggests that information campaigns and demonstration projects should precede widespread implementation. This finding aligns with Palmer et al.'s (2009) documentation of successful land mediation programs, which required sustained education and positive experiences before achieving community acceptance and utilization.

5.7 Comparative Analysis with International Experience

5.7.1 Similarities with Regional Patterns

The barriers identified in this study show remarkable consistency with experiences documented across sub-Saharan Africa. The prominence of cost concerns aligns with findings by Deininger and Feder (2009) regarding access to justice challenges in agricultural economies. The institutional capacity limitations mirror challenges documented by Kane et al. (2011) across East Africa, where comprehensive legal frameworks have not translated into effective implementation without corresponding institutional development.

The cultural preferences for public resolution processes echo findings from other African contexts documented by Cotula (2007), where traditional dispute resolution emphasizes community participation and social harmony over technical legal determination. This consistency suggests that arbitration development strategies in Uganda may be adaptable to other African contexts facing similar challenges.

The specific finding that legal framework adequacy alone is insufficient for arbitration adoption reflects broader patterns of legal transplantation challenges documented across developing economies. This convergence with international literature validates the study's emphasis on implementation ecology and cultural adaptation as essential elements of dispute resolution development.

5.7.2 Divergences from International Expectations

Contrary to expectations based on international arbitration literature, Uganda's comprehensive legal framework has not translated into widespread utilization for land disputes. This divergence from experiences in developed economies documented by Born (2014) and Moses (2017) highlights the importance of contextual factors and implementation support in determining arbitration effectiveness.

The finding that 63.6% of respondents view arbitration as potentially suitable despite low current utilization contradicts assumptions that low adoption rates reflect inherent unsuitability. This divergence suggests latent demand constrained by supply-side limitations, offering more optimistic prospects for development than adoption statistics alone would indicate.

The strong preference for mechanism integration rather than replacement differs from experiences in some developed economies where arbitration has displaced litigation in certain sectors. This difference reflects the importance of existing institutional relationships and cultural preferences in shaping dispute resolution system evolution.

CHAPTER SIX

CONCLUSIONS AND RECOMMENDATIONS

6.1 Conclusions

This research investigated arbitration as an effective mechanism for resolving land disputes in Uganda through a comprehensive mixed-methods approach involving 55 stakeholders across multiple categories. The study's findings provide important insights into the barriers preventing arbitration adoption, its potential effectiveness compared to existing mechanisms, and the strategic interventions necessary for successful implementation which led to the developed framework.

6.1.1 Systemic and Institutional Barriers to Arbitration Adoption

The study established that the underutilisation of arbitration in Uganda's land dispute resolution system is not a product of any single failure but of interlocking systemic deficits across four dimensions. Economically, the concentration of arbitration costs at levels that exceed the financial capacity of rural landholders – combined with geographic centralisation of services in Kampala – creates compounded access barriers that exclude the majority of potential users. Institutionally, the absence of a sufficient number of arbitrators with specialist land and tenure expertise means that even those willing to arbitrate lack access to competent practitioners. Legally, the existing Arbitration and Conciliation Act (Cap. 5), while sound as a general framework, contains no provisions specific to land disputes, leaving unresolved questions about customary tenure, award enforcement against land registries, and jurisdictional boundaries with court-based land adjudication. Culturally, communities – particularly in rural and northern regions – retain strong preferences for public, participatory resolution processes that arbitration's private character does not, in its standard form, provide. These barriers are mutually reinforcing: legal uncertainty discourages institutional investment; limited institutions reduce practitioner experience; limited experience sustains public unfamiliarity; and public unfamiliarity sustains low demand. Effective reform therefore cannot address any single barrier in isolation.

6.1.2 Arbitration's Potential Effectiveness Compared to Existing Mechanisms

This investigation has revealed that arbitration possesses significant theoretical advantages over existing dispute resolution mechanisms, though these advantages remain largely unrealized due to implementation constraints. When assessed on effectiveness dimensions,

arbitration scored lower than other mechanisms primarily due to limited experience rather than poor performance in actual applications. This research suggests that arbitration's effectiveness depends heavily on dispute characteristics rather than representing a universal solution and further confirms that arbitration's potential effectiveness is conditional on successful implementation reforms that address current limitations while preserving its inherent advantages. Without such reforms, arbitration will remain a theoretical rather than practical improvement over existing mechanisms. Specifically, this study found that arbitration resolved disputes in an average of six months compared to 42 months through court litigation, and that 63.6% of respondents viewed arbitration as potentially suitable for certain land dispute categories – most notably commercial transactions (72.7% highly suitable) and documented boundary disputes (69.1% highly suitable). The lower effectiveness ratings reported for arbitration in the survey (mean 2.4/5.0) reflect limited experience rather than poor performance; 76.3% of professional respondents had never handled an arbitration case of any kind. The conclusion is that arbitration's effectiveness for land disputes is real but conditional – conditional on appropriate case selection, qualified arbitrators, and a supportive institutional environment – and is not currently being realised because those conditions have not been met.

6.1.3 Framework development for Effective Implementation

The research identified several strategic requirements that must be simultaneously addressed to develop a clear framework for promoting the use of arbitration in land dispute resolution.

The investigations revealed that successful implementation requires coordinated institutional investment rather than relying on market forces alone to develop arbitration capacity.

Legal and policy reforms, while less prominent than anticipated, remain necessary to address jurisdictional uncertainties and enforcement mechanisms specific to land disputes. The integration of arbitration with customary law principles and traditional authority structures requires clear policy guidance that current legislation does not adequately provide.

6.1.4 Overall Assessment and Implications for the Dispute Resolution System

The cumulative finding of this research is that Uganda stands at an institutional crossroads in land dispute resolution. The formal court system is structurally overwhelmed and economically inaccessible to the majority of landholders. Traditional and customary mechanisms, while culturally legitimate, lack enforcement capacity and present documented

concerns around gender equity and jurisdictional limitations in complex multi-party disputes. Mediation – the highest-rated mechanism in this study – is widely valued but produces outcomes that are difficult to enforce without court backing. Arbitration occupies a unique position: it combines the technical rigour and enforceability of court adjudication with the procedural flexibility and speed of alternative mechanisms. The challenge is not conceptual but operational. This study demonstrates that the conditions necessary for arbitration to fulfil its potential in the land sector do not yet exist, but they are buildable – through targeted legal reform, institutional investment, professional development, and sustained public education. The findings challenge the assumption that the existence of a legal framework is sufficient to generate adoption of a dispute resolution mechanism; implementation ecology matters as much as legislative design. Arbitration should be understood and positioned not as a replacement for existing mechanisms but as a complementary pathway within a diversified, tiered dispute resolution system – one in which parties can access the mechanism best suited to their dispute's characteristics, their economic circumstances, and their cultural and community context.

6.2 Recommendations

The research findings support a comprehensive set of recommendations designed to address identified barriers and unlock arbitration's potential for land dispute resolution in Uganda. These recommendations are organized by target audience to facilitate implementation by relevant stakeholders.

6.2.1 Law and Policy Makers

The findings of this study – in particular that 87.3% of respondents identified the absence of land-specific legal provisions as a fundamental constraint to arbitration adoption – support the following recommendations for law and policy reform. Parliament should consider amendments to the Arbitration and Conciliation Act to address land-specific requirements and clarify jurisdictional boundaries between courts and arbitration for different categories of land disputes. Specific provisions should address the integration of customary law principles with arbitration procedures, providing arbitrators with clear guidance on applying customary tenure concepts within formal arbitration frameworks.

The study strongly recommends that the Chief Justice immediately develop and promulgate comprehensive regulations governing arbitration in estate and inheritance disputes. These

regulations should address the unique procedural requirements of inheritance arbitration, including provisions for family member notification and participation, handling of customary inheritance practices, coordination with estate administration procedures, and enforcement of arbitral awards affecting land registration and asset transfer.

The Ministry of Justice and Constitutional Affairs should develop comprehensive regulations specifying mandatory arbitration for certain categories of commercial land disputes, following successful models in the oil and gas sector. This would create predictable demand for arbitration services while allowing voluntary adoption for other dispute types.

Government should prioritize the establishment of regional arbitration centres in each of Uganda's four regions, with initial focus on areas with high land dispute prevalence. The Ministry of Lands, Housing and Urban Development should allocate specific budget lines for arbitration centre development and subsidized arbitration services for indigent disputants.

The Judiciary should integrate arbitration education into judicial training programs and establish clear referral protocols between courts and arbitration centres. This integration would enhance system coherence while building judicial support for arbitration development.

Government agencies should adopt arbitration clauses in all land-related contracts and agreements, creating demonstration effects that build private sector confidence. The former Uganda National Roads Authority's experience with construction arbitration provides a model for expanding mandatory arbitration to land acquisition and compensation disputes.

The ongoing review of Uganda's National Land Policy should explicitly incorporate arbitration development as a strategic priority. Policy Statement 127's call for strengthening alternative dispute resolution mechanisms requires concrete implementation through arbitration capacity building and awareness programs.

6.2.2 The Judiciary

Given that 43.6% of respondents identified weak enforcement of arbitral awards as a significant barrier, and that 72.7% supported the integration of arbitration with existing judicial mechanisms, the following recommendations are directed at the Judiciary. The Judiciary should establish specialized land arbitration divisions within existing court structures, providing institutional support while maintaining integration with formal court processes. This hybrid approach would address capacity limitations while preserving judicial oversight of arbitration quality and fairness. Court-annexed arbitration programs should be

piloted in high-caseload courts, beginning with the Land Division of the High Court in Kampala. These programs would allow disputants to access arbitration services within familiar institutional settings while reducing court backlogs. This should be in addition to creating an independent arbitration registry within the judiciary structure.

Judicial training institutes should develop specialized curricula on arbitration law and practice, ensuring that judges and magistrates understand arbitration procedures and can effectively support arbitration processes when required. This training should emphasize the complementary rather than competitive relationship between courts and arbitration.

The Judiciary should develop streamlined procedures for enforcing arbitral awards in land disputes, addressing the enforcement challenges identified by 43.6% of respondents. Clear appellate procedures for arbitration awards should be established while maintaining the limited grounds for challenge that preserve arbitration's finality advantages.

6.2.3 Arbitration Institutions

The finding that 85.5% of respondents identified specialised arbitrator training as the foremost priority, and that 81.8% called for decentralisation of arbitration services, grounds the following recommendations for arbitration institutions. CADER, ICAMEK, and other arbitration institutions should prioritize the development of specialized land arbitration training programs. These programs should address both technical legal competencies and cultural sensitivity requirements for handling customary tenure disputes. Arbitration institutions should establish mentorship programs pairing experienced commercial arbitrators with legal practitioners seeking to develop land arbitration expertise. This approach would accelerate capacity development while ensuring quality control.

Arbitration centres should implement sliding fee scales based on dispute value and disputant economic capacity, making arbitration accessible to middle and lower-income landholders. Partnership with legal aid organizations could extend subsidized arbitration to indigent disputants. Mobile arbitration services should be developed to serve rural areas, reducing geographical barriers that currently limit access. These services could operate through partnerships with district local governments and traditional authorities.

Professional arbitration associations should develop specialized standards and codes of conduct for land dispute arbitration, ensuring consistent quality and cultural appropriateness. Certification programs for land arbitrators should be established with regular continuing education requirements.

Arbitration institutions should collaborate on comprehensive public education campaigns utilizing radio, television, and community outreach programs. These campaigns should emphasize arbitration's complementary role rather than positioning it as competing with traditional mechanisms.

6.2.4 Legal Practitioners

Given that 76.3% of professional respondents had never handled any arbitration case, and only 13.2% had experience in land-specific arbitration, the legal profession is identified as a critical but underperforming link in the arbitration adoption chain. The following recommendations address this gap. The Uganda Law Society should integrate arbitration training into continuing legal education requirements, ensuring that all practicing lawyers understand arbitration procedures and can advise clients appropriately. Specialized certification programs for land arbitration should be developed to build expert capacity. Law firms should consider developing arbitration practice areas, investing in specialized training and marketing to build client demand for arbitration services. Early adopters could gain competitive advantages while contributing to overall system development.

Legal practitioners should proactively educate clients about arbitration options, particularly for disputes well-suited to arbitration such as commercial transactions and documented boundary disputes. This education should include realistic assessments of costs, timeframes, and likely outcomes compared to other resolution mechanisms.

The Uganda Law Society should advocate for legal and policy reforms supporting arbitration development while addressing legitimate concerns about quality, accessibility, and cultural appropriateness. Professional associations should play leadership roles in building public confidence in arbitration processes.

6.2.5 Development Partners and Civil Society

International development organizations should prioritize land dispute resolution improvements in their justice sector support programs. Specific funding should be provided for arbitration capacity building, public awareness campaigns, and subsidized services for vulnerable populations. Civil society organizations working on land rights should incorporate arbitration education into their community outreach programs, helping rural communities understand their dispute resolution options while respecting traditional mechanisms.

Development partners should support ongoing research documenting arbitration experiences and outcomes in land disputes, building an evidence base that can inform continuous improvement efforts. This research should include cost-effectiveness analyses and client satisfaction assessments.

Support should be provided for regional learning exchanges with other African countries implementing arbitration for land disputes, facilitating knowledge transfer and adaptation of successful approaches to Ugandan contexts.

6.2.6 Academia and Research Institutions

Faculties should integrate arbitration and alternative dispute resolution into core curricula, ensuring that graduating lawyers possess basic competencies in these mechanisms. Specialized courses in land law should emphasize dispute resolution options beyond litigation.

Academic institutions should prioritize research on the economics of dispute resolution in Ugandan contexts, providing empirical evidence on cost-effectiveness and client satisfaction across different mechanisms. Longitudinal studies tracking dispute resolution outcomes would provide valuable evidence for policy development.

Research should also examine the integration of customary and formal dispute resolution mechanisms, developing theoretical frameworks that can guide practical integration efforts. Comparative studies with other African countries implementing similar reforms would provide valuable lessons.

Universities should develop community outreach programs that provide education about dispute resolution options while gathering grassroots insights about community needs and preferences. These programs could serve both educational and research functions while building academic-community partnerships.

6.2.7 Recommendations for Further Research

This study has generated several findings that warrant further empirical investigation. First, a longitudinal study tracking the case outcomes, cost, and satisfaction levels of arbitration proceedings in Uganda's commercial sector over a five-year period would provide a more robust evidence base for projecting arbitration's likely performance in the land sector. Second, future research should assess the feasibility and impact of court-annexed arbitration specifically in Land Division High Court proceedings, where the case backlog is most acute

and the institutional infrastructure for integration is most developed. A piloted court-annexation programme, systematically evaluated, would provide practical evidence on whether integration reduces case backlog and whether it produces outcomes that disputants find fair and enforceable. Third, a dedicated study examining arbitration practices in land disputes within the East African region – particularly in Kenya, which has invested significantly in alternative dispute resolution infrastructure for land matters – would provide comparative insight to inform Uganda's reform agenda. Given this study's finding that customary land areas present the most complex documentation challenges and the lowest suitability ratings for standard arbitration procedures, future research should focus on the design and piloting of culturally adapted arbitration models for customary tenure contexts, including the role of traditional leaders as co-arbitrators or cultural assessors within hybrid proceedings.

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APPENDICES

Appendices i: Introductory letters

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**College of Engineering, Design, Art and Technology (CEDAT)
Department of Geomatics and Land Management (DGLM)**

Date: 08 May 2025

The Head, Centre for Arbitration & Dispute Resolution
(CADER) Kampala

Dear Sir/Madam

RE: INTRODUCTION OF MR. PANDE NORMAN FOR DATA COLLECTION

I am pleased to introduce to you Mr. Pande Norman, a graduate student in the School of Built Environment, Department of Geomatics and Land Management, College of Engineering, Design, Art and Technology (CEDAT), Makerere University. His registration number is 2023/HD08/2133U, student number 2300702133, and mobile contact 0778376557.

Mr. Pande is pursuing a Master of Science in Land Management and is currently conducting academic research under the topic: *"Arbitration as an Effective Mechanism for Resolving Land Disputes in Uganda: A Comparative Analysis."* He has been thoroughly briefed on the ethical principles of data collection, including the importance of confidentiality, and has committed to upholding them.

He is seeking to collect data from various stakeholders and has identified your institution as a valuable source of information for his study. We kindly request that you accord him the necessary assistance to facilitate his research.

Please note that the data being collected is strictly for academic purposes and will contribute to the enrichment of the student's knowledge and research output.

Any assistance rendered to Mr. Pande will be highly appreciated.

Yours sincerely,



Lydia Mazzi Kayondo - Ndandiko (PhD)
Senior lecturer/ Head of Department

MAKERERE



UNIVERSITY

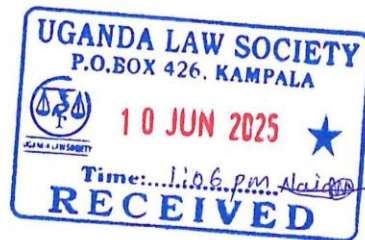
P.O. Box 7062 Kampala, Uganda
Website: <http://cedat.mak.ac.ug/>

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**College of Engineering, Design, Art and Technology (CEDAT)
Department of Geomatics and Land Management (DGLM)**

The Chief Executive Officer,
Uganda Law Society

Dear Sir/Madam



Date: 08 May 2025

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Please note that the data being collected is strictly for academic purposes and will contribute to the enrichment of the student's knowledge and research output.

Any assistance rendered to Mr. Pande will be highly appreciated.

Yours sincerely,



Lydia Mazzi Kayondo - Ndandiko (PhD)
Senior lecturer/ Head of Department

CEO
Amani Chiboni
handled
10 June 2025



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College of Engineering, Design, Art and Technology (CEDAT)
Department of Geomatics and Land Management (DGLM)
Date: 08 May 2025

To Whom It May Concern,

Dear sir/Madam

RE: INTRODUCTION OF MR. PANDE NORMAN FOR DATA COLLECTION

This is to introduce Mr. Pande Norman, a graduate student at the School of Built Environment, Department of Geomatics and Land Management, College of Engineering, Design, Art and Technology (CEDAT), Makerere University. His registration number is 2023/HD08/2133U, student number 2300702133, and his mobile contact is 0778376557.

Mr. Pande is pursuing a Master of Science in Land Management and is currently conducting academic research under the topic: "*Arbitration as an Effective Mechanism for Resolving Land Disputes in Uganda: A Comparative Analysis.*" As part of his study, he is collecting data from various stakeholders, and you have been identified as a valuable source of information.

He has been thoroughly briefed on the ethical principles of research, including confidentiality and informed consent, and has committed to adhering to these standards throughout the data collection process.

We kindly request that you provide him with the necessary support to facilitate his research. Please note that all information gathered is strictly for academic purposes and will significantly contribute to the enrichment of his research and academic development.

Any assistance extended to Mr. Pande will be greatly appreciated.

Yours sincerely,



Lydia Mazzi Kayondo - Ndandiko (PhD)
Senior lecturer/ Head of Department

Appendices ii: Informed Consent Form

Title of Research: Arbitration as an Effective Mechanism for Resolving Land Disputes in Uganda: A Comparative Analysis

Researcher: Pande Norman

Student Number: 2300702133

Institution: Makerere University, School of Built Environment, Department of Geomatics and Land Management

Supervisors: Dr. Lydia Mazzi Kayondo-Ndandiko, PhD and Dr. Ronald Ssengendo, PhD

Purpose of Research

This research examines the potential of arbitration in resolving land disputes in Uganda. The study seeks to understand the barriers that prevent the widespread use of arbitration for land disputes and explore how it might be improved as an alternative to court litigation and other dispute resolution methods. Your participation will contribute to understanding how to make land dispute resolution more effective, accessible, and fair for all Ugandans.

What Your Participation Involves

If you agree to participate, you will be asked to take part in an interview or complete a questionnaire about your experiences and opinions regarding land dispute resolution. The interview will take approximately 60-90 minutes, while the questionnaire will take about 30-45 minutes to complete. You may be asked about your experiences with land disputes, your knowledge of different resolution methods, and your views on how these systems could be improved.

Voluntary Participation

Your participation in this research is entirely voluntary. You have the right to refuse to answer any questions that make you uncomfortable. You may also withdraw from the study at any time without giving any reason and without any negative consequences to you. Your decision whether or not to participate will not affect any services you receive or your relationship with any institution.

Confidentiality and Privacy

All information you provide will be treated with strict confidentiality. Your name and other identifying details will not be used in any reports or publications from this research. The information will be stored securely and will only be accessible to the research team. Any quotes used in the research report will be presented in a way that does not identify you personally.

Use of Information

The information collected will be used solely for academic purposes related to this research study. The findings may be published in academic journals, presented at conferences, and shared with policymakers to help improve land dispute resolution in Uganda. You will not be identified in any of these outputs.

Risks and Benefits

There are no significant risks associated with participating in this research. However, discussing land disputes might bring up difficult memories or emotions. If you feel uncomfortable at any time, you can stop the interview or skip questions. While there are no direct personal benefits to participating, your contribution will help improve land dispute resolution systems that could benefit you and your community in the future.

Contact Information

If you have any questions about this research, you can contact:

Primary Researcher: Pande Norman

Email: pandenorman@gmail.com

Supervisor: Dr. Lydia Mazzi Kayondo-Ndandiko

Department of Geomatics and Land Management, Makerere University

Consent Statement

I have read and understood the information provided about this research study. I have had the opportunity to ask questions, and all my questions have been answered satisfactorily. I understand that my participation is voluntary and that I can withdraw at any time without penalty.

I voluntarily agree to participate in this research study.

Participant Name: _____

Participant Signature: _____ Date: _____

For participants who prefer verbal consent: I confirm that the participant has given verbal consent to participate in this research after the study has been explained to them.

Researcher Signature: _____ Date: _____

INSTRUMENT 2: INTERVIEW GUIDE FOR ARBITRATION CENTER OFFICIALS

Title of Research: Arbitration as an Effective Mechanism for Resolving Land Disputes in Uganda: A Comparative Analysis

Researcher: Pande Norman

Student Number: 2300702133

Institution: Makerere University, School of Built Environment, Department of Geomatics and Land Management

Supervisors: Dr. Lydia Mazzi Kayondo-Ndandiko, PhD and Dr. Ronald Ssengendo, PhD

Background Information

Institution: _____

Position/Role: _____

Years of experience in arbitration: _____

Date of interview: _____

Location: _____

Introduction

Thank you for agreeing to participate in this research. This interview aims to understand your perspectives on arbitration in land dispute resolution based on your professional experience. The conversation should take about 60-90 minutes, and with your permission, I would like to record our discussion to ensure I capture your insights accurately.

Core Questions

1. Professional Experience and Background

Could you tell me about your role at this arbitration centre and how long you have been working in arbitration?

What initially drew you to work in arbitration, and how has your understanding of it evolved over time?

2. Land Disputes in Arbitration Practice

Have you encountered any land-related disputes in your arbitration practice?

If yes, could you describe the nature of these cases and how they differed from other types of disputes you handle?

If no, are there any reasons why land disputes might not be coming to your centre?

3. Current Practice and Caseload

What types of disputes does your centre typically handle?

How would you describe the demand for arbitration services in Uganda currently?

Are there any trends you have noticed in the types of cases coming to arbitration?

4. Barriers and Challenges

Have you noticed any particular challenges when dealing with disputes that involve land or property?

Are there any obstacles that might prevent people from using arbitration for land disputes?

What challenges does your centre face in providing arbitration services generally?

5. Legal and Institutional Framework

How do you find the current legal framework supports your work in arbitration?

Are there any aspects of the legal system that make arbitration more difficult for certain types of disputes?

How does your centre interact with other dispute resolution institutions, such as courts or local councils?

6. Cultural and Social Factors

Have you observed any cultural factors that influence how people view arbitration?

Are there any social considerations that affect whether people choose arbitration over other dispute resolution methods?

How does public understanding of arbitration affect your work?

7. Advantages and Effectiveness

In your experience, what advantages does arbitration offer compared to other ways of resolving disputes?

Are there particular types of disputes for which arbitration seems especially effective or ineffective?

How do you measure the success of arbitration in your practice?

8. Improvements and Recommendations

If you could change anything about how arbitration works in Uganda, what would it be?

Are there any specific improvements that might make arbitration more suitable for land disputes?

What resources or support would help your centre serve clients better?

9. Future Perspectives

How do you see the role of arbitration developing in Uganda's dispute resolution landscape?

Are there any opportunities you see for expanding arbitration to new types of disputes or clients?

What would need to happen for more people to consider arbitration as an option for resolving their disputes?

10. Additional Insights

Is there anything important about arbitration and land disputes that we haven't discussed?

Do you have any advice for policymakers who want to improve dispute resolution in Uganda?

Are there any other people you think I should speak with to better understand these issues?

Closing

Thank you very much for sharing your time and insights. Is there anything you would like to add or any questions you have about this research? I will provide you with a summary of the research findings once the study is complete.

INSTRUMENT 3: INTERVIEW GUIDE FOR JUDICIAL OFFICERS

Title of Research: Arbitration as an Effective Mechanism for Resolving Land Disputes in Uganda: A Comparative Analysis

Researcher: Pande Norman

Student Number: 2300702133

Institution: Makerere University, School of Built Environment, Department of Geomatics and Land Management

Supervisors: Dr. Lydia Mazzi Kayondo-Ndandiko, PhD and Dr. Ronald Ssengendo, PhD

Background Information

Court Level: _____

Position: _____

Years of judicial experience: _____

Region/Location: _____

Date of interview: _____

Introduction

Thank you for taking time to participate in this research. This interview seeks to understand your perspectives on land dispute resolution and the potential role of arbitration, based on your judicial experience. The discussion should take about 60-90 minutes, and with your permission, I would like to record our conversation.

Core Questions

1. Judicial Background and Experience

Could you tell me about your current judicial role and how long you have been serving in this position?

What types of cases do you typically handle, and how has your caseload evolved over the years?

2. Land Disputes in Court

Do you encounter land disputes in your court?

If yes, could you describe the nature and frequency of these cases?

How do land disputes compare to other civil matters in terms of complexity and time required for resolution?

3. Challenges in Land Dispute Resolution

Are there any particular challenges you face when dealing with land disputes through the court system?

What factors contribute to delays or difficulties in resolving land cases?

How do parties typically respond to court decisions in land matters?

4. Alternative Dispute Resolution Awareness

Are you familiar with arbitration as a method for resolving disputes?

Have you encountered cases where parties considered or used arbitration instead of court litigation?

How do you view the relationship between courts and alternative dispute resolution mechanisms?

5. Arbitration in Land Matters

Do you think arbitration could be suitable for resolving land disputes?

If yes, what types of land disputes might be appropriate for arbitration?

If no, what concerns do you have about using arbitration for land matters?

6. Legal Framework and Jurisdiction

How does the current legal framework define the relationship between courts and arbitration?

Are there any jurisdictional issues that arise when parties choose arbitration over court litigation?

Have you been involved in any cases where court intervention was required in arbitration matters?

7. Referral and Cooperation

Under what circumstances might you refer parties to consider alternative dispute resolution?

Are there any barriers that prevent you from referring cases to arbitration or other ADR mechanisms?

How do you see courts and arbitration centres working together to improve dispute resolution?

8. Enforcement and Implementation

Have you been involved in enforcing arbitration awards in any cases?

What challenges arise in implementing decisions from arbitration or other ADR mechanisms?

How does enforcement of arbitral awards compare to enforcement of court judgments?

9. System Improvements

If you could improve the current system for resolving land disputes, what changes would you make?

Are there any reforms that might help reduce the burden of land cases on the court system?

How could arbitration complement the work of the courts in land dispute resolution?

10. Future Perspectives

How do you see the landscape of dispute resolution evolving in Uganda?

What role should the judiciary play in promoting effective dispute resolution mechanisms?

Are there any training or capacity-building needs that would help improve dispute resolution?

11. Additional Observations

Are there any other aspects of land dispute resolution or arbitration that you think are important to understand?

Do you have any recommendations for improving access to justice in land matters?

Who else would you suggest I speak with to gain a complete picture of these issues?

Closing

Thank you for sharing your valuable insights and experience. Is there anything else you would like to add about these topics? I will share a summary of the research findings with you once the study is completed.

INSTRUMENT 4: INTERVIEW GUIDE FOR LAND MINISTRY OFFICIALS

Title of Research: Arbitration as an Effective Mechanism for Resolving Land Disputes in Uganda: A Comparative Analysis

Researcher: Pande Norman

Student Number: 2300702133

Institution: Makerere University, School of Built Environment, Department of Geomatics and Land Management

Supervisors: Dr. Lydia Mazzi Kayondo-Ndandiko, PhD and Dr. Ronald Ssengendo, PhD

Background Information

Institution/Department: _____

Position: _____

Years in land administration: _____

Region of operation: _____

Date of interview: _____

Introduction

Thank you for participating in this research. This interview aims to understand your perspective on land dispute resolution from an administrative standpoint, and to explore how arbitration might fit into Uganda's land governance system. Our discussion should take about 60-90 minutes, and I would appreciate permission to record our conversation.

Core Questions

1. Role and Responsibilities

Could you describe your current role in land administration and the scope of your responsibilities?

How long have you been working in land administration, and what changes have you observed over time?

2. Land Dispute Patterns

Do you encounter land disputes in your work?

If yes, could you describe the types of land disputes you see most frequently?

How would you characterize the trend in land disputes in your area of operation?

3. Current Resolution Mechanisms

What mechanisms are currently available for resolving land disputes in your jurisdiction?

How do these different mechanisms work together, and where do people typically take their disputes?

Are there any gaps or overlaps in the current system that create challenges?

4. Administrative Challenges

What challenges do you face in your land administration work that relate to dispute resolution?

Are there any systemic issues that contribute to land disputes in your area?

How do land disputes affect your ability to carry out other land administration functions?

5. Knowledge of Arbitration

Are you familiar with arbitration as a dispute resolution mechanism?

Have you encountered any cases where arbitration was used to resolve land disputes?

What is your understanding of how arbitration differs from other dispute resolution methods?

6. Arbitration Potential

Do you think arbitration could be useful for resolving land disputes?

If yes, what advantages might it offer in the context of land administration?

If no, what concerns do you have about using arbitration for land matters?

7. Policy and Legal Framework

How do current land policies address dispute resolution?

Are there any policy gaps or conflicts that affect how land disputes are handled?

What role does your institution play in supporting dispute resolution efforts?

8. Institutional Coordination

How does your office coordinate with other institutions involved in land dispute resolution?

Are there any challenges in working with courts, traditional authorities, or other dispute resolution bodies?

How could coordination between different institutions be improved?

9. Resources and Capacity

What resources are available for dispute resolution activities in your jurisdiction?

Are there any capacity constraints that limit effective dispute resolution?

What additional resources or support would help improve land dispute resolution?

10. Community Perspectives

How do communities in your area typically prefer to resolve land disputes?

Are there any cultural or social factors that influence dispute resolution preferences?

How well do current dispute resolution mechanisms serve different segments of the population?

11. Improvements and Reforms

If you could reform the current system for handling land disputes, what changes would you prioritize?

Are there any innovations or pilot programs that you think could improve dispute resolution?

How could arbitration be integrated into the existing land administration framework?

12. Future Vision

How do you envision land dispute resolution evolving in Uganda?

What role should land administration institutions play in promoting effective dispute resolution?

Are there any emerging trends or technologies that could improve dispute resolution?

13. Additional Insights

Is there anything important about land disputes and resolution mechanisms that we haven't discussed?

What advice would you give to someone trying to improve land dispute resolution in Uganda?

Are there other stakeholders you think I should consult for this research?

Closing

Thank you for sharing your time and expertise. Is there anything you would like to add or clarify about the topics we've discussed? I will provide you with a summary of the research findings when the study is complete.

INSTRUMENT 5: QUESTIONNAIRE FOR DISPUTANTS WITH COURT EXPERIENCE

Title of Research: Arbitration as an Effective Mechanism for Resolving Land Disputes in Uganda: A Comparative Analysis

Researcher: Pande Norman

Student Number: 2300702133

Institution: Makerere University, School of Built Environment, Department of Geomatics and Land Management

Supervisors: Dr. Lydia Mazzi Kayondo-Ndandiko, PhD and Dr. Ronald Ssengendo, PhD

Introduction

This questionnaire is part of a research study examining land dispute resolution mechanisms in Uganda. Your responses will help us understand experiences with the current system and explore potential improvements. All responses will remain confidential and will be used solely for academic purposes. Completing this questionnaire should take about 30-45 minutes.

Section A: Personal Information

A1. What is your age group? ☐ 18-30 years ☐ 31-45 years ☐ 46-60 years ☐ Above 60 years

A2. What is your gender? ☐ Male ☐ Female ☐ Prefer not to say

A3. What is your highest level of education? ☐ No formal education ☐ Primary ☐ Secondary ☐ Certificate/Diploma ☐ Bachelor's degree ☐ Post-graduate ☐ Other (please specify): _____

A4. In which region do you live? ☐ Central ☐ Eastern ☐ Northern ☐ Western

A5. What is your main occupation? ☐ Farmer ☐ Business person ☐ Civil servant ☐ Professional ☐ Other (please specify): _____

Section B: Land Dispute Experience

B1. What type of land dispute were you involved in? (You may select more than one) ☐ Boundary dispute ☐ Ownership dispute ☐ Inheritance dispute ☐ Trespass ☐ Land grabbing ☐ Other (please specify): _____

B2. Could you describe what caused the land dispute you experienced?

B3. How long did your land dispute last before it was resolved or before you stopped pursuing it? ☐ Less than 1 year ☐ 1-2 years ☐ 2-5 years ☐ More than 5 years ☐ Still ongoing

B4. Approximately how much money did you spend in total trying to resolve your land dispute? ☐ Less than UGX 1 million ☐ UGX 1-5 million ☐ UGX 5-10 million ☐ UGX 10-20 million ☐ Above UGX 20 million

B5. Could you tell me about the different costs you incurred during your dispute resolution process?

Section C: Court Experience

C1. How satisfied were you with the court process for resolving your land dispute? ☐ Very satisfied ☐ Satisfied ☐ Neutral ☐ Dissatisfied ☐ Very dissatisfied

C2. Could you explain why you felt this way about the court process?

C3. What challenges did you face during the court process? (You may select more than one)

☐ High costs ☐ Long duration ☐ Complex procedures ☐ Language barriers
☐ Corruption ☐ Distance to court ☐ Other (please specify): _____

C4. Could you describe the most significant challenge you faced in the court process?

C5. How would you rate the following aspects of your court experience? (Scale: 1=Very Poor, 2=Poor, 3=Average, 4=Good, 5=Excellent)

Speed of process: ☐1 ☐2 ☐3 ☐4 ☐5 Cost effectiveness: ☐1 ☐2 ☐3 ☐4 ☐5 Fairness of outcome: ☐1 ☐2 ☐3 ☐4 ☐5 Clarity of procedures: ☐1 ☐2 ☐3 ☐4 ☐5 Access to legal support: ☐1 ☐2 ☐3 ☐4 ☐5

C6. What aspects of the court process worked well for you?

C7. What aspects of the court process did not work well for you?

Section D: Knowledge and Attitudes toward Arbitration

D1. Are you aware of arbitration as a method of resolving disputes? ☐ Yes ☐ No

If you answered "No" to D1, please skip to Section E. If "Yes," please continue.

D2. How did you learn about arbitration? ☐ Lawyer ☐ Media ☐ Friends/Family ☐ Education

☐ Other (please specify): _____

D3. Could you describe what you understand about arbitration as a dispute resolution method?

D4. Have you ever considered using arbitration for your land dispute? ☐ Yes ☐ No

D5. Could you explain why you did or did not consider using arbitration?

D6. What do you see as the potential advantages of arbitration? (You may select more than one) ☐ Faster resolution ☐ Lower costs ☐ More flexible ☐ More private ☐ Less formal ☐ Other (please specify): _____

D7. Do you have any concerns about using arbitration for land disputes? ☐ Yes ☐ No

D8. If yes, could you describe your concerns about arbitration?

Section E: Future Preferences and Recommendations

E1. If you had another land dispute in the future, which method would you prefer to use to resolve it? ☐ Courts ☐ Arbitration ☐ Mediation ☐ Traditional methods
☐ Other (please specify): _____

E2. Could you explain why you would prefer this method?

E3. What improvements would you suggest for land dispute resolution in Uganda?

E4. Are there any barriers that prevent people in your community from accessing justice for land disputes? ☐ Yes ☐ No

E5. If yes, could you describe these barriers?

E6. What would make dispute resolution more accessible and effective for people like you?

E7. Is there anything else you would like to share about your experience with land dispute resolution or suggestions for improvement?

Closing

Thank you for taking the time to complete this questionnaire. Your responses will contribute to improving land dispute resolution in Uganda. If you have any questions about this research, please contact Pande Norman at [researcher contact information].

For researcher use only: Date: _____ Location: _____ Questionnaire Number:

INSTRUMENT 6: QUESTIONNAIRE FOR LEGAL AND DISPUTE RESOLUTION PRACTITIONERS

Title of Research: Arbitration as an Effective Mechanism for Resolving Land Disputes in Uganda: A Comparative Analysis

Researcher: Pande Norman

Student Number: 2300702133

Institution: Makerere University, School of Built Environment, Department of Geomatics and Land Management

Supervisors: Dr. Lydia Mazzi Kayondo-Ndandiko, PhD and Dr. Ronald Ssengendo, PhD

Introduction

This questionnaire aims to gather insights from legal and dispute resolution practitioners regarding land dispute resolution mechanisms in Uganda. Your professional expertise and experience will provide valuable information for improving dispute resolution systems. All responses will remain confidential and be used solely for academic purposes. Completing this questionnaire should take about 30-45 minutes.

Section A: Professional Background

A1. What is your current professional role? ☐ Lawyer in private practice ☐

Judge/Magistrate ☐ Arbitrator

☐ Mediator ☐ Legal Aid Provider ☐ Academic/Researcher

☐ Other (please specify): _____

A2. How many years of experience do you have in dispute resolution? ☐ Less than 5 years

☐ 5-10 years ☐ 11-15 years ☐ Over 15 years

A3. In which region do you primarily practice? ☐ Central ☐ Eastern ☐ Northern ☐

Western ☐ Multiple regions

A4. What is your highest level of education? ☐ Bachelor's degree ☐ LLB ☐ Master's

degree ☐ PhD

☐ Other (please specify): _____

Section B: Land Dispute Experience

B1. Do you regularly handle land disputes in your professional practice? ☐ Yes ☐ No

B2. If yes, approximately what percentage of your caseload involves land disputes? ☐ Less than 25% ☐ 25-50% ☐ 51-75% ☐ Over 75%

B3. What types of land disputes do you encounter most frequently? (You may select more than one) ☐ Boundary disputes ☐ Ownership disputes ☐ Inheritance disputes ☐ Registration issues ☐ Land grabbing ☐ Eviction cases ☐ Other (please specify): _____

B4. Could you describe the most challenging aspects of handling land disputes in your practice?

B5. How do land disputes compare to other types of civil cases in terms of complexity and time required?

Section C: Current Dispute Resolution Mechanisms

C1. How would you rate the effectiveness of the following dispute resolution methods for land disputes? (Scale: 1=Very Ineffective, 2=Ineffective, 3=Neutral, 4=Effective, 5=Very Effective)

Formal courts: ☐1 ☐2 ☐3 ☐4 ☐5 Local council courts: ☐1 ☐2 ☐3 ☐4 ☐5 Traditional methods: ☐1 ☐2 ☐3 ☐4 ☐5 Mediation: ☐1 ☐2 ☐3 ☐4 ☐5 Arbitration: ☐1 ☐2 ☐3 ☐4 ☐5

C2. Could you explain your rating for formal courts in handling land disputes?

C3. Could you explain your rating for arbitration in handling land disputes?

C4. What challenges do you face in the current dispute resolution system for land matters?

C5. Are there any advantages that one dispute resolution mechanism has over others for land disputes? ☐ Yes ☐ No

C6. If yes, could you describe these advantages?

Section D: Arbitration Knowledge and Experience

D1. How familiar are you with arbitration as a dispute resolution mechanism? ☐ Very familiar ☐ Somewhat familiar ☐ Not very familiar ☐ Not at all familiar

D2. Have you been involved in any arbitration cases during your career? ☐ Yes ☐ No

D3. If yes, could you describe your experience with arbitration?

D4. Have you encountered any arbitration cases involving land disputes? ☐ Yes ☐ No

D5. If yes, could you describe the nature of these cases and how they were resolved?

D6. If no, do you have any thoughts on why land disputes are not commonly taken to arbitration?

D7. Do you think arbitration is suitable for resolving land disputes? ☐ Yes ☐ No ☐
Depends on the circumstances

D8. Could you explain your reasoning for the above answer?

Section E: Barriers and Challenges

E1. Are there any barriers that prevent clients from using arbitration for land disputes? ☐ Yes
☐ No

E2. If yes, could you describe these barriers?

E3. Are there any institutional or legal obstacles to using arbitration for land disputes? ☐ Yes
☐ No

E4. If yes, could you describe these obstacles?

E5. What factors influence your clients' choice of dispute resolution mechanism?

E6. Are there any cultural or social factors that affect how people view arbitration? ☐ Yes ☐ No

E7. If yes, could you describe these factors?

Section F: Improvements and Recommendations

F1. What changes would you recommend to improve land dispute resolution in Uganda?

F2. Are there any specific improvements that could make arbitration more effective for land disputes? ☐ Yes ☐ No

F3. If yes, what improvements would you suggest?

F4. What resources or support would help you better serve clients with land disputes?

F5. How could different dispute resolution mechanisms work better together?

F6. What role should the government play in improving land dispute resolution?

Section G: Future Perspectives

G1. How do you see dispute resolution for land matters evolving in Uganda over the next 10 years?

G2. What opportunities exist for expanding the use of arbitration in land disputes?

G3. What would need to change for more people to consider arbitration as an option for land disputes?

G4. Is there anything else about land dispute resolution or arbitration that you think is important to understand?

Closing

Thank you for sharing your professional insights and experience. Your contribution will help improve understanding of land dispute resolution in Uganda. If you have any questions about this research, please contact Pande Norman at [researcher contact information].

For researcher use only: Date: _____ Location: _____ Questionnaire Number:

INSTRUMENT 7: QUESTIONNAIRE FOR GOVERNMENT AND LAND ADMINISTRATION OFFICIALS

Title of Research: Arbitration as an Effective Mechanism for Resolving Land Disputes in Uganda: A Comparative Analysis

Researcher: Pande Norman

Student Number: 2300702133

Institution: Makerere University, School of Built Environment, Department of Geomatics and Land Management

Supervisors: Dr. Lydia Mazzi Kayondo-Ndandiko, PhD and Dr. Ronald Ssengendo, PhD

Introduction

This questionnaire seeks to gather perspectives from government and land administration officials regarding land dispute resolution mechanisms in Uganda. Your institutional knowledge and experience will provide valuable insights for improving dispute resolution systems. All responses will remain confidential and be used solely for academic purposes. Completing this questionnaire should take about 30-45 minutes.

Section A: Professional Background

A1. What is your current position? ☐ District Land Officer ☐ Land Registration Officer ☐ Area Land Committee Member ☐ Land Board Member ☐ Ministry Official ☐ Local Government Official ☐ Other (please specify): _____

A2. How many years of experience do you have in land administration? ☐ Less than 5 years ☐ 5-10 years ☐ 11-15 years ☐ Over 15 years

A3. In which region do you primarily work? ☐ Central ☐ Eastern ☐ Northern ☐ Western

A4. What is your highest level of education? ☐ Secondary ☐ Certificate/Diploma ☐ Bachelor's degree ☐ Master's degree ☐ PhD ☐ Other (please specify): _____

Section B: Land Dispute Patterns

B1. Do you encounter land disputes in your work? ☐ Yes ☐ No

B2. If yes, how frequently do you encounter the following types of land disputes? (Scale: 1=Never, 2=Rarely, 3=Sometimes, 4=Often, 5=Very Often)

Boundary disputes: ☐1 ☐2 ☐3 ☐4 ☐5 Ownership disputes: ☐1 ☐2 ☐3 ☐4 ☐5

Inheritance disputes: ☐1 ☐2 ☐3 ☐4 ☐5 Registration issues: ☐1 ☐2 ☐3 ☐4 ☐5 Land grabbing: ☐1 ☐2 ☐3 ☐4 ☐5

B3. Could you describe the most common types of land disputes you encounter in your work?

B4. What percentage of your work involves dealing with dispute resolution? ☐ Less than 25% ☐ 25-50% ☐ 51-75% ☐ Over 75%

B5. Have you noticed any trends or changes in land disputes over the years? ☐ Yes ☐ No

B6. If yes, could you describe these trends or changes?

Section C: Current Resolution Mechanisms

C1. How would you rate the effectiveness of current dispute resolution methods in your area? (Scale: 1=Very Ineffective, 2=Ineffective, 3=Neutral, 4=Effective, 5=Very Effective)

Formal courts: ☐1 ☐2 ☐3 ☐4 ☐5 Local council courts: ☐1 ☐2 ☐3 ☐4 ☐5 Traditional methods: ☐1 ☐2 ☐3 ☐4 ☐5 Mediation: ☐1 ☐2 ☐3 ☐4 ☐5 Arbitration: ☐1 ☐2 ☐3 ☐4 ☐5

C2. Could you explain your rating for the most effective mechanism you identified above?

C3. Could you explain your rating for the least effective mechanism you identified above?

C4. What administrative challenges do you face in land dispute resolution? (You may select more than one) ☐ Inadequate resources ☐ Poor record keeping ☐ Staff shortage ☐ Limited training ☐ Political interference ☐ Corruption ☐ Other (please specify): _____

C5. Could you describe the most significant administrative challenge you face in handling land disputes?

C6. How do different dispute resolution mechanisms work together in your jurisdiction?

C7. Are there any gaps or overlaps in the current dispute resolution system? ☐ Yes ☐ No

C8. If yes, could you describe these gaps or overlaps?

Section D: Arbitration Assessment

D1. How familiar are you with arbitration as a dispute resolution mechanism? ☐ Very familiar ☐ Somewhat familiar ☐ Not very familiar ☐ Not at all familiar

D2. Have you ever referred disputes to arbitration? ☐ Yes ☐ No

D3. If yes, approximately how many cases have you referred to arbitration? ☐ 1-5 cases ☐ 6-10 cases ☐ 11-20 cases ☐ More than 20 cases

D4. If yes, could you describe your experience with these arbitration referrals?

D5. If no, are there any reasons why you have not referred cases to arbitration?

D6. Do you think arbitration could be useful for resolving land disputes in your area? ☐ Yes
☐ No ☐ Not sure

D7. Could you explain your reasoning for the above answer?

D8. What factors would encourage you to recommend arbitration to disputants? (You may select more than one) ☐ Clear legal framework ☐ Trained arbitrators ☐ Faster resolution
☐ Cost effectiveness ☐ Enforcement mechanisms ☐ Government support
☐ Other (please specify): _____

D9. Are there any concerns you have about using arbitration for land disputes? ☐ Yes ☐ No

D10. If yes, could you describe these concerns?

Section E: Institutional Perspectives

E1. How does your institution currently support dispute resolution efforts?

E2. Are there any policies or guidelines that govern how your institution handles land disputes? ☐ Yes ☐ No

E3. If yes, could you describe these policies or guidelines?

E4. How does your institution coordinate with other organizations involved in dispute resolution?

E5. Are there any challenges in coordinating with other institutions? ☐ Yes ☐ No

E6. If yes, could you describe these coordination challenges?

E7. What role does your institution play in preventing land disputes?

Section F: Resources and Capacity

F1. Are the current resources adequate for handling land dispute resolution in your area? ☐
Yes ☐ No

F2. Could you describe the main resource constraints that affect dispute resolution?

F3. What additional resources would help improve land dispute resolution?

F4. Are there any training or capacity-building needs in your institution related to dispute resolution? ☐ Yes ☐ No

F5. If yes, could you describe these training needs?

F6. How could technology be used to improve land dispute resolution?

Section G: Policy and Reform

G1. What policy changes would improve land dispute resolution in Uganda?

G2. Are there any legal or regulatory barriers that hinder effective dispute resolution? ☐ Yes
☐ No

G3. If yes, could you describe these barriers?

G4. How could arbitration be better integrated into the existing land administration system?

G5. What role should the government play in promoting alternative dispute resolution mechanisms?

G6. Are there any pilot programs or innovations that you think could improve dispute resolution? ☐ Yes ☐ No

G7. If yes, could you describe these ideas?

Section H: Community and Social Factors

H1. How do communities in your area typically prefer to resolve land disputes?

H2. Are there any cultural or social factors that influence dispute resolution preferences in your area? ☐ Yes ☐ No

H3. If yes, could you describe these factors?

H4. How well do current dispute resolution mechanisms serve different groups in the population (women, youth, elderly, poor, etc.)?

H5. Are there any groups that face particular barriers in accessing dispute resolution? ☐ Yes ☐ No

H6. If yes, could you describe these barriers?

Section I: Future Perspectives

I1. How do you see land dispute resolution evolving in Uganda over the next 10 years?

I2. What opportunities exist for improving dispute resolution in your area?

I3. What would need to happen for arbitration to become more widely used for land disputes?

I4. How could different stakeholders work together more effectively to improve dispute resolution?

I5. Is there anything else about land dispute resolution that you think is important for this research to understand?

Closing

Thank you for taking the time to share your institutional knowledge and experience. Your insights will contribute to improving land dispute resolution systems in Uganda. If you have any questions about this research, please contact Pande Norman at [researcher contact information].

For researcher use only: Date: _____ Location: _____ Questionnaire Number:

INSTRUMENT 8: OBSERVATION CHECKLIST FOR DISPUTE RESOLUTION PROCEEDINGS

Title of Research: Arbitration as an Effective Mechanism for Resolving Land Disputes in Uganda: A Comparative Analysis

Researcher: Pande Norman

Student Number: 2300702133

Institution: Makerere University, School of Built Environment, Department of Geomatics and Land Management

Supervisors: Dr. Lydia Mazzi Kayondo-Ndandiko, PhD and Dr. Ronald Ssengendo, PhD

Basic Information

Type of proceeding: _____ **Date:** _____ **Time:** _____
Location: _____ **Duration of session:** _____ **Number of participants:** _____

Pre-Proceeding Context

Physical Setup and Environment

Is the venue easily accessible to participants? ☐ Yes ☐ No

Notes: _____

How is the room arranged, and does it facilitate participation?

What facilities are available (seating, lighting, recording equipment, etc.)?

Are there any physical barriers that might affect participation? ☐ Yes ☐ No

If yes, describe: _____

Participants and Roles

Who are the main participants and what roles do they play?

Decision-maker(s): _____ Disputants:

_____ Legal representatives:

_____ Witnesses:

_____ Observers:

_____ Other participants:

Are all necessary parties present? ☐ Yes ☐ No

If no, who is missing and why? _____

Do participants appear to understand their roles and the process? ☐ Yes ☐ No ☐ Some do, others don't

Observations: _____

Process Observations

Opening Procedures

How does the session begin?

Are the purpose and procedures explained to participants? ☐ Yes ☐ No

Is the explanation clear and understandable? ☐ Yes ☐ No

Do participants have an opportunity to ask questions about the process? ☐ Yes ☐ No

Language and Communication

What language(s) are used during the proceedings?

Do all participants appear to understand the language being used? ☐ Yes ☐ No

Are translation services provided when needed? ☐ Yes ☐ No ☐ Not applicable

Are there any communication barriers observed? ☐ Yes ☐ No

If yes, describe: _____

Presentation of Cases

How do the disputants present their cases?

What types of evidence are presented (documents, witness testimony, physical evidence, etc.)?

Do all parties have equal opportunity to present their cases? ☐ Yes ☐ No

Are there any interruptions or disruptions during presentations? ☐ Yes ☐ No

If yes, describe: _____

Power Dynamics and Participation

Participation Levels

Do all parties participate actively in the proceedings? ☐ Yes ☐ No

Are there any participants who seem reluctant to speak or participate? ☐ Yes ☐ No

If yes, what might explain this? _____

Do any participants dominate the discussion? ☐ Yes ☐ No

If yes, describe: _____

Power Dynamics

Are there observable power imbalances between the parties? ☐ Yes ☐ No

If yes, what creates these imbalances? _____

How does the decision-maker handle power imbalances?

Do any participants appear intimidated or uncomfortable? ☐ Yes ☐ No

If yes, what might be causing this? _____

Decision-Making Process

How does the decision-maker approach the case?

What factors does the decision-maker seem to consider most important?

Are questions asked to clarify issues or gather additional information? ☐ Yes ☐ No

Do the parties have opportunities to respond to each other's arguments? ☐ Yes ☐ No

Is there any attempt to encourage settlement or compromise? ☐ Yes ☐ No

If yes, describe: _____

Cultural and Social Factors

Are there any cultural practices or norms evident in the proceedings? ☐ Yes ☐ No

If yes, describe: _____

How do social relationships between participants affect the proceedings?

Are there any references to traditional or customary law? ☐ Yes ☐ No

If yes, describe: _____

Do gender, age, or social status appear to influence participation? ☐ Yes ☐ No

If yes, how? _____

Procedural Aspects

Formality Level

How formal or informal are the proceedings? ☐ Very formal ☐ Somewhat formal ☐

Informal ☐ Very informal

What makes them formal or informal? _____

Rules and Procedures

Are there clear rules governing the proceedings? ☐ Yes ☐ No

Are these rules explained to participants? ☐ Yes ☐ No

Are the rules consistently applied? ☐ Yes ☐ No

Time Management

Does the proceeding stay on schedule? ☐ Yes ☐ No

Are there any significant delays, and what causes them?

How efficiently is time used during the session? ☐ Very efficiently ☐ Efficiently ☐ Somewhat efficiently ☐ Inefficiently

Outcomes and Conclusion

How does the session conclude?

Is a decision reached during this session? ☐ Yes ☐ No

If yes, how is the decision communicated to the parties?

Do the parties appear to understand and accept the decision? ☐ Yes ☐ No ☐ Some do, others don't

Are next steps or follow-up actions explained? ☐ Yes ☐ No

How do participants react to the conclusion of the session?

Documentation and Record-Keeping

Are records kept of the proceedings? ☐ Yes ☐ No

What type of records are maintained? ☐ Written notes ☐ Audio recording ☐ Official transcript

☐ Other: _____

Are documents properly managed and secured? ☐ Yes ☐ No

Overall Assessment

Strengths of the Process Observed

Weaknesses or Challenges Observed

Accessibility and Fairness

How accessible did this process appear to be for different types of participants?

Did the process appear fair to all parties involved? ☐ Yes ☐ No

Explain: _____

Effectiveness

How effectively did this session address the dispute or issues presented? ☐ Very effectively

☐ Effectively ☐ Somewhat effectively ☐ Ineffectively

What made it effective or ineffective? _____

Additional Observations

Unexpected Events or Issues

Notable Interactions or Behaviours

Questions for Follow-up

Other Relevant Observations

Post-Observation Reflections

What did this observation reveal about dispute resolution in this context?

How does this compare to other dispute resolution mechanisms?

What implications does this have for the potential use of arbitration in land disputes?

Researcher: _____ **Date completed:** _____