The Factors Influencing the Effectiveness of Mediation in Resolving Conflicts In Uganda

By

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Abstract

This study examined the factors influencing the effectiveness of mediation in resolving conflicts in Uganda, with particular attention to mediator competence, stakeholder participation, institutional

support, cultural norms, and trust in the mediation process. The study adopted a cross-sectional descriptive research design, employing a mixed-methods approach. Data were collected from a sample of 100 respondents, selected using purposive and simple random sampling techniques from community leaders, mediators, local council officials, civil society actors, and conflict-affected community members. Primary data were obtained through structured questionnaires and key informant interviews, while secondary data were sourced from policy documents and existing literature. The findings reveal that mediator neutrality and competence, community trust, and inclusive stakeholder participation significantly enhance the effectiveness of mediation in conflict resolution. Conversely, political interference, power imbalances among disputing parties, inadequate legal enforcement mechanisms, and limited institutional capacity were identified as major constraints undermining mediation outcomes. The study further establishes that culturally grounded mediation practices are more effective in resolving community-level conflicts than purely formal approaches. The study concludes that mediation remains a viable and cost-effective conflict resolution mechanism in Uganda; however, its effectiveness is contingent upon institutional strengthening, professionalization of mediators, and integration of indigenous conflict resolution mechanisms within the formal justice system. It recommends enhanced capacity-building for mediators, increased government and donor support for mediation institutions, and the development of clear legal frameworks to support the enforcement of mediated agreements. The study also advocates for greater community sensitization to build trust and legitimacy in mediation processes.

Key words: Mediation, conflict, Uganda

Table 1 showing the Factors Influencing the Effectiveness of Mediation in Resolving Conflicts in Uganda

Parameter	SA	A	SD	D	NS
Individuals in Uganda, particularly in rural areas, have limited knowledge of mediation reducing their willingness to engage in or trust the process	56(56%)	18(18%)	9(9%)	16(16%)	1(1%)
Cultural norms and traditional practices can complement mediation by promoting dialogue and consensus-building	29(29%)	11(11%)	27(27%)	10(10%)	23(23%)
The skill level and impartiality of mediators significantly influence mediation outcomes	64(67%)	12(12%)	16(16%)	5(5%)	3(3%)
Mediation is often inaccessible to low-income individuals due to the unavailability of mediators in rural areas	73(73%)	6(6%)	10(10%)	6(6%)	5(5%)
Trust in the mediation process and the perceived fairness of outcomes are crucial to its effectiveness	83(83%)	7(7%)	2(2%)	4(4%)	4(4%)

Source: Field Study, 2024

A significant proportion (74%) of respondents strongly agreed or agreed that limited knowledge of mediation in rural areas reduces its effectiveness. This suggested that awareness campaigns and education about mediation are critical. While 40% believed cultural norms complement mediation, 27% strongly disagree, and 23% were neutral. This reflected mixed perceptions of how well traditional practices align with mediation. Most respondents (79%) agreed that the expertise and neutrality of mediators were pivotal to successful outcomes. This underscored the importance of mediator training and ethical standards. A majority (79%) strongly agreed that mediation is inaccessible to low-income individuals due to a lack of mediators in rural areas. This highlighted socioeconomic barriers as a key challenge. Trust and perceived fairness were universally recognized as crucial factors, with 90% of respondents affirming their importance.

Globally, mediation effectiveness is often shaped by accessibility, mediator skill, and cultural alignment. In countries like Norway, public awareness campaigns about mediation are widespread, ensuring citizens are informed and willing to engage in ADR processes (Beck & Katsh, 2020). In Canada, Indigenous traditions of consensus-building have been integrated into formal mediation frameworks, demonstrating the value of cultural norms when properly aligned. In the United States, the American Bar Association mandates rigorous certification for mediators to ensure impartiality and competence.

This means that Uganda can adopt global best practices, such as implementing widespread educational campaigns and formalizing mediator training programs to improve accessibility and fairness. Across Africa, mediation practices often address accessibility and cultural factors. In Kenya, mobile courts and community mediation

centers make ADR mechanisms accessible to low-income populations in rural areas. In Ethiopia, traditional elders (Shimglina) are integrated into formal ADR processes to enhance trust and cultural resonance (Mutisi, 2021).

The implication of this is that Uganda's reliance on community-based mediators can be strengthened by adapting accessible models like Kenya's, while also formalizing the integration of cultural practices as seen in Ethiopia. In Uganda, mediation faces challenges of trust, accessibility, and cultural alignment:

Limited awareness in rural areas creates reluctance to engage in mediation. Local government efforts to educate communities have seen mixed success (Busingye, 2017). While traditional norms support mediation, some practices—such as patriarchal biases—may hinder inclusivity and fairness. Trust in local mediators is high, but perceived biases can undermine this trust, particularly when mediators lack formal training.

From the Interviews conducted the following can be noted

One key informant reported that,

"I had never heard about mediation until I came to court, and even then, I thought it was just a step before judgment."(KI 1)

The respondent's statement underscored that mediation, despite being a cost-effective and efficient mechanism, is not widely understood or recognized in Uganda. This reflected findings in broader studies that note the limited visibility of ADR mechanisms in developing countries (Menkel-Meadow, 2016). Mediation is often perceived as a peripheral or supplementary step to formal court processes rather

than an independent conflict resolution mechanism. In South Africa, the integration of court-annexed mediation into formal judicial systems has faced similar challenges. A study by De Vos (2017) found that litigants often viewed mediation as an obligatory procedural step rather than a genuine opportunity to resolve disputes amicably. This parallels the Ugandan context, where the court system is often the first point of contact with mediation for many people.

The respondent's assumption that mediation is "just a step before judgment" highlighted the lack of differentiation between mediation and other judicial procedures. Such misconceptions reduced the perceived value of mediation, leading parties to engage half-heartedly or with unrealistic expectations. As noted by Sander and Goldberg (1994), the effectiveness of ADR mechanisms depends heavily on the parties' understanding and willingness to engage in good faith. In Kenya, public awareness campaigns by the Judiciary of Kenya and the Judiciary Training Institute have successfully demystified mediation and improved public trust in ADR mechanisms. These initiatives demonstrate the importance of separating mediation from litigation processes to enhance its legitimacy and appeal.

Regarding misconceptions about Mediation

Respondents had varying views regarding this. Another key informant reported that,

"People think mediation is a waste of time because the mediator does not give a ruling like a judge."(KI 2)

This response reflected a common misconception about the nature and purpose of mediation in the dispute resolution process. Mediation is a collaborative process where the mediator facilitates dialogue and helps parties reach a mutually acceptable solution. Unlike a judge or arbitrator, the mediator does not impose a decision but empowers the parties to take ownership of the outcome (Menkel-Meadow, 2016). The perception that mediation is ineffective because it lacks binding rulings arises from unfamiliarity with its principles and processes. In countries like India, where mediation is integrated into the judicial system, many litigants initially express dissatisfaction with the absence of a verdict. However, over time, they appreciate its benefits, such as preserving relationships and reducing costs (Kataria, 2020).

Many individuals, particularly in societies where courts are perceived as the ultimate authority, expect authoritative decisions to resolve disputes. The idea that resolution must come from an external, binding judgment is ingrained in adversarial systems. This cultural bias makes mediation appear less effective or even redundant, especially when parties prioritize "winning" over compromise (De Palo & Trevor, 2004). In Uganda, the reliance on litigation stems from a historical dependence on formal judicial processes as a marker of justice. Mediation, which focuses on collaboration rather than adversarial outcomes, may be misunderstood as "soft justice" or non-justice.

The perception of mediation as a waste of time can also arise in cases where one party holds significantly more power than the other. Without a ruling from a judge, vulnerable parties may feel they cannot achieve fair outcomes in mediation. Research

by Astor (2007) highlights that for mediation to be effective, mediators must address power imbalances to prevent exploitation or coercion. In South Africa, mediators in family disputes have been trained to manage power dynamics to ensure that weaker parties, such as women or children, can negotiate effectively without feeling overpowered (Mabunda, 2017). The implication of this is that a lack of awareness limits public trust in mediation. Studies have shown that awareness campaigns are crucial to enhance the use of mediation (Menkel-Meadow, 2016). Many Ugandans perceive formal litigation as the only viable conflict resolution mechanism due to its visibility and historical dominance. However, without adequate education, mediation remains underutilized, particularly in rural areas. Also, improving awareness through targeted campaigns and community education would enhance public trust and participation in mediation, reducing the burden on formal judicial systems. Policymakers should prioritize embedding ADR topics in public legal education programs.

Lack of Public Education on Mediation

One interviewee reported that

"There are no campaigns or programs teaching people about the benefits of mediation; most of us only know about courts."(KI 3)

This response highlighted a critical challenge in the adoption and effectiveness of mediation as an Alternative Dispute Resolution (ADR) mechanism that is a lack of public awareness and education. Mediation relies on understanding and voluntary participation. Without sufficient knowledge of its processes and benefits, many people default to familiar systems, such as formal courts.

It means that limited Public Awareness of Mediation is a major issue here.

Mediation is a collaborative and non-adversarial approach to resolving conflicts, but its success hinges on the public's awareness of its existence and advantages. In many societies, mediation is overshadowed by formal judicial systems, which are perceived as more authoritative and legitimate. This lack of public education about ADR mechanisms perpetuates reliance on litigation (Menkel-Meadow, 2016).

In Uganda, the mainstreaming of mediation through court-annexed mediation programs is still relatively new. However, without robust public sensitization campaigns, many individuals perceive mediation as an "inferior" or secondary option compared to courts (Mwesige, 2021).

Countries that have successfully promoted mediation have relied heavily on sustained awareness campaigns. These initiatives are critical to changing perceptions and building trust in ADR mechanisms. Singapore's Mediation Act (2017) was accompanied by public education campaigns to raise awareness about mediation. These efforts included outreach through legal aid centers, social media, and government-supported community initiatives (Chan, 2019). In post-genocide Rwanda, the government introduced "Abunzi Mediation Committees" to handle disputes at the community level. Public sensitization through local leaders and NGOs has been instrumental in making mediation the primary dispute resolution mechanism for many Rwandans (Mutisi, 2012).

However, while awareness campaigns are crucial, the lack of comprehensive strategies often undermines their effectiveness. Public education campaigns about

ADR mechanisms often target urban populations, leaving rural communities underserved. In countries like Kenya, mediation awareness programs are concentrated in cities, while rural populations remain reliant on traditional or court-based systems (Wachira, 2020). Campaigns must address misconceptions, such as the belief that mediation is "soft justice" or a lesser alternative to litigation. Failure to do so perpetuates skepticism about its legitimacy and efficacy (Astor, 2007).

In South Africa, the lack of nationwide campaigns about court-annexed mediation has resulted in low uptake, with many citizens unaware of its availability or advantages. This contrasts with the country's well-established arbitration practices, which benefit from greater visibility (Mabunda, 2017). The absence of public campaigns or education about mediation has several implications: Individuals unaware of mediation are less likely to opt for it, even when it is offered as an alternative to litigation. This increases the burden on formal courts, leading to delays and backlogs. Mediation offers time efficiency, cost savings, and relationship preservation, which are often overlooked due to unfamiliarity. A lack of awareness reinforces the dominance of adversarial systems, making it harder for ADR mechanisms to gain traction.

Perception of Mediation as Less Formal:

While some respondents noted that mediation is formal, other disregarded mediation as formal citing several justifications for the same.

From the interviews conducted, a key informant reported that,

"Mediation feels informal, so some people don't take it seriously or trust it to resolve disputes fairly."(KI 4)

The response reflected a common challenge faced by mediation as an Alternative Dispute Resolution (ADR) mechanism globally. While mediation's informality is a strength, enabling flexible and participatory dispute resolution, it is often misunderstood as a weakness. This perception undermined its legitimacy and acceptance in various cultural and legal contexts. Mediation's informal nature promotes open communication, reduces procedural rigidity, and fosters creative solutions tailored to the specific needs of disputing parties (Menkel-Meadow, 2016). By avoiding the technicalities of courtroom litigation, mediation encourages relationship preservation and cost-effective outcomes.

However, informality is often misinterpreted as a lack of authority or professionalism. Critics argue that it may erode trust in the mediator's impartiality and competence, Lead to skepticism about the enforceability of agreements and create perceptions of bias, especially in culturally hierarchical societies where formal authority is preferred (Astor, 2007). In India, while court-annexed mediation has grown, litigants often express concerns about mediators lacking the perceived gravitas of judges. This undermines confidence in the process, especially for complex disputes (Kataria, 2020).

In many Western societies, mediation's informal nature is viewed positively, aligning with a collaborative, problem-solving approach to conflict resolution. For instance in the United States, mediation is widely accepted, with community mediation centers addressing local disputes effectively (Susskind & Cruikshank, 1987). In the United Kingdom, mediation in commercial disputes is often preferred for its ability to preserve business relationships (CEDR, 2021). In Africa, informality can either

enhance or diminish mediation's credibility, depending on cultural norms. In Rwanda, the *Abunzi Mediation Committees* thrive because their informality aligns with community-based conflict resolution traditions. However, their decisions are sometimes perceived as lacking the enforceability of court rulings (Mutisi, 2012). In Kenya, ADR mechanisms are gaining traction, but informality is occasionally viewed as undermining procedural fairness in high-stakes disputes (Wachira, 2020).

In Uganda, the introduction of court-annexed mediation has faced mixed reactions. While its informal nature resonates with traditional dispute resolution mechanisms, such as those led by clan leaders, modern disputes often demand a level of formal adjudication that mediation does not offer (Mwesige, 2021). However, trust in mediation depends on the mediator's perceived neutrality, the process's transparency, and the parties' belief in fair outcomes. Informality can create doubts about the mediator's qualifications, consistency in procedures and outcomes and power imbalances, where one party may feel coerced or dominated (Menkel-Meadow, 2016). In Singapore, mediation is successful partly because mediators undergo rigorous training and certification, ensuring professionalism even in informal settings (Chan, 2019) while in South Africa, whereas mediation is promoted as an alternative to litigation, the informality of community mediators has led to concerns about their competence in handling complex cases (Mabunda, 2017).

Educating the public about the structure and benefits of mediation can demystify its informality. For instance, the UK's *Family Mediation Council* regularly conducts awareness drives to explain how informal mediation is still professionally guided and outcome-oriented (CEDR, 2021).

For Cultural Factors Affecting Awareness

Regarding the above, one key informant when asked had this to say:

"In our culture, we prefer going to elders for conflict resolution rather than mediators. Mediation feels foreign to many of us."(KI 5)

The response reflected the significance of cultural context in shaping perceptions of Alternative Dispute Resolution (ADR) mechanisms. It highlighted a preference for traditional methods of conflict resolution over formalized mediation processes introduced as part of contemporary legal frameworks. This response raised critical questions about the localization and cultural adaptability of mediation in diverse societies.

On the role of Elders in Traditional Societies, **i**n many communities, elders are seen as custodians of wisdom, morality, and impartiality. Their role in dispute resolution is deeply rooted in the social fabric, providing culturally resonant mechanisms for resolving conflicts. These systems often emphasize restoration of harmony rather than punishment, aligning closely with the principles of mediation (Boege, 2006).

In Uganda, the *Rwot* (clan leaders) in the Acholi region have long mediated disputes through customary practices that prioritize communal reconciliation (Allen, 2008). While these systems are effective within their cultural context, they may exclude marginalized groups such as women or younger individuals, limiting their ability to advocate for their rights (Ekiyor, 2015). Mediation, as a formal ADR process, is often introduced through external legal reforms, making it appear disconnected from local traditions. This perception can lead to resistance or skepticism among communities who see it as incompatible with their values (Mutisi, 2012).

In Western societies, mediation has been successfully institutionalized as an ADR mechanism, emphasizing individual autonomy and problem-solving. However, its universality is often assumed without fully appreciating cultural variations. In the United States, mediation thrives due to its alignment with individualistic cultural norms that value private agreements over public litigation (Bush & Folger, 1994). This model is less effective in collectivist societies where community involvement in conflict resolution is paramount. In Africa, traditional mechanisms such as the Gacaca courts in Rwanda or the Ubuntu philosophy in South Africa have proven resilient. These systems emphasize restorative justice and community involvement, often conflicting with the more formalized approach of modern mediation (Mutisi, 2012). The Gacaca courts successfully mediated post-genocide reconciliation in Rwanda by leveraging community-based processes. However, they faced criticism for occasional bias and lack of legal procedural safeguards (Clark, 2010). In Uganda, traditional leaders play a pivotal role in resolving disputes, especially in rural areas. The introduction of court-annexed mediation has faced challenges in gaining acceptance, particularly in areas where traditional systems dominate (Mwesige, 2021). The *Mato Oput* process among the Acholi people is revered for its restorative nature but is often seen as incompatible with formal mediation processes due to its ritualistic elements.

The researcher argues that the integration of mediation into legal systems often fails to account for the cultural underpinnings of traditional conflict resolution methods. This dissonance can undermine the legitimacy and acceptance of mediation, particularly in rural or culturally conservative areas. They are accessible, trusted, and tailored to local norms, making them effective in addressing community-based conflicts. They lack neutrality, transparency, or enforceability in cases involving significant power imbalances or human rights violations.

While mediation is perceived as foreign, it is not inherently incompatible with traditional practices. Effective adaptation and integration require recognizing the shared principles between mediation and traditional systems (e.g., focus on reconciliation). Ensuring mediators are trained to understand and respect cultural contexts. In Kenya, community-based mediation programs have successfully incorporated traditional elders as mediators, enhancing acceptance and effectiveness (Wachira, 2020).

Experience with Mediation

The respondents, when asked about their experience with mediation had mixed feelings regarding the same. Regarding the above, informants noted that

"When I finally participated in mediation, I realized it was faster and less stressful than going through court hearings, but I wish I had known this earlier."(KI 6)

The response highlighted the potential advantages of mediation as an Alternative Dispute Resolution (ADR) mechanism and the barriers to its utilization due to a lack of awareness. It reflected the practical benefits of mediation, including efficiency and reduced emotional strain, while also emphasizing the need for better public education and awareness campaigns.

It's clear that mediation is generally faster than litigation because it avoids the procedural delays common in formal court processes (Bush & Folger, 1994). The flexibility in scheduling and the focus on direct communication contribute to quicker resolution of disputes. In the United States, mediation has been used to resolve disputes in weeks compared to months or years in the courts (Bingham, 2004). This

efficiency is particularly valuable in commercial disputes where time is a critical resource. However, while faster in many cases, the efficiency of mediation depends on the willingness of parties to cooperate. Uncooperative parties can still prolong the process.

In other cases, mediation is less adversarial than litigation, creating a collaborative environment where parties work together to find mutually beneficial solutions. This approach reduces the emotional toll often associated with court battles. In Australia, family dispute resolution services emphasize mediation for divorce cases, significantly reducing the stress on families compared to adversarial court proceedings (Parkinson, 2013). While mediation is less formal, it may still be stressful for parties in cases involving deep-seated animosities or power imbalances, such as domestic disputes.

However, the respondent's statement underscored a critical barrier that is insufficient public knowledge about mediation and its benefits. This gap in awareness often prevents individuals from considering mediation as a viable option. In Uganda, a study by Mwesige (2021) found out that most individuals only learn about mediation when compelled to participate in court-annexed programs. This late introduction limits its potential as a preventive or primary conflict resolution mechanism. Public awareness campaigns about mediation are often sporadic and poorly funded. Governments and legal institutions need to invest more in outreach efforts to make mediation a first-line option for dispute resolution.

This also reflected a common perception that mediation is a step before court judgment, rather than an independent and effective dispute resolution mechanism. This perception diminishes its credibility and attractiveness. In India, mediation is often viewed as a "poor man's court" due to its informal nature, despite its proven success in resolving civil disputes efficiently (Menon, 2020). This misconception stems from a lack of standardization in mediation processes and inadequate training of mediators, which can undermine public confidence.

Globally, mediation has been widely recognized for its ability to reduce court backlogs and improve access to justice. For instance, in Singapore, the government's push to institutionalize mediation as a cornerstone of the legal system has led to its adoption in commercial and family disputes (Chua, 2019). Public awareness campaigns have been critical in achieving this success. Even in countries with advanced mediation systems, certain demographics—such as low-income populations—remain unaware of their rights to access mediation.

In Africa, the implementation of mediation has been uneven. While countries like Rwanda have integrated community-based mediation into their justice systems, others, including Uganda, have struggled to create public awareness or provide sufficient resources for mediators (Mutisi, 2012). In Kenya, efforts to integrate mediation into the judiciary through court-annexed systems have shown promise, but outreach to rural communities remains limited (Wachira, 2020). In Uganda, mediation is primarily accessed through court-annexed programs. While effective in reducing case backlogs, these programs are not widely known outside urban centers,

limiting their reach. The respondent's experience reflects the gap between the benefits of mediation and the public's awareness of these benefits.

Asked about the Need for Advocacy

To this, a key informant reported that,

"The government or NGOs should help us understand how mediation works and why it's important—it could save us time and money."(KI 7)

The response underscored the critical role of awareness and education in promoting mediation as an alternative dispute resolution (ADR) mechanism. The statement highlighted the potential benefits of mediation while pointing out the current gaps in public understanding. This response had significant implications for policymakers, civil society organizations, and stakeholders in the justice system. It can be noted thus that governments and NGOs play a pivotal role in raising awareness about mediation. Their involvement is necessary to demystify the process and showcase its advantages. In Singapore, the Ministry of Law collaborated with the Singapore Mediation Centre to educate the public about mediation through media campaigns, workshops, and court-annexed mediation programs (Chua, 2019). While public education initiatives have proven effective in Singapore, they may face challenges in low-resource settings where literacy and access to information are limited.

Governments can integrate mediation education into national legal frameworks and community development programs. Similarly, NGOs can use grassroots campaigns to reach marginalized groups. In Rwanda, NGOs partnered with local leaders to educate communities about mediation as part of the Gacaca courts' post-genocide

reconciliation process (Mutisi, 2012). This integration significantly reduces costs and time spent on formal litigation. While effective in Rwanda, reliance on NGOs can lead to inconsistent implementation across regions if government support is insufficient.

Mediation is designed to resolve disputes quickly compared to traditional litigation, which often involves prolonged hearings and appeals. In the United Kingdom, the Civil Mediation Council reports that 70% of mediated disputes are resolved within a day, drastically reducing the time burden compared to court proceedings (Civil Mediation Council, 2021). Educating the public about this efficiency could thus encourage more people to opt for mediation, reducing court backlogs and improving access to justice. Mediation is generally less expensive than litigation because it involves fewer procedural requirements and relies on negotiated agreements. The Justice Law and Order Sector (JLOS) reports that mediation fees are substantially lower than court fees, making it more accessible to low-income groups (JLOS, 2020). Despite its affordability, a lack of understanding about mediation's financial benefits leads many individuals to pursue litigation, believing it to be the only legitimate avenue for justice. Many individuals view mediation as unfamiliar or informal compared to traditional court systems or cultural methods of conflict resolution. In Kenya, studies have found that while mediation programs exist, many citizens still prefer traditional elders for dispute resolution because of trust and cultural alignment (Wachira, 2020). This lack of trust underscores the need for tailored awareness programs that emphasize mediation's neutrality, fairness, and alignment with local values. Awareness campaigns often fail to reach rural and underprivileged

communities where disputes are most prevalent. Governments and NGOs tend to focus on urban centers, leaving rural areas underserved. This disparity reinforces existing inequities in access to justice.