AN EXAMINATION OF THE EFFICACY OF MEDIATION IN RESOLVING EMPLOYMENT DISPUTES IN UGANDA.

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DECLARATION

I, **JAMES SANYA,** declare that this dissertation is my original work. I acknowledge that I know the rules on plagiarism and declare that this dissertation has neither been submitted partially nor in totality to another institution for the award of a degree. It has not been published by any other person. All the sources and materials relied on in the writing of this dissertation have been duly acknowledged and referenced.

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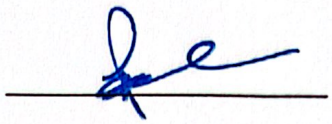
Signature: ……

JAMES SANYA.

SUPERVISOR'S APPROVAL

This dissertation, entitled **AN EXAMINATION OF THE EFFICACY OF MEDIATION IN RESOLVING EMPLOYMENT DISPUTES IN UGANDA** by James Sanya, has been written under my supervision and is submitted with my approval.

Dated this ....04.....day of June 2026.



Dr. Ivan Engoru

(Supervisor)

DEDICATION

To my lovely family, Carol, Jordin, Jayden, Jewel. Thank you for supporting and enduring the sacrifices that ensued in the pursuit of this academic milestone.

ACKNOWLEDGMENTS

I extend my gratitude to Dr Ivan Engoru, my supervisor, who extended to me invaluable feedback and genuine guidance, which made this challenge intellectually engaging and worthwhile, as well as the support and critique, in the final steps of achieving this milestone.

In a special way, I appreciate the love and support of my dear family, especially my parents, siblings , extended relatives and colleagues in the 54th, your belief and motivation, sustained and encouraged me to achieve what I set out to accomplish.

Above all, I am grateful to Almighty God, who has seen me through the highs and lows of this journey and directed my path towards success.

ABSTRACT

Mediation is widely promoted in international labour-justice scholarship as a faster, cheaper, and more relationship-preserving alternative to litigation. This study started from the hypothesis that, although mediation is recognised in the Labour Disputes (Arbitration and Settlement) Act, Cap 227, the Employment Act, Cap 226, and the Judicature (Mediation) Rules, 2013, it remains underused and poorly integrated within the country's employment-dispute resolution system.

Adopting a doctrinal and comparative methodology, supplemented by qualitative interviews with the dispute resolution team leader at the Platform for Labour Action (PLA) and the Labour Officer at Makindye Division, this dissertation examines the efficacy of mediation in resolving employment disputes in Uganda.

The study critically analyses the constitutional, statutory, and institutional architecture; compares mediation with litigation across the four metrics of cost, speed, confidentiality, and party satisfaction; and benchmarks Uganda's framework against the jurisdictions of Kenya and Ghana.

The study finds that Uganda's framework on labour dispute mediation does not lay a clear foundation for settling all employment disputes through mediation; that Labour Officers operate without consistent qualification standards; and that the Industrial Court remains overstretched, handling thousands of pending cases each year while conducting only a few dozen mediations.

Through the comparative analysis, the study finds that by contrast, Kenya and Ghana demonstrate that mandatory mediation, autonomous institutions, automatic enforceability, and decentralised reach can together produce settlement rates well above fifty per cent (50%) and disposal times measured in weeks rather than years. Kenya and Ghana are adopted as comparisons because they are directly comparable African common-law contexts.

The dissertation argues that mediation in Uganda will not realise its potential through legal recognition alone. It proposes a coordinated package of legal, institutional, operational, and contractual reforms, including the resolution of the ambiguity between Sections 12 and 92 of the Employment Act, the statutory enforceability of mediated settlements, the decentralisation of the Industrial Court through regional mediation panels, the mandatory accreditation and training of mediators, and the standardisation of contractual mediation clauses in employment contracts.

According to the study, adoption of these reforms will transform mediation from a peripheral procedural option into a central pillar of Uganda's labour-justice system. Consequently, the reforms will advance industrial harmony, equitable access to justice, and the constitutional commitment to expeditious dispute resolution under Article 126 of the Constitution.

Keywords: *Mediation; employment disputes; Industrial Court; Labour Officers; labour justice.*

LIST OF ABBREVIATIONS

Abbreviation	Meaning
ACAS	Advisory, Conciliation and Arbitration Service (United Kingdom)
ADR	Alternative Dispute Resolution
ADRAC	Alternative Dispute Resolution Advisory Council
CADER	Centre for Arbitration and Dispute Resolution
CCMA	Commission for Conciliation, Mediation and Arbitration (South Africa)
EAC	East African Community
EOC	Equal Opportunities Commission
FMCS	Federal Mediation and Conciliation Service (United States)
HRM	Human Resource Management
ICAMEK	International Centre for Arbitration and Mediation in Kampala
ILO	International Labour Organisation
JLOS	Justice, Law and Order Sector
JSPV	Judiciary Strategic Plan V (2021/22–2024/25)
LADASA	Labour Disputes (Arbitration and Settlement) Act
LC	Local Council
M&E	Monitoring and Evaluation
MGLSD	Ministry of Gender, Labour and Social Development
NGO	Non-Governmental Organisation
NSSF	National Social Security Fund
PLA	Platform for Labour Action
UBC	Uganda Broadcasting Corporation
UN	United Nations
US	United States

LIST OF LEGAL INSTRUMENTS

I. International Instruments

1. Labour Relations (Public Service) Convention, 1978 (ILO Convention No. 151)
2. Collective Bargaining Convention, 1981 (ILO Convention No. 154)
3. Examination of Grievances Recommendation, 1967 (ILO Recommendation No. 130)
4. Violence and Harassment Convention, 2019 (ILO Convention No. 190)
5. Labour Administration Convention, 1978 (ILO Convention No. 150)
6. Right to Organise and Collective Bargaining Convention, 1949 (ILO Convention No. 98)
7. Voluntary Conciliation and Arbitration Recommendation, 1951 (ILO Recommendation No. 92)

II. Domestic (Ugandan) Legal Instruments

1. The Constitution of the Republic of Uganda, 1995
2. The Employment Act, Cap. 226
3. The Labour Disputes (Arbitration and Settlement) Act, Cap. 227
4. The Equal Opportunities Commission Act, Cap. 7
5. The Public Service (Negotiating, Consultative and Disputes Settlement Machinery) Act, Cap. 93
6. Judicature Act, Cap. 16
7. The Judicature (Mediation) Rules, 2013
8. The Civil Procedure (Amendment) Rules, S.I. No. 33 of 2019

III. Comparative / Foreign Instruments

A. South Africa

1. The Constitution of the Republic of South Africa, 1996
2. The Labour Relations Act, No. 66 of 1995
3. The Superior Courts Act, 2013

B. The Republic of Ghana

1. Constitution of the Republic of Ghana, 1992.
2. Labour Act 2003, Act 651.
3. Alternative Dispute Resolution Act 2010, Act 798.
4. High Court (Civil Procedure) Rules 2004, CI 47.

C. The Republic of Kenya

1. Constitution of Kenya, 2010.
2. Civil Procedure Act, Cap 21.

3. Employment Act 2007, Act No. 11 of 2007.
4. Labour Relations Act 2007, Act No. 14 of 2007.
5. Labour Institutions Act 2007, Act No. 12 of 2007.
6. Employment and Labour Relations Court Act 2011, Act No. 20 of 2011.

LIST OF JUDICIAL DECISIONS

I. Ugandan Judicial Decisions

1. AIG Uganda Limited v James Maguru, Labour Dispute Claim No. 29 of 2017.
2. Asaph Ntege & Ors v Attorney General, Constitutional Court Petition No. 33 of 2017
3. Betuco (U) Ltd and another v Barclays Bank of Uganda Ltd and 3 Others, HCT-00-CC-MA-0243-2009.
4. British American Tobacco (U) Ltd v Mwijakubi and 4 Ors, Civil Appeal No.01 of 2012
5. Carlton Douglas Kasirye v Sheena Ahumuza Bageine A.K.A Tasha, Miscellaneous Application No. 150 of 2020
6. Efrance Musimenta v United Bank for Africa, Labour Dispute Claim No. 210 of 2020
7. Eng. John Eric Mugyenyi v Uganda Electricity Generation Company Limited, Civil Appeal No. 167 of 2018
8. Fiona Mawadri Mulema v Stanbic Bank (U) Ltd, Labour Dispute Claim No. 224 of 2018
9. Guarantee Trust Bank (U) Ltd v Acaye Fred, High Court Civil Appeal No. 51 of 2018
10. Hima Cement Limited v Uganda Building Construction, Civil, Engineering, Cement & Allied Workers Union, Labour Dispute Miscellaneous Application No. 1 of 2020
11. Ozuu Brothers Enterprises v Ayikoru, HC Civil Revision No. 0002 of 2016
12. Protea Hotel Kampala v Nyinakiiza, Labour Dispute Appeal No. 15 of 2015
13. Ruthra Agaba Kamukama v Uganda Broadcasting Corporation (UBC), LDR No. 163 of 2021

II. South African Judicial Decisions

1. Gert Nel Incorporated Attorneys v Head of The Gauteng Division of The High Court And 5 Others: In The Constitutional Court of South Africa; Case No: 96/2025
2. National Education Health & Allied Workers Union (NEHAWU) v University of Cape Town and Others, [2002] ZACC 27
3. Sidumo and Another v Rustenburg Platinum Mines Ltd and Others, CCT 85/06 [2007] ZACC 22

III. United Kingdom Judicial Decisions

1. Cumbria Waste Management Ltd & Lakeland Waste Management Ltd v Baines Wilson, [2008] EWHC 786 (QB)
2. Dunnett v Railtrack plc, [2002] EWCA Civ 303
3. Halsey v Milton Keynes General NHS Trust, [2004] EWCA Civ 576

CHAPTER ONE: INTRODUCTION

1.1 INTRODUCTION

Employment is, as the International Labour Organisation has consistently observed, the principal vehicle through which most adults secure their livelihood, exercise their dignity, and participate in the social and economic life of the State.[1] In Uganda, the working-age population grew from approximately 9.4 million in 2017 to over 11.7 million in 2024, and paid employment accounts for the largest single source of household income.[2] The Constitution of the Republic of Uganda, 1995, recognises this centrality through the right to practise one's profession and through the duty placed on the State to provide expeditious and substantively fair adjudication of all disputes brought before its courts.[3]

Yet workplace disputes are inevitable. Whatever the legal protection on paper, disagreements over wages, termination, discipline, discrimination, and conditions of service are an ordinary feature of the employer–employee relationship.[4] In Uganda, the volume of such disputes has risen sharply: the Industrial Court's *Annual Performance Report 2023/2024* records that the Court received 1,272 new claims in the financial year, against a backlog of more than 4,800 unresolved cases inherited from previous years.[5] These are conservative figures; many disputes are settled informally at the labour office, withdrawn before filing, or simply abandoned for want of access to the formal system.[6]

Uganda's legal framework formally recognises mediation. Section 5(3) of the Labour Disputes (Arbitration and Settlement) Act, Cap 227, contemplates mediation by the labour officer; section 92 of the Employment Act, Cap 226, provides for conciliation as a preliminary step; the Judicature Act, Cap 16, read with the Judicature (Mediation) Rules, 2013 (Statutory Instrument 10 of 2013), provides for court-annexed mediation in civil proceedings; and Uganda's international obligations

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[1] International Labour Organisation, World Employment and Social Outlook: Trends 2024 (ILO 2024) 12–14; see also the Preamble to the Constitution of the International Labour Organisation, 1919, recognising that lasting peace can be established only if it is based upon social justice in employment relations.

[2] Uganda Bureau of Statistics, National Labour Force Survey 2023/24: Final Report (UBOS, Kampala 2024) ch 3, recording an expansion of the working-age population from approximately 9.4 million in 2017 to 11.7 million in 2024, with paid employment accounting for the largest single source of household income.

[3] Constitution of the Republic of Uganda, 1995, Articles 40(1) & (2) and 126(1) & (2)

[4] Cheryl Dolder, 'The Contribution of Mediation to Workplace Justice' (2004) 33 Industrial Law Journal 320, 323; Lisa Blomgren Bingham, 'Employment Dispute Resolution: The Case for Mediation' (2004) 22 Conflict Resolution Quarterly 145, 148.

[5] Industrial Court of Uganda, Annual Performance Report 2023–2024 (Industrial Court Secretariat, Kampala 2024) 18–20.

[6] Sarah Nabaate, The Effectiveness of the Industrial Court in the Settlement of Labour Disputes in Uganda (Makerere University 2015) 41–43; Platform for Labour Action, Annual Report 2024 (PLA Uganda 2024) 10, recording a substantial volume of disputes settled informally at PLA without ever entering the formal labour-justice system.

under International Labour Organisation Conventions Nos. 98, 150 and 154, each duly ratified, reinforce that recognition.[7]

Nonetheless, mediation in employment disputes remains underused, inconsistently implemented and inadequately enforced. The Industrial Court's 2023/2024 Report records that only 43 matters were referred to mediation in the year, against more than 1,000 contested filings; of those, fewer than half were settled.[8] The empirical and doctrinal gap between mediation's recognised potential and its operational reality in Uganda is the central puzzle this dissertation seeks to address.[9]

The dominant Ugandan response to this rising caseload has been adversarial: cases are routed, principally, to the Industrial Court, to the labour officer under sections 5 and 12 of the Labour Disputes (Arbitration and Settlement) Act, Cap 227,[10] or, exceptionally, to the High Court.[11] The litigation model is, however, costly and slow: studies of the Industrial Court report median times-to-disposal measured in years rather than months,[12] with litigation costs that, even in modest claims, regularly exceed the wages in dispute.[13] More fundamentally, adversarial adjudication tends to crystallise rather than repair the rupture between the parties, resulting in the working relationship rarely surviving the proceedings.[14]

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[7]Section 5(3), Labour Disputes (Arbitration and Settlement) Act, Cap 227; section 92, Employment Act, Cap 226; Judicature Act, Cap 16; Judicature (Mediation) Rules, 2013 (SI 10 of 2013); ILO Convention No. 98 (Right to Organise and Collective Bargaining, 1949), ratified by Uganda on 4 June 1963; ILO Convention No. 150 (Labour Administration, 1978), ratified by Uganda on 2 June 1983; and ILO Convention No. 154 (Collective Bargaining, 1981).

[8]Industrial Court of Uganda (n 5) 22–24, recording that 43 matters were referred to mediation in the 2023/2024 financial year, of which fewer than half resulted in a recorded settlement.

[9]Ruth Kobusingye, An Examination of the Impact of Mediation as a Dispute Resolution Mechanism: A Case Study of Uganda (Kampala International University 2019) 16–18; G O Antai and N M Kagere, 'Role of the Employment Act in Organisational Justice in Uganda: An Appraisal' (2025).

[10]Sections 5 and 12 of the Labour Disputes (Arbitration and Settlement) Act, Cap 227, read together with section 92 of the Employment Act, Cap 226.

[11]See, for example, Eng. John Eric Mugyenyi v Uganda Electricity Generation Company Limited, Civil Appeal No. 167 of 2018; Asaph Ntege & Ors v Attorney General, Constitutional Court Petition No. 33 of 2017.

[12]Hon. Justice Asaph Ruhinda Ntengye, 'The Role of the Industrial Court in the Administration of Justice' (paper presented at the 20th Annual Judges Conference, Commonwealth Resort Hotel Munyonyo, 21–25 January 2018) 4–6 https://judiciary.go.ug/files/downloads/The%20Role%20of%20the%20Industrial%20Court%20in%20Administration%20of%20Justice%20by%20Hon.%20Justice%20Asaph%20Ruhinda%20.pdf

[13]Komugisha Darlen, The Efficacy of Mediation as an Alternative Dispute Resolution Mechanism: A Critique (KIU 2019) 28–31; Sanjeev Kumar, 'Navigating Business Disputes: When to Litigate and When to Mediate' (2025) https://thekumarlawfirm.com/navigating-business-disputes-when-to-litigate-and-when-to-mediate/

[14]J F Anderson and L B Bingham, 'Upstream Effects from Mediation of Workplace Disputes: Some Preliminary Evidence from the USPS' (1997) 48 Labor Law Journal 601, 612–615.

This research, accordingly, examines the efficacy of mediation in resolving employment disputes in Uganda. It does so by analysing the constitutional, statutory and institutional framework, by comparing mediation with litigation across the four established metrics of cost, speed, confidentiality and party satisfaction, by benchmarking Uganda's framework against Kenya and Ghana, and by proposing a coordinated package of legal, institutional, operational and contractual reforms designed to transform mediation from a peripheral procedural option into a central pillar of Uganda's labour-justice system.

1.2 BACKGROUND

The Ugandan framework for the resolution of employment disputes has evolved through three distinct phases. In the post-independence period, employment was regulated principally through the Employment Decree of 1975 and the Trade Unions Decree of 1976, both of which were instruments of executive labour control rather than instruments of voluntary dispute resolution.[15] The 1995 Constitution marked a deliberate departure: article 40(1) entrenched the right to fair labour practices, article 40(2) entrenched the right to practise one's profession, and article 126(1) and (2) imposed on the courts an enforceable duty to administer justice without delay.[16]

In the second phase, the legislature enacted the Employment Act, 2006 (now Employment Act, Cap 226), and the Labour Disputes (Arbitration and Settlement) Act, 2006 (now Cap 227), to give effect to those constitutional commitments. Cap 227 established the Industrial Court as the specialist labour-justice forum and introduced the institutional cadre of Labour Officers under the Ministry of Gender, Labour and Social Development.[17]

In the third phase, beginning in 2013, the Judiciary supplemented this specialist labour-justice architecture with a court-annexed mediation programme of general application. The Judicature Act, Cap 16, read with the Judicature (Mediation) Rules, 2013 (Statutory Instrument 10 of 2013), now requires mediation to be considered in all civil proceedings before the High Court and its specialist divisions.[18] In commercial matters, that programme has produced encouraging results,

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[15] Employment Decree, 1975 (Decree 4 of 1975); Trade Unions Decree, 1976 (Decree 20 of 1976), both repealed by the Employment Act, 2006. See, generally, F Ssekandi, Law and Development in Uganda (Makerere University Press 2017) ch 7 (tracing the evolution of Ugandan labour legislation from the colonial Master and Servants Ordinance, 1913 through the post-independence decrees to the post-1995 statutory framework).

[16] Constitution of the Republic of Uganda, 1995, articles 40(1) and (2), 126(1) and (2). For the constitutional shift in labour rights jurisprudence see Asaph Ntege & Ors v Attorney General, Constitutional Court Petition No. 33 of 2017.

[17] Employment Act, Cap 226 (originally enacted as Act No. 6 of 2006); Labour Disputes (Arbitration and Settlement) Act, Cap 227 (originally enacted as Act No. 8 of 2006); see also Public Service (Negotiating, Consultative and Disputes Settlement Machinery) Act, Cap 93.

[18] Judicature Act, Cap 16, s 41, read with the Judicature (Mediation) Rules, 2013 (Statutory Instrument 10 of 2013), rr 4 and 16; subsequently amended by the Civil Procedure (Amendment) Rules, S.I. No. 33 of 2019.

with the Commercial Division of the High Court reporting settlement rates of approximately thirty-five to forty per cent over the period 2018–2024.[19]

Outside the commercial sphere, however, the take-up has been uneven, and in employment disputes, the absence of a clear interface between the 2013 Mediation Rules and the labour-officer regime under Cap. 227 has been the principal source of the inconsistency this dissertation seeks to address.[20]

Globally, mediation has been embraced as the principal complement to formal labour adjudication. Kenya's Court-Annexed Mediation programme, since 2015, with the Mediation Accreditation Committee operationalised in 2016;[21] and Ghana's National Labour Commission and the Alternative Dispute Resolution Act, 2010, since the early 2010s.[22] Each of these regimes has demonstrated, in different ways, that mediation can deliver faster, cheaper and more relationship-preserving outcomes than litigation in employment disputes, and each has been the subject of substantial scholarly evaluation that informs the comparative analysis at Chapter Four below.

Uganda's own engagement with mediation has been recognised but limited in employment law. Magumba and Namagga have written on the effectiveness of mediation in commercial disputes;[23] Birungi has examined its application in land-acquisition disputes;[24] Najjemba has examined its role in the broader administration of justice;[25] Kobusingye has produced the only sustained doctrinal study of mediation in Uganda specifically;[26] and Antai and Kagere have, most recently, considered the role of the Employment Act in organisational justice, although without a sustained focus on

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[19]Justice S. Edmon, The Potency of Alternative Dispute Resolution in Resolving Ugandan Civil Disputes: A Comprehensive Examination and Recommendations (IAA-JM 2024) 23–25; KAA Advocates, 'KAA Chapter for the Chambers Litigation 2024 Guide (Law and Practice)' (23 January 2024) https://www.kaa.co.ug/kaa-chapter-for-the-chambers-litigation-2024-guide-law-and-practice/

[20]Industrial Court of Uganda, Annual Performance Report 2023–2024 (Industrial Court Secretariat, Kampala 2024) 22–24; for the underlying terminological confusion see further the discussion at section 4.2.1 below ('Ambiguous framework').

[21]Civil Procedure Act, Cap 21 (Kenya), ss 59A and 59B; Mediation (Pilot Project) Rules 2015, Legal Notice No. 197 of 2015; Practice Directions on Court-Annexed Mediation, Kenya Gazette Notice No. 1088 of 2016.

[22]Labour Act, 2003 (Act 651) (Ghana), Part XVIII (ss 135–174); Alternative Dispute Resolution Act, 2010 (Act 798) (Ghana), Part Two.

[23]N Magumba, The Effectiveness of Mediation in Resolving Commercial Disputes in Uganda (LLM dissertation 2017) 30–34; A Namagga, An Examination of the Effectiveness of Alternative Dispute Resolution as a Method of Dispute Resolution in the Commercial Division of the Uganda High Court (LLM dissertation 2018) 22–28.

[24]NM Birungi, A Critical Analysis of Mediation as a Means for Dispute Settlement under Land Acquisition by Government in Uganda (LLB dissertation, Makerere University 2019).

[25]S Najjemba, Effectiveness of Mediation and Negotiation in the Administration of Justice in Uganda (2019).

[26]R Kobusingye, An Examination of the Impact of Mediation as a Dispute Resolution Mechanism: A Case Study of Uganda (Kampala International University, School of Law 2019) 16–22.

mediation as a tool.[27] Few empirical studies have therefore examined the actual use and effectiveness of mediation in resolving employment disputes in Uganda. This is the gap this dissertation is designed to fill.

Although mediation is now formally recognised in five separate Ugandan instruments, the Employment Act, the Labour Disputes (Arbitration and Settlement) Act, the Public Service (Negotiating, Consultative and Disputes Settlement Machinery) Act, the Judicature Act, and the 2013 Mediation Rules, those instruments do not always speak with one voice. The Court of Appeal in *Eng. John Eric Mugyenyi v Uganda Electricity Generation Company Limited* required clarification that the powers of Labour Officers under section 12 of the Employment Act are limited to mediation and conciliation;[28] however, the textual ambiguity that gave rise to that decision remains on the statute book.

Against that historical, institutional, and doctrinal background, this dissertation examines the efficacy of mediation in resolving employment disputes in Uganda.

1.3 PROBLEM STATEMENT

The central problem this dissertation addresses is that mediation, although formally recognised by Ugandan law as a mechanism for resolving employment disputes, remains underused, inconsistently implemented, and largely unenforceable in practice.[29] The result is that workers and employers continue to bear the costs, delays, and relational ruptures associated with adversarial litigation, even though the law itself contemplated a more conciliatory route. The problem has three identifiable layers, each separately evidenced.

First, statutory ambiguity. Section 5 of the Labour Disputes (Arbitration and Settlement) Act, Cap 227, contemplates mediation by the Labour Officer; section 92 of the Employment Act, Cap 226, contemplates conciliation or mediation as a preliminary step.[30] Neither term is statutorily defined, the relationship between them is not articulated, and the Public Service (Negotiating, Consultative and Disputes Settlement Machinery) Act, Cap 93, then introduces a third concept of "negotiation" without resolving the underlying terminological confusion.[31]

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[27] GO Antai and NM Kagere, 'Role of the Employment Act in Organisational Justice in Uganda: An Appraisal' (2025).

[28] Eng. John Eric Mugyenyi v Uganda Electricity Generation Company Limited, Civil Appeal No. 167 of 2018, at p 5 (the Court of Appeal observing that the powers of Labour Officers should be limited to only mediation and conciliation).

[29] Kobusingye (n 26) 18; Industrial Court of Uganda (n 20) 22–24, recording 43 mediation referrals against more than one thousand contested filings in 2023/2024.

[30] Sections 5 and 12 of the Labour Disputes (Arbitration and Settlement) Act, Cap 227, read with section 92 of the Employment Act, Cap 226.

[31] Public Service (Negotiating, Consultative and Disputes Settlement Machinery) Act, Cap 93, ss 1 and 2 (introducing the concept of "negotiation" without statutorily defining its relationship to mediation or conciliation).

The Court of Appeal in *Eng. John Eric Mugyenyi v Uganda Electricity Generation Company Limited* had to clarify that the powers of Labour Officers were limited to mediation and conciliation;[32] however, the textual basis for that confusion remains.

Second, institutional weakness. The Industrial Court *Annual Performance Report 2023/2024* records 1,272 new claims for the year against an inherited backlog of more than 4,800; only 43 matters were referred to mediation, and fewer than half of those were settled.[33] The Labour Officer cadre, which is the regulatory front line for employment disputes, operates without statutory minimum qualifications, a national accreditation framework, or standard operating procedures across districts.[34] The result is that mediation outcomes are inconsistent across regions and unpredictable for the parties.

These layers of problems produce three measurable consequences:

(a) First, the dispute resolution costs in employment matters in Uganda are disproportionately high relative to the wages at issue,[35] resulting in low-paid and informal-sector workers, who account for the great majority of the labour force,[36] being effectively priced out of the formal system.
(b) Secondly, the Industrial Court's caseload backlog continues to grow, undermining the constitutional commitment to expeditious adjudication under Article 126 of the Constitution.[37]
(c) Thirdly, the rupture between worker and employer, once it has reached litigation, is rarely repaired, with the result that an instrument of social cooperation is converted into one of social distance.[38]

Compounding the doctrinal problem is an empirical and scholarly one. The existing Ugandan literature on mediation focuses almost exclusively on commercial, civil, and land-acquisition

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[32]Eng. John Eric Mugyenyi v Uganda Electricity Generation Company Limited (n 28).

[33]Industrial Court of Uganda (n 20) 18–24.

[34]Ministry of Gender, Labour and Social Development, Training Manual on Mediation (2023) chs 1–2 https://mglsd.go.ug/training-material/

[35]Komugisha Darlen, The Efficacy of Mediation as an Alternative Dispute Resolution Mechanism: A Critique (KIU 2019) 28–31.

[36]Uganda Bureau of Statistics, National Labour Force Survey 2023/24: Final Report (UBOS, Kampala 2024) ch 4, recording that approximately seventy per cent of Uganda's working-age population is engaged in the informal sector or in informal employment within the formal sector.

[37]Constitution of the Republic of Uganda, 1995, art 126(1) and (2); see also Hima Cement Limited v Uganda Building Construction, Civil, Engineering, Cement & Allied Workers Union, Labour Dispute Miscellaneous Application No. 1 of 2020.

[38]Cheryl Dolder, 'The Contribution of Mediation to Workplace Justice' (2004) 33 Industrial Law Journal 320, 325–328; Lisa Blomgren Bingham, 'Employment Dispute Resolution: The Case for Mediation' (2004) 22 Conflict Resolution Quarterly 145, 148–150.

disputes;[39] although Kobusingye has produced a sustained doctrinal study of mediation in Uganda,[40] no published study has, prior to this dissertation, evaluated the efficacy of mediation in employment disputes specifically.

That is to say, no study has compared mediation with litigation across the four established metrics of cost, speed, confidentiality and party satisfaction in the labour context, nor has any study benchmarked Uganda's framework against the comparable African common-law regimes that are the most natural reform comparators.[41]

This dissertation, therefore, seeks to fill that gap by critically examining the efficacy of mediation in resolving employment disputes in Uganda, identifying the legal, institutional and operational barriers to its uptake,[42] and proposing a coordinated reform package designed to align Uganda's framework with the constitutional commitments in Articles 40 and 126 and with the regional best practice that this study identifies.[43]

1.4 RESEARCH OBJECTIVES

1.4.1 General Objective:

To examine the efficacy of mediation in resolving employment contract disputes in Uganda.

1.4.2 Specific Objectives:

1. To analyse the legal and institutional framework governing mediation in employment disputes in Uganda.

2. To compare mediation with litigation in terms of cost, speed, confidentiality, and satisfaction of parties in employment disputes.

3. To investigate the practical challenges and barriers hindering the use of mediation in employment disputes.

4. To propose legal and policy reforms that could strengthen the role of mediation in Uganda's employment dispute resolution system.

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[39] Magumba (n 23); Namagga (n 23); Birungi (n 24); Najjemba (n 25); Edmon (n 19).

[40] Kobusingye (n 26).

[41] See further the Literature Review at section 1.9 below, which evidences the empirical gap on mediation in employment disputes specifically.

[42] See Chapter Four below at sections 4.4 and 4.4A–4.4F (comparative analyses of the United States, the United Kingdom, South Africa, Kenya and Ghana).

[43] See further Chapter Five below.

1.5 RESEARCH QUESTIONS

1. What is the legal and institutional framework regulating mediation in employment disputes in Uganda?

2. How does mediation compare to litigation in terms of cost, speed, confidentiality, and satisfaction of parties in employment disputes?

3. What practical barriers limit the uptake and effectiveness of mediation in employment disputes in Uganda?

4. What reforms can enhance the use and efficacy of mediation in resolving employment disputes in Uganda?

1.6 METHODOLOGY

This study adopted a qualitative research methodology, supplemented by descriptive quantitative data where appropriate, in order to generate both doctrinal and empirical insights into the role of mediation in resolving employment disputes in Uganda.

A qualitative approach was preferred because the subject matter of the study, the operation of mediation as a mechanism for resolving employment disputes, concerns institutional behaviour, professional practice, and the experiences of the parties, all of which are best understood through interpretive rather than purely numerical methods.[44]

Besides, the research questions called not only for an analysis of the formal legal framework governing mediation, but also for an understanding of how that framework operates in practice. A mixed doctrinal-empirical strategy was, therefore, necessary to bridge the well-known gap between the law in the books and the law in action.[45]

1.6.1 Research Design

The research adopted a hybrid design that combined doctrinal legal analysis with key-informant interviews. Doctrinal analysis was selected because the central research questions, such as those concerning the adequacy and coherence of the statutory and judicial framework governing mediation in employment disputes, are inherently questions about the meaning, structure, and gaps

[44] Sharan B Merriam and Elizabeth J Tisdell, *Qualitative Research: A Guide to Design and Implementation* (4th edn, Jossey-Bass 2016) 14–17 (qualitative methods are best suited to studies whose object is meaning, process, and lived experience rather than measurement).

[45] Roscoe Pound, 'Law in Books and Law in Action' (1910) 44 *American Law Review* 12, 35; see also Reza Banakar and Max Travers, *Theory and Method in Socio-Legal Research* (Hart Publishing 2005) 1–3.

of legal rules. The doctrinal method remains the most established technique for interrogating such questions.[46]

To this was added a comparative dimension, in which the Ugandan position was juxtaposed against selected jurisdictions whose mediation regimes have informed regional reform debates. The comparative analysis was chosen because it permits the identification of transferable lessons and exposes assumptions that might otherwise be naturalised in domestic doctrine.[47] In this regard, Kenya and Ghana reflect both the common law and a relatable socio-economic setting, making them easy to use as a mirror for Uganda.

The empirical component took the form of semi-structured interviews with purposively selected respondents. Semi-structured interviews were preferred over fully structured questionnaires because the issues investigated are not amenable to closed-ended responses and benefit from the flexibility to follow up unexpected lines of enquiry.[48]

Purposive (rather than random) sampling was adopted because the population of interest is not the general public but a small set of professionals whose roles place them in repeated, direct contact with employment dispute mediation; under such conditions, purposive sampling is the recognised method for selecting information-rich cases.[49]

Three categories of respondents were selected against the following criteria:

a) demonstrable professional engagement with employment dispute resolution in Uganda, evidenced by current practice or institutional role;
b) direct, first-hand exposure to mediation, whether as advocate, mediator, or referring officer; and
c) accessibility and willingness to participate within the time and resources available to the researcher.

Applying these criteria, a mediation-accredited advocate handling employment disputes was selected for his role as the parties' legal representative and their familiarity with how mediation is initiated, conducted, and concluded.

[46] Terry Hutchinson and Nigel Duncan, 'Defining and Describing What We Do: Doctrinal Legal Research' (2012) 17(1) *Deakin Law Review* 83, 101.

[47] Konrad Zweigert and Hein Kötz, *An Introduction to Comparative Law* (Tony Weir tr, 3rd edn, OUP 1998) 15; Mathias Siems, *Comparative Law* (3rd edn, Cambridge University Press 2022) 13–18.

[48] Steinar Kvale and Svend Brinkmann, *InterViews: Learning the Craft of Qualitative Research Interviewing* (3rd edn, Sage 2015) 150–152.

[49] Michael Q Patton, *Qualitative Research and Evaluation Methods* (4th edn, Sage 2015) 264 (purposive sampling is used to identify and select information-rich cases for in-depth study).

The legal officer at the Platform for Labour Action (PLA) was selected because PLA is one of the few civil society organisations in Uganda with a sustained portfolio of employment dispute work, particularly on behalf of low-income workers.

Finally, a labour officer at the Ministry of Gender, Labour, and Social Development (MGLSD) was selected as the state-side gatekeeper to whom employment complaints are statutorily referred.[50]

Interviews were conducted in Kampala because the institutional respondents are based there and the city has the highest concentration of employment-dispute litigation in Uganda.

1.6.2 Data Collection

Data collection drew on both primary and secondary sources, on the basis that doctrinal credibility depends in the first instance on engagement with binding legal materials, while secondary materials provide the analytical and comparative scaffolding necessary to interpret them.[51] The sources, organised by type, were as follows:

1. Statutes and subsidiary legislation, including the Employment Act, Cap. 226; the Labour Disputes (Arbitration and Settlement) Act, Cap. 227; the Judicature Act, Cap. 16; the Judicature (Mediation) Rules, 2013; and the relevant international labour instruments to which Uganda is a party. These were selected because, taken together, they constitute the binding legal framework governing both the substantive employment relationship and the mediation of disputes arising from it.

2. Ugandan case law on mediation and employment disputes, drawn from decisions of the Industrial Court, the High Court, and the appellate courts. These tribunals were chosen because, between them, they exercise original and appellate jurisdiction over the bulk of employment disputes in Uganda and produce the precedents that shape the practice of mediation in this field.

3. Semi-structured interviews with key informants. These were conducted in Kampala, comprising a mediation accredited advocate handling employment disputes, a legal officer of the Platform for Labour Action (PLA), and a labour officer at the MGLSD, selected against the criteria set out in section 1.6.1 above.

4. Secondary materials, including peer-reviewed scholarly books and journal articles, reports from the Ministry of Gender, Labour, and Social Development, policy papers, and comparative literature drawn from jurisdictions whose experiences offer instructive lessons for Uganda. These materials were used to situate the Ugandan position within the wider

[50] Employment Act, Cap. 226, ss 93–94 (jurisdiction of the labour officer over employment complaints).

[51] Mike McConville and Wing Hong Chui (eds), *Research Methods for Law* (2nd edn, Edinburgh University Press 2017) 4–6.

scholarly and comparative debate and to test the doctrinal findings against external standards.

1.6.3 Data Analysis

The doctrinal data were analysed thematically, with the legal materials grouped around the core themes of mediation, employment dispute resolution, and access to justice to identify gaps, overlaps, and inconsistencies within the legal framework.[52] Thematic analysis was preferred because it preserves the interpretive logic that distinguishes legal reasoning from mere description and enables systematic comparison of provisions across statutes, case law, and international instruments.[53]

The empirical data were analysed qualitatively, using thematic analysis of the interview material to surface recurring perceptions, experiences, and barriers reported by stakeholders regarding mediation in employment disputes. Qualitative thematic analysis was chosen for the empirical material because the small, purposive sample is not designed to support inferential statistical claims; rather, it is designed to yield depth of insight, and thematic analysis is the established method for distilling such material into analytically usable categories.[54]

Where appropriate, descriptive statistics, such as the frequency of mediation uptake relative to litigation, were used to support and contextualise the qualitative findings. Descriptive statistics were preferred to inferential statistics because the available institutional data did not permit reliable inference.

The doctrinal and empirical findings were thereafter triangulated to produce a coherent assessment of the law in the books against the law in action; triangulation was adopted because it strengthens the validity of the conclusions by requiring convergence between independent strands of evidence.[55]

1.7 SIGNIFICANCE OF THE STUDY

This study is significant both academically and practically. It will enrich the scholarly literature on the mediation of employment disputes by filling a gap in empirical and doctrinal analysis. While mediation is widely studied in commercial disputes, little attention has been paid to its role in labour relations, even though this area directly affects social justice and economic development.

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[52] The importance of this method is emphasized by Jan BM Vranken, 'Methodology of legal doctrinal research' in *Methodologies of legal research Which kind of method for what kind of discipline*, (Hart Publishing 2010)

[53] Paul Chynoweth, ‘Legal Research’ in Andrew Knight and Les Ruddock (eds), *Advanced Research Methods in the Built Environment* (Wiley-Blackwell 2008) 28, 30.

[54] Virginia Braun and Victoria Clarke, ‘Using Thematic Analysis in Psychology’ (2006) 3(2) *Qualitative Research in Psychology* 77, 78.

[55] Norman K Denzin, *The Research Act: A Theoretical Introduction to Sociological Methods* (3rd edn, Prentice-Hall 1989) 234–247 (developing the concept of methodological triangulation).

The findings will provide insights for lawmakers, the Judiciary, and the Ministry of Gender, Labour, and Social Development on strengthening the legal and institutional framework for mediation in employment disputes. The study will also inform possible reforms to enhance the accessibility, efficiency, and credibility of mediation.

The study will benefit employers, employees, and trade unions by highlighting the advantages of mediation, including reduced costs, faster resolution, and the preservation of workplace harmony. It will also help mediators and labour officers to understand barriers to mediation and how to overcome them.

1.8 SCOPE OF THE RESEARCH

The study focused on the use of mediation to resolve employment contract disputes, particularly those concerning wrongful dismissal, unfair termination, non-payment of wages, breach of employment terms, and related contractual grievances.

The research was limited to Uganda.

1.9 LITERATURE REVIEW

I must begin by noting that the literature examining the efficacy of mediation in resolving labour and employment disputes is scarce.

1.9.1 Viability of Mediation in Labour Disputes

Mediation has long been promoted as a viable alternative to adversarial litigation in employment disputes. International scholarship demonstrates its potential to reduce costs, expedite resolution, and preserve workplace relationships. Anderson and Bingham,[56] in their study of the United States Postal Service, found that mediation not only resolved disputes more efficiently but also had "upstream effects" in reducing subsequent conflicts.

Similarly, Zack[57] argued that mediation offers "more justice at lower cost for more workers," particularly compared with litigation or arbitration. Mayer[58] likewise demonstrated that mediation provides a flexible platform for addressing complex employment discrimination disputes. At the same time, Gourlay and Soderquist[59] critiqued the "too little too late" deployment of mediation in

[56] Anderson JF and LB Bingham, 'Upstream effects from mediation of workplace disputes: Some preliminary evidence from the USPS' (1997) 48 *Labor Law Journal* 601.

[57] Zack AM, 'Using mediation to resolve statutory employment disputes: more justice at lower cost for more workers' (2002) 26(1) *South African Journal of Labour Relations* 97.

[58] Mayer MA, 'The Use of Mediation in Employment Discrimination Cases' (1999) *Journal of Dispute Resolution* 153.

[59] Gourlay A and J Soderquist, 'Mediation in Employment Cases is Too Little Too Late: An Organizational Conflict Management Perspective on Resolving Disputes' (1997) 21 *Hamline Law Review* 261.

workplaces, emphasising the importance of embedding conflict management systems before disputes escalate.

The theoretical basis for mediation in employment disputes has been further elaborated through the field of dispute systems design. Bingham (2004)[60] argues for mediation as a cornerstone of employment dispute resolution, a position reinforced by Bingham et al.,[61] who contend that mediation enhances perceptions of fairness and justice in workplace conflicts. Their later work[62] highlights the dangers of "creeping legalism," warning that over-formalisation may undermine mediation's flexibility and informality.

1.9.2 Adoption of Mediation in Labour Dispute Resolution

Comparative studies, such as Kyselova and Myrhorod-Karpova[63] on labour mediation in Eastern Europe and S[64] on India, demonstrate that mediation can be effective across jurisdictions but must be adapted to local legal cultures.

Within Uganda, scholarship on mediation is relatively recent and often focused on broader civil or commercial disputes. Magumba[65] and Namagga[66] analysed the effectiveness of mediation in commercial contexts, finding that although it offers efficiency, uptake remains low due to limited awareness and institutional support. Birungi[67] examined its application in land acquisition disputes, noting challenges of enforceability and power imbalances.

Najjemba[68] explored the role of mediation in the administration of justice, concluding that it could ease court backlogs but is hampered by inadequate implementation. Kobusingye,[69] in a focused

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[60] Bingham LB, 'Employment dispute resolution: The case for mediation' (2004) 22 *Conflict Resolution Quarterly* 145.

[61] Bingham LB, CR Hallberlin, HJ Walker and MK Chung, 'Dispute system design and justice in employment dispute resolution: Mediation at the workplace' (2009) 14 *Harvard Negotiation Law Review* 1.

[62] Bingham LB, KA Chesmore and HK Moon, 'Mediation in employment and creeping legalism: Implications for dispute systems design' (2010) *Journal of Dispute Resolution* 129.

[63] Kyselova O and V Myrhorod-Karpova, 'Mediation in labor disputes' (2022) 32 *Scientific Notes of Lviv University of Business and Law* 220.

[64] S S, 'Resolving Labour and Employment Disputes through Mediation and Conciliation: A Compendious Study' (2022) 4(3) *Indian Journal of Law & Legal Research* 1.

[65] Magumba N, 'The effectiveness of mediation in resolving commercial disputes in Uganda' (2017).

[66] Namagga A, 'An examination of the effectiveness of alternative dispute resolution as a method of dispute resolution in the commercial division of the Uganda High Court' (2018).

[67] Birungi NM, 'A critical analysis of mediation as a means for dispute settlement under land acquisition by government in Uganda' (2019).

[68] Najjemba S, 'Effectiveness of Mediation and Negotiation in the Administration of Justice in Uganda' (2019).

[69] Kobusingye R, *An Examination of the Impact of Mediation as a Dispute Resolution Mechanism: A Case Study of Uganda* (Kampala International University, School of Law, 2019).

study on Uganda, underscored both the promise of mediation and the need for cultural acceptance and professional training. Most recently, Edmon[70] highlighted the potency of ADR in civil disputes, urging reforms to strengthen mediation mechanisms.

In employment law, Antai and Kagere[71] analysed the role of the Employment Act in advancing organisational justice in Uganda. However, they did not provide a detailed focus on mediation as a tool. While these contributions illuminate the legal framework and potential of mediation, they remain essentially doctrinal or focused on non-employment disputes. Few empirical studies have examined the actual use and effectiveness of mediation in resolving employment contract disputes in Uganda.

Critiques of mediation in employment contexts are equally important. Darlen[72] argued that the efficacy of mediation is undermined when structural inequalities exist between employers and employees, echoing concerns raised earlier by Bompey et al.[73] about power imbalances in workplace disputes. These concerns underscore the need for safeguards to ensure fairness and voluntary participation in employment-related mediation.

Taken together, the literature establishes a strong theoretical and comparative foundation for mediation as an employment dispute resolution tool. However, the Ugandan scholarship reveals a clear gap: while mediation is recognised in the legal framework, there is limited empirical evidence on its actual uptake and performance in employment contract disputes.

This study, therefore, seeks to fill that gap by examining the efficacy of mediation in the Ugandan employment sector, comparing it with litigation and arbitration, and providing evidence-based recommendations for reform.

1.10 ETHICAL CONSIDERATIONS

The study adhered to ethical research standards to ensure the integrity and protection of participants:

1. All respondents were fully informed about the purpose of the study and voluntarily consented to participate in interviews or complete questionnaires.
2. Participants' identities are kept confidential, and data will be anonymised to avoid any harm to their personal or professional standing.

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[70] Edmon S, *The Potency of Alternative Dispute Resolution in Resolving Ugandan Civil Disputes: A Comprehensive Examination and Recommendations* (IAA-JM 2024).

[71] Antai GO and NM Kagere, 'Role of the Employment Act in Organizational Justice in Uganda: An Appraisal' (2025).

[72] Darlen K, 'The efficacy of mediation as an alternative dispute resolution mechanism: a critique' (2019).

[73] Bompey SH, et al, 'The Attack on Arbitration and Mediation of Employment Disputes' (1997) *The Labor Lawyer* 21.

3. The study avoids causing harm, distress, or retaliation against participants, especially employees who fear victimisation.
4. Data was collected and reported truthfully without fabrication, falsification, or misrepresentation.

1.11 CHAPTER SYNOPSIS

Chapter One: Introduction

This chapter provides the study's background. It sets out the research problem, objectives, research questions, significance, and scope. The chapter also justifies the choice of mediation as the focus, situating it within global trends in alternative dispute resolution (ADR). It outlines the doctrinal and comparative research methodology, the organisation of the dissertation, and the rationale for addressing mediation's efficacy in the Ugandan context.

Chapter Two: The Legal and Institutional Framework Regulating Mediation in Employment Disputes in Uganda

This chapter explores the legal and policy foundations governing mediation in employment relations. It analyses constitutional provisions, the Employment Act, the Labour Disputes (Arbitration and Settlement) Act, and the Judicature (Mediation) Rules. It also examines the institutional roles of the Ministry of Gender, Labour and Social Development, the Industrial Court, and Labour Officers.

The chapter evaluates whether these instruments provide a coherent framework for mediation or whether fragmentation undermines effectiveness. It concludes that while the legal structure is progressive, institutional overlap, limited capacity, and weak enforcement constrain mediation's potential.

Chapter Three: Comparing Mediation and Litigation in Employment Disputes

This chapter compares mediation with litigation with respect to cost, speed, confidentiality, enforceability, and parties' satisfaction. The discussion highlights the advantages of mediation while acknowledging its limitations, including power imbalances and the absence of enforcement mechanisms. A comparative review of the United Kingdom's Employment and Labour Relations Court and South Africa's Commission for Conciliation, Mediation and Arbitration underscores how Uganda can strengthen its mediation practice through the structured institutional integration of mediation.

Chapter Four: Practical Barriers Limiting the Uptake and Effectiveness of Mediation in Employment Disputes in Uganda

This chapter analyses the real-world challenges that hinder the success of mediation. These include low awareness among workers and employers, limited funding, inadequate training for mediators, weak enforcement of settlements, and entrenched cultural preferences for litigation. It also discusses the lack of comprehensive data and incentives that would prompt parties to choose mediation. Drawing on empirical and comparative insights, the chapter demonstrates that these challenges collectively undermine public confidence in mediation as a viable dispute-resolution mechanism.

Chapter Five: Reforms to Enhance the Use and Efficacy of Mediation in Employment Disputes

This chapter proposes legal, institutional, and policy reforms to mainstream mediation. Recommendations include:

1. Strengthening statutory provisions to make mediation a mandatory first step in all employment disputes.
2. Enhancing the capacity and funding of Labour Officers and CADER.
3. Introducing tax or cost incentives for parties who choose mediation.
4. Developing a certification framework for professional mediators.
5. Integrating digital and remote mediation mechanisms.

The chapter concludes by asserting that sustainable reform must be grounded in both legal and cultural transformation to make mediation accessible, credible, and enforceable.

1.12 CONCLUSION

In conclusion, this study critically examines the efficacy of mediation in resolving employment contract disputes in Uganda. While mediation is formally recognised within Uganda's legal framework, its use in employment disputes remains limited, with litigation continuing to dominate. The research will address both doctrinal and empirical gaps by analysing the legal framework, case law, and stakeholders' practical experiences, and by comparing mediation, litigation, and arbitration with respect to cost, efficiency, confidentiality, and parties' satisfaction.

By doing so, the study will highlight structural and practical barriers to the uptake of mediation and propose reforms to enhance its role within Uganda's employment sector. Ultimately, the research is expected to demonstrate mediation's potential to strengthen workplace harmony, reduce court backlogs, and promote access to affordable and timely justice for both employers and employees.

CHAPTER TWO: THE LEGAL AND INSTITUTIONAL FRAMEWORK GOVERNING MEDIATION IN EMPLOYMENT DISPUTES IN UGANDA

2.1 INTRODUCTION

This chapter examines the legal and institutional framework governing mediation in employment disputes in Uganda. It analyses the International Framework, and by extension, Uganda's obligations as a signatory to those International Conventions. The chapter further explores the roles and mandates of key institutions, including the Ministry of Gender, Labour and Social Development, Labour Officers, the Industrial Court, and other relevant bodies that mediate and settle employment disputes.

By interrogating both the normative and institutional dimensions of mediation, this chapter assesses the extent to which the existing framework facilitates the practical and accessible resolution of workplace disputes. It also highlights gaps and challenges within the current system, thereby laying the foundation for subsequent discussions on the effectiveness of mediation in practice and for proposals for legal and institutional reform.

2.2. NATIONAL LEGAL FRAMEWORK

Within the domestic legal framework, mediation is integral to the national labour administration. This is due to the Legislature's attempt to domesticate the international legal frameworks that Uganda has ratified. Unfortunately, it is underutilised.

2.2.1 The Constitution of the Republic of Uganda

This is the supreme law of the Republic of Uganda and guarantees to all persons the right to practice their profession and to engage in any lawful occupation, trade, or business.[74] The Constitution also empowers and directs Parliament to enact laws that guarantee persons the right to work under satisfactory, safe, and healthy conditions.[75]

The Constitution of Uganda provides for the administration of justice without undue regard to technicalities. It states that the exercise of judicial power must also conform to the law and to the values, norms, and aspirations of the people, applying, *inter alia,* principles that promote reconciliation between the parties.[76]

Unfortunately, Article 40 of the Constitution does not provide for mediation as a mechanism for resolving labour disputes. This is not to say that the lack of such a Constitutional provision makes mediation insignificant. Instead, an explicit provision would facilitate the work of the legislature,

[74] Article 40(2) of the Constitution of the Republic of Uganda, 1995.
[75] Article 40(1), of the Constitution of the Republic of Uganda, 1995.
[76] Article 126(1) and (2) of the Constitution of the Republic of Uganda, 1995.

scholars, and other stakeholders in determining whether mediation is an appropriate mechanism for resolving labour disputes.

2.2.2 The Employment Act, Cap 226

This is the key legislation governing employment relations for all persons in Uganda. Several provisions of the Act provide for mediation as the appropriate mechanism for dispute resolution. In **Ozuu Brothers Enterprises v Ayikoru,**[77] the Learned Judge opined that the primary intention of creating District Labour Officers as a forum for employment civil disputes resolution is to provide a speedy, inexpensive, and effective forum for the resolution of disputes arising from workmen and their employers. It is created as an alternative and concurrent rather than an exclusive forum.

First, when an employer subjects an employee to disciplinary punishment, the Act requires the labour officer, upon receiving an employee's complaint that the punishment was unjustified, to seek to resolve the matter at first instance through mediation.[78]

Secondly, in cases of summary dismissal, where the employee complains that their dismissal was unjustified, the labour officer is also required, at first instance, to settle the matter through mediation.[79]

Thirdly, where a person claims that their rights granted under the Employment Act were infringed upon, the labour officer shall have jurisdiction to hear and settle the matter by conciliation or mediation.[80]

2.2.3 The Labour Disputes (Arbitration and Settlement) Act, Cap 227

The Labour Disputes (Arbitration and Settlement) Act regulates the resolution of labour disputes. It is the primary law that provides for the roles of the labour officers, boards of inquiry, the commissioner, the minister of Gender, Labour, and Social Development, and the industrial court.

The Act provides several mechanisms for labour dispute resolution. As a result, the question of which mechanism is most appropriate has always remained open. For instance, in **Efrance Musimenta v United Bank for Africa**,[81] the Respondent challenged the Labour Office's decision on the ground that it was unlawful because the Labour Officer initiated both mediation and adjudication proceedings.

In some cases, the Industrial Court has held that it will not strike down a Labour Officer's decision simply because the Labour Officer adopted mediation and referred the case to another Labour

[77] HC Civil Revision No. 0002 of 2016
[78] Section 63 of the Employment Act, Cap 226
[79] Section 69 of the Employment Act, Cap 226
[80] Section 92 of the Employment Act, Cap 226
[81] Labour Dispute Claim No. 210 of 2020

Officer for adjudication. Prominent among these are **Fiona Mawadri Mulema v Stanbic Bank (U) Ltd,**[82] and **AIG Uganda Limited v James Maguru,**[83]

The Act therefore empowers the labour officer to endeavour to secure the settlement of trade disputes through voluntary procedures, conciliation, mediation, or a combination of any of them.[84]

2.2.4 The Equal Opportunities Commission Act, Cap 7.

The Equal Opportunities Commission Act gives effect to the Constitutional mandate to eliminate discrimination and inequalities against any individual on the grounds of sex, age, race, colour, ethnic origin, tribe, birth, creed or religion, health status, social or economic standing, political opinion, or disability, and take affirmative action in favour of marginalised groups.[85]

The Act establishes the Equal Opportunities Commission. [86] The functions of the Commission include ensuring that policies, laws, plans, programs, activities, and practices of, *inter alia,* organs of the state, statutory bodies, and public bodies comply with equal opportunity and affirmative action requirements.[87]

The Commission is empowered to rectify, settle, or remedy any act, omission, or practice found to constitute discrimination or otherwise undermine equal opportunities through mediation, conciliation, negotiation, settlement, or other dispute-resolution mechanisms.[88] However, the Commission seems not to distinguish between conciliation and mediation.[89]

In **Guarantee Trust Bank (U) Ltd v Acaye Fred,**[90] Justice Wolayo interpreted Section 14 (3) of the Equal Opportunities Act and held that, in accordance with Regulation 20 of the Equal Opportunities Commission Regulations, the parties do not need to provide sworn evidence during a mediation.

[82] Labour Dispute Claim No. 224 of 2018
[83] Labour Dispute Claim No. 29 of 2017.
[84] Section 25 of the Labour Disputes (Arbitration and Settlement) Act, Cap 227
[85] See Article 21 of the Constitution.
[86] Section 2 of the Equal Opportunities Commission Act, Cap 7
[87] Section 14 of the Equal Opportunities Commission Act, Cap 7
[88] Section 14 of the Equal Opportunities Commission Act, Cap 7
[89] See, for example, the Equal Opportunities Commission, 'Resolving Disputes by Conciliation.' Available at https://equalopportunity.gov.tt/downloads/publications/Resolving%20disputes%20by%20conciliation.pdf
[90] High Court Civil Appeal No. 51 of 2018

2.2.5 Public Service (Negotiating, Consultative and Disputes Settlement Machinery) Act, Cap 93.

This legislation establishes a public service negotiating, consultative, and dispute settlement machinery. The Act establishes a three-tier labour dispute resolution machinery for the public service. These are;

(a) Consultative Committees.
(b) Public Service Negotiating and Consultative Council.
(c) Public Service Tribunal.

Part II of the Act provides for the Consultative Committees and their functions. Section 2 (1) of the Act provides that there shall be a Consultative Committee in each autonomous body, ministry, department, local government, or such division or unit of the public service as may be prescribed by the Minister by statutory instrument.

The primary function of the Committee is to hear and offer conciliation services in labour disputes.[91] It also serves as a forum for engaging public officers and other public service employees in policy issues that affect them.

Part III of the Act provides for the Public Service Negotiating and Consultative Council and its functions. Under Section 3 (1) of the Act, the Council consists of a Chairperson and not less than five other members. The Council is intended to be autonomous of the Public Service, and its expenses must be charged to the Consolidated Fund.[92]

In terms of labour dispute resolution, the Council performs two primary functions;

(a) Conduct and facilitate consultations, dialogue, and negotiations between the Government, an autonomous body, or a local government, as the employer, and the Public Service Labour Union, regarding the terms and conditions of service of union members.[93]

(b) Act as a forum for discussions, consultations, and negotiations on issues specified in the Recognition Agreement set out in Schedule 2 to the Act.[94]

The key difference between the Committees and the Council is that the former handles labour disputes brought by individual public servants. In contrast, the Council handles disputes brought by public service labour unions.[95]

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[91] Section 2 (3) (a) of the Public Service (Negotiating, Consultative and Disputes Settlement Machinery) Act.
[92] Section 3 (3) and (5) of the Public Service (Negotiating, Consultative and Disputes Settlement Machinery) Act.
[93] Section 3 (6) (a) of the Public Service (Negotiating, Consultative and Disputes Settlement Machinery) Act.
[94] Section 3 (6) (b) of the Public Service (Negotiating, Consultative and Disputes Settlement Machinery) Act.
[95] Section 3 (8) of the Public Service (Negotiating, Consultative and Disputes Settlement Machinery) Act.

Finally, Part IV of the Act establishes the Public Service Tribunal. Under Section 4 (2) of the Act, the Tribunal consists of a chairperson, a vice chairperson, and not less than four or more than six other members, half of whom shall be nominated by the public service labour union and appointed by the Minister, with the approval of the Cabinet.

Unlike the Committee and Council, the Tribunal only hears disputes referred to it by the Minister of Labour, Gender, and Social Development. It also only sits when a labour dispute is referred to it.[96] Once the Minister refers a dispute, the Tribunal has the following functions:

(a) Hear and arbitrate, in accordance with the provisions of the Act.
(b) Make awards or recommendations to the Government on labour disputes referred to it.
(c) Secure harmonious labour relations in the public service.

It should be noted that the Public Service (Negotiating, Consultative and Disputes Settlement Machinery) Act does not mention mediation. However, the Act's definition of Conciliation is broad enough to capture mediation. According to Section 1, Conciliation means a process of seeking to bring people to an agreement.

2.3 INTERNATIONAL FRAMEWORK

The International Labour Organisation (ILO) provides the international framework for not just the mediation of labour disputes but also all matters relating to employment. In the ILO framework, there is no specific instrument on mediation, but inferences can be drawn from several instruments.

It is also essential to note that the ILO has a specific recommendation for voluntary conciliation and Arbitration. The ILO Voluntary Conciliation and Arbitration Recommendation No. 92 provides only for conciliation and arbitration, not mediation.

2.3.1 The Right to Organise and Collective Bargaining Convention, 1949 (ILO Convention No. 98)

Convention No. 98 is the first instrument that establishes the foundations of conciliation and mediation as part of the "machinery for voluntary negotiation." Article 4 of the Convention provides the framework for the adoption of mediation as a mechanism for the voluntary resolution of employment disputes.

The Convention enjoins member states, where necessary, to take measures appropriate to national conditions to encourage and promote the full development and utilisation of machinery for voluntary negotiation between employers or employers' organisations and workers' organisations,

[96] Section 4 (7) of the Public Service (Negotiating, Consultative and Disputes Settlement Machinery) Act.

with a view to regulating terms and conditions of employment by means of collective agreements.[97]

2.3.2 Labour Relations (Public Service) Convention, 1978 (ILO Convention No. 151)

Convention No. 151 expressly recognises mediation as a valid mechanism for resolving public service employment disputes. Article 8 of the Convention extends the principle of mediation to the public sector.

The Convention provides that settlement of disputes arising in connection with the determination of terms and conditions of employment shall be sought, as may be appropriate to national conditions, through negotiation between the parties or through independent and impartial machinery, such as mediation, conciliation, and arbitration, established in such a manner as to ensure the confidence of the parties involved.[98]

2.3.3 Collective Bargaining Convention, 1981 (ILO Convention No. 154)

The Convention calls on states to establish mechanisms such as conciliation and mediation to foster peaceful industrial relations.

Article 5(2) of the Convention requires that the bodies and procedures for the settlement of Labour Disputes should be so conceived as to contribute to the promotion of collective bargaining.[99] This provision implies that conciliation and mediation mechanisms should be in place to assist in resolving disputes arising during or after collective bargaining.

2.3.4 Examination of Grievances Recommendation, 1967 (ILO Recommendation No. 130)

Recommendation No. 130 promotes internal conciliation and mediation as first-line methods for resolving employee grievances.

It outlines specific procedures for resolving workplace disputes. It provides that, as a general rule, an attempt should initially be made to resolve grievances directly between the affected worker and his immediate supervisor.[100]

It also requires that procedures for resolving workplace disputes be formulated and applied so that, at each step of the procedure, there is a real possibility of achieving a settlement freely accepted by the worker and the employer.[101]

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[97] Article 4 of The Right to Organise and Collective Bargaining Convention, 1949
[98] Article 8 of the Labour Relations (Public Service) Convention, 1978 (No. 151)
[99] Article 5 (2) of the Collective Bargaining Convention, 1981 (No. 154):
[100] Paragraph 10 of the Voluntary Conciliation and Arbitration Recommendation, 1951 (No. 92)
[101] Paragraph 11; ibid

2.3.5 Violence and Harassment Convention, 2019 (ILO Convention No. 190):

Under Convention No. 190, Member States are required to take appropriate measures to ensure easy access to effective remedies and to safe, fair, and effective reporting and dispute-resolution mechanisms and procedures in cases of workplace violence and harassment.[102]

The measures employed, in accordance with Article 10 of the Convention, may include complaint and investigation procedures, as well as, where appropriate, workplace-level or external dispute-resolution mechanisms.

2.3.6 Labour Administration Convention, 1978 (ILO Convention No. 150)

The Convention mandates states to develop labour administration systems that include conciliation and mediation mechanisms for resolving disputes. Under the Convention, Labour administration systems shall ensure the effective functioning of mechanisms for the prevention and settlement of labour disputes, including conciliation and mediation.[103]

Article 5(b) of the Convention is the most directly relevant to Uganda's Ministry of Gender, Labour and Social Development and the Industrial Court. It mandates institutional support for mediation within national labour administration systems.

Uganda's commitment to mediation in employment relations is reinforced by its ratification of key ILO conventions. The country ratified the Right to Organise and Collective Bargaining Convention, 1949 (No. 98)[104] and the Labour Administration Convention, 1978 (No. 150)**,**[105] both of which require member states to promote voluntary negotiation, conciliation, and mediation in labour relations.

Although Uganda has not ratified the Labour Relations (Public Service) Convention, 1978 (No. 151) and the Labour Relations (Collective Bargaining) Convention, 1981 (No. 154)**,** their principles remain persuasive. Similarly, the Voluntary Conciliation and Arbitration Recommendation, 1951 (No. 92) provides valuable guidance that has influenced Uganda's development of mediation and conciliation mechanisms within its labour administration framework.

[102] Article 10 Violence and Harassment Convention, 2019 (No. 190)
[103] Article 5 (b) of the Labour Administration Convention.
[104] Uganda ratified the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) on 4 June 1963.
[105] Uganda ratified the Labour Administration Convention, 1978 (No. 150) on 2 June 1983.

2.4 INSTITUTIONAL FRAMEWORK.

2.4.1 Industrial Court

The Industrial Court is established under the Labour Disputes Arbitration and Settlement Act, Cap 227.[106] The function of the Court includes the arbitration of disputes referred to it and the adjudication of questions of law arising from such references.[107]

The objectives of the court are;

1) To provide a platform for people to equitably express their labour grievances and achieve equal opportunity in employment in Uganda.
2) To facilitate decent, productive work and better living standards for the people through the timely adjudication of labour disputes within Uganda.
3) To ensure industrial peace and justice in the economy through the timely adjudication of labour disputes.
4) To contribute towards a conducive industrial climate and investment through the timely adjudication of Labour disputes.

The functions of the court are:

1) To arbitrate on labour disputes referred to it under the Labour Disputes Arbitration and Settlement Act.[108]
2) To adjudicate upon questions of law and fact arising from references to the Industrial Court by any other law.

The court, in the performance of its functions, also has the powers of the High Court, and is required to dispose of the labour disputes referred to it without undue delay. In **Asaph Ntege & Ors v Attorney General,[109]** the Constitutional Court held that the Industrial Court exercises the same jurisdiction as the High Court. The Court recognised that the Justices of the Industrial Court are entitled to the same benefits as High Court Justices because they have the same qualifications, powers, and obligations.

The main case categories handled by the court:

(a) Mediations**:** under the JLOS ADRM Implementation Project, the court has three mediators who provide mediation services to litigants, which has contributed significantly to case disposal.[110]

[106] Section 6 of the Labour Disputes Arbitration and Settlement Act Cap 227
[107] Section 8; ibid
[108] Section 8; Cap 227
[109] Constitutional Court Petition No. 33 of 2017

(b) Labour Dispute References*:* These are referrals from labour officers. Under the LADASA, a dispute before a labour officer that remains unresolved within 8 weeks may be referred to the court. Under the Employment Act, a dispute before a labour officer that has not been settled within 3 months may be referred to the court.

(c) Appeals: Challenges to orders issued by labour officers.[111] For instance, in **Protea Hotel Kampala v Nyinakiiza**[112], the labour officer improperly converted mediation into binding adjudication; the appeal was allowed, and the matter was remitted for proper adjudication.

(d) Labour Dispute Claims*:* These are transfers from the High Court. In determining labour disputes, the court is not unduly limited by the procedures laid out in the Civil Procedure Rules and or principles of the law of evidence in the Evidence Act. The court is primarily a court of Equity.

According to Hon. Justice Asaph Ntegye Ruhinda, mediation was introduced at the Industrial Court in 2015, and the Court handled 185 mediation cases between 2015 and 2017. The following cases for mediation:[113]

Year	2015	2016	2017
Mediation Cases Registered	36	78	71

2.4.2 Ministry of Gender, Labour, and Social Development (MGLSD)

This government agency is mandated to mobilise and empower communities to harness their potential while protecting the rights of vulnerable population groups.[114]

The ministry also addresses labour disputes through labour officers, who are mandated under the Labour Disputes (Arbitration and Settlement) Act to use conciliation or mediation to resolve disputes early, before cases escalate to the industrial court.[115]

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[110] See Hon. Justice Linda Lillian Tumusiime Mugisha; The Role of the Industrial Court in Resolution of Labour Disputes in Uganda; A paper presented at the Law Development Centre on 9th March 2023. Available at https://www.academia.edu/116659857/THE_ROLE_OF_THE_INDUSTRIAL_COURT_IN_RESOLUTION_OF_LABOUR_DISPUTES_IN_UGANDA

[111] ibid

[112] Labour Dispute Appeal No. 15 of 2015

[113] Hon. Justice Asaph Ruhinda Ntegye, 'The Role of the Industrial Court in the Administration of Justice' A paper preented at the 20th Annual Judges Conference on 21-25 January 2018 at the Commonwealth Resort Hotel Munyonyo, Kampala. Available at https://judiciary.go.ug/files/downloads/The%20Role%20of%20the%20Industrial%20Court%20in%20Administration%20of%20Justice%20by%20Hon.%20Justice%20Asaph%20Ruhinda%20.pdf

[114] MGLSD Website; Accessed on 29/12/2025 at mgla/sd.go.ug

[115] Section 25; Labour Disputes Arbitration and Settlement Act; Cap 227.

As discussed above, the Minister also has the mandate to refer labour disputes in the public sector to the Public Service Tribunal.

2.4.3 Equal Opportunities Commission

The Equal Opportunities Commission is a statutory body established by the Equal Opportunities Commission Act to effectuate the provisions of the Constitution.[116] It is mandated to eliminate discrimination and inequalities against any individual or group of persons on the grounds of sex, age, race, colour, or other status.

The Commission is empowered to rectify, settle, or remedy any act, omission, or practice found to constitute discrimination or otherwise undermine equal opportunities through mediation, conciliation, negotiation, settlement, or other dispute-resolution mechanisms.[117]

According to a report of the Commission on 22 April 2020, the Commission used mediation in the following cases;[118]

(a) Member Patrobas Wafula Sirabo heard a complaint lodged by Mr Sergius Mulamuzi against Kooke Enterprises regarding unlawful dismissal from employment. The Member gave the two parties the option to choose the preferred mode for handling their complaint, and they agreed to mediation. A resolution was reached, and the respondent agreed to pay the complainant the salaries that were not paid during his term of service.

(b) The tribunal also handled a complaint lodged by a group of employees of Uganda Broadcasting Corporation (UBC) who alleged they were discriminated against in the payment of salaries. The complainants alleged that UBC withheld their wages for more than three months, while other staff had received theirs. Through mediation, it was agreed that the complainants would meet with UBC's Human Resources Manager, accompanied by an EOC representative, during which the Human Resources Manager would present pay slips for other staff to verify salary receipts.

The Commission's powers to settle labour disputes using mediation are elaborated in **Guarantee Trust Bank (U) Limited v Acaye**.[119] In this case, mediation featured as part of the Equal Opportunities Commission's Alternative Dispute Resolution (ADR) process. When the complaint was first filed, the Commission referred the parties for mediation under section 14(3) of the Equal

[116] Article 32(3) and 32(4) of the Constitution.
[117] ibid
[118] See The Report entitled, 'The Equal Opportunities Commission (EOC) Conducts Tribunal Hearings in the Central and Western Regions.' Available at https://www.eoc.go.ug/the-equal-opportunities-commission-eoc-conducts-tribunal-hearings-in-the-central-and-western-regions/
[119] Civil Appeal No. 51 Of 2018.

Opportunities Commission Act. The section empowers the Commission to rectify discriminatory acts through mediation, conciliation, negotiation, or settlement.

However, mediation was attempted but did not yield a resolution, and the case proceeded to a formal hearing. The record shows that on November 11, 2016, the parties were referred to mediation, and on May 23, 2017, they appeared before the Commission again. Although Acaye gave unsworn testimony and a cross-examination followed, there was no indication that a successful mediation occurred. The High Court later observed that while the Commission is legally empowered to settle disputes through mediation, once it proceeds to "determine" a complaint, it is required to take sworn evidence.

In essence, the mediation stage in this case was procedural rather than substantive. The High Court, therefore, held that the Commission fulfilled its statutory obligation to attempt to resolve the matter through mediation before proceeding to adjudication.

2.4.4 Judiciary

The Constitution is pertinent to this discussion because it directly addresses the exercise of judicial power in conformity with the law and with the values, norms, and aspirations of the people. Applying the principles, *inter alia*, reconciliation between parties shall be promoted.[120]

Alternative dispute resolution (ADR) is a key aspect of the Judiciary's strategic planning under the Judiciary Strategic Plan V, 2021/22-2024/25 (JSPV). In its situational analysis, the JSPV lists "adoption of appellate mediation as an [ADR] mechanism" as one of the measures towards enhancing the Judiciary's business processes.

Although there is a strong push toward mediation, the Judiciary's ADR activities are primarily limited to institutional and capacity-building activities. They include mediation spaces, mediator accreditation, sensitisation/awareness (on mediation/SCP), M&E, SCP rollout, and training.

An agreement arising from court-annexed mediation is enforceable as a court order (unless otherwise decided by the parties) and is recorded as a Consent Judgment.[121] The Consent is binding only if executed by parties with the requisite competence and duly endorsed by the relevant court officer.[122] Court-annexed mediation is often mandatory and occurs as part of a court's procedure before a case proceeds to trial. Under **Rule 4(1) of the Mediation Rules 2013**, every civil action must be referred to the court for mediation before proceeding to trial.

However, the position changed with the enactment of the **Civil Procedure (Amendment) Rules, S.I. No. 33 of 2019**, on 25th January 2019. The Amendment Rules set specific timelines from the

[120] Article 126 (1) and (2) of the Constitution.

[121] See Betuco (U) Ltd and another v Barclays Bank of Uganda Ltd and 3 Others, HCT-00-CC-MA-0243-2009.

[122] See British American Tobacco (U) Ltd v Mwijakubi and 4 Ors, (Civil Appeal No.01 of 2012) [2013] UGSC 13

closure of pleadings to the scheduling before a Judicial Officer.[123] As recognised by the High Court in **Carlton Douglas Kasirye v Sheena Ahumuza Bageine A.K.A Tasha,**[124] reference to mediation is an option that can be explored either during the hearing of the summons for directions or when the case is placed before a Judicial Officer for scheduling or hearing.

2.5 CONCLUSION

This chapter has examined the legal and institutional framework governing mediation in workplace disputes in Uganda, highlighting the statutory, administrative, and policy mechanisms that support its use as an alternative dispute resolution mechanism.

The analysis demonstrates that Uganda has made commendable progress in recognising mediation within its labour and employment relations regime. These frameworks collectively underscore mediation as a cost-effective, expeditious, and less adversarial means of resolving workplace disputes, consistent with the objectives of industrial harmony and social justice.

Despite this legal and institutional architecture, the practical application of mediation in workplace disputes remains constrained by several challenges. Consequently, mediation has not yet achieved its full potential as a primary mechanism for resolving workplace disputes in Uganda.

[123] See also Order 11A, Rule 7(2) of the CPR, as amended.
[124] Miscellaneous Application No. 150 of 2020

CHAPTER THREE: COMPARING MEDIATION WITH LITIGATION IN EMPLOYMENT DISPUTES

3.1 INTRODUCTION

Traditionally, litigation has been the dominant mechanism for resolving employment disputes.[125] However, mediation has increasingly emerged as a preferred alternative, particularly in contexts where preserving employment relationships and minimising adversarial outcomes are critical.[126]

By comparing these dispute resolution mechanisms, this chapter seeks to evaluate their relative strengths and limitations in addressing employment-related conflicts. It aims to demonstrate that mediation, when compared with litigation, may provide a more accessible, expeditious, and relationship-sensitive approach, while acknowledging circumstances in which adjudicative processes remain necessary.[127] Ultimately, the chapter offers a critical framework for understanding the practical and normative considerations that should guide the selection of dispute-resolution mechanisms in employment disputes.

To ensure internal consistency and scholarly rigour, the following working definitions are adopted for the purposes of this dissertation, drawn from the UNCITRAL Model Law on International Commercial Mediation (2018) and ILO guidance:

Mediation: a process whereby parties request a third party (the mediator) to assist them in their attempt to reach an amicable settlement of their dispute arising out of or relating to a contractual or other legal relationship. The mediator does not impose a settlement but facilitates communication and negotiation between the parties (cf. UNCITRAL Model Law, Art. 1).

Conciliation: a process in which a neutral third party assists the parties to reach a settlement by making non-binding proposals or recommendations as to possible terms of settlement. Conciliation is thus more directive than mediation but less binding than arbitration (cf. ILO Recommendation No. 92; Fiadjoe, Alternative Dispute Resolution: A Developing World Perspective, 2004).

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[125] Oksana Melenko, 'Mediation as an alternative form of dispute resolution: Comparative-legal analysis' (2020) 7 European journal of law and public administration 46.

[126] Ibid.

[127] This chapter relies heavily on the research conducted in Jiaojiao Feng and Pengxin Xie, 'Is mediation the preferred procedure in labour dispute resolution systems? Evidence from employer–employee matched data in China' (2020) 62 Journal of Industrial Relations 81. Available at https://journals.sagepub.com/doi/abs/10.1177/0022185619834971

3.2 COMPARISON

This chapter compares mediation and litigation as mechanisms for resolving employment disputes, focusing on four key criteria: cost, speed, confidentiality, and parties' satisfaction. These factors are central to the effectiveness and suitability of any dispute resolution process in the employment context, where power imbalances, reputational concerns, and the need for timely resolution often play a decisive role.[128]

3.2.1 Cost of Dispute Resolution

As an alternative to litigation, mediation offers a less costly and timelier dispute-resolution process, and employers are shielded from potentially significant claims or judgments.[129] According to a legal officer at the Platform for Labour Action, the NGO conducts most mediations regarding employee non-payment by phone.[130] He asserts that most employers are willing to pay employees when they hear that lawyers are involved.

Lawyers are often reluctant to initiate litigation in employment disputes. They typically accept only cases with the greatest likelihood of obtaining sizeable settlements. This is especially problematic for low-wage employees because the prospective return for a lawyer working on a contingent-fee basis may be too low to justify representing the claimant.[131]

Litigation is expensive. Only high-salary employees are often able to secure legal representation and pursue their claims in court. Thus, for many low-wage employees, access to the courts is often limited, if not closed. Mediation, in contrast, may provide a less costly, more viable alternative to achieving workplace justice.[132]

Generally, the financial cost of mediation is borne by the parties, regardless of the outcome, although parties may agree to share expenses.[133] By contrast, in the context of litigation, the general principle is that costs follow the event; in other words, the losing party must pay the successful party's fees as well as their own.[134] This unduly burdens the unsuccessful party in litigation.

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[128] Lisa Blomgren Bingham and others, 'Dispute system design and justice in employment dispute resolution: Mediation at the workplace' (2009) 14 Harv Negot L Rev 1. Available at https://heinonline.org/hol-cgi-bin/get_pdf.cgi?handle=hein.journals/haneg14&section=4

[129] Douglas M. Mahony; Brian S. Klaas; Comparative Dispute Resolution in the Workplace

[130] Interview with Legal Officer, Platform for Labour Action (Kampala, 5 January 2026).

[131] Maltby L (2002) The myth of second-class justice: Resolving employment disputes in arbitration. In: Brand N (ed) How ADR works. The Bureau of National Affairs, Washington, D.C., pp 915–927

[132] Estreicker S (2001) Saturns for rickshaws: the stakes in the debate over predispute employment arbitration agreements. Ohio State J Dispute Resolut 16:559–570

[133] Rule 20 Judicature (Mediation) Rules, 2013; Statutory Instrument 10 of 2013

[134] Section 27(2) Civil Procedure Act Cap 282

In a 2014 study,[135] respondents consistently cited mediation's potential to reduce dispute costs and, crucially, to repair workplace relationships. With respect to costs, this was framed in terms of time and the emotional distress of the disputants as they navigated the formal process, which, at its extreme, could lead to a costly employment tribunal hearing.

Mediation is generally more affordable than litigation, as it avoids costly court fees and prolonged legal proceedings.[136] Mediation has the potential to reduce court time and legal costs. Accordingly, court rules continue to be developed to facilitate the adjournment of proceedings in our courts to permit mediation.[137]

3.2.2 Speed of Dispute Resolution

In addition to the potential cost-effectiveness of mediation, another aspect concerns the time required to resolve a dispute through mediation compared with traditional litigation. Reducing the time required for litigants to resolve their disputes and, consequently, decreasing case backlogs in courts is, unsurprisingly, one of the key motivators for jurisdictions worldwide to integrate mediation and conciliation into their civil justice systems.[138]

To underscore the importance of speed in dispute resolution, the then Chief Justice of the US Supreme Court, Burger CJ, suggested that "People with problems, like people with pains, want relief, and they want it as quickly and inexpensively as possible."[139] This means that the time spent on dispute resolution increases employees' pain from their disputes.

Mediation provides a timelier process for dispute resolution.[140] Thus, by removing employment claims from the courts, the overall caseload is reduced, thereby freeing the courts to address other matters.[141] Notably, a study of the U.S. Postal Service's conflict management system made a significant contribution by assessing the impact of mediation on litigation. Their findings show substantial drops in the number of applications to court (nearly 4,000 cases over two years) immediately following the introduction of mediation.[142]

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[135] Tony Bennett; The role of workplace mediation: a critical assessment 15 June 2014

[136] Sanjeev Kumar; Navigating Business Disputes: When to Litigate and When to Mediate. Accessed on 31/12/2025 at https://thekumarlawfirm.com/navigating-business-disputes-when-to-litigate-and-when-to-mediate/

[137] Speech by Mr Dermot Ahern, T.D., Minister for Justice and Law Reform at the Law Reform Commission's Annual Conference _Reforming the Law on Personal Debt, 18th November 2009. Available at: www.justice.ie

[138] South "What's driving the interest in mediation globally: Lessons from recent experiences" (September 2008) IBA Mediation Committee Newsletter.

[139] US Chief Justice Warren Burger, 'Our Vicious Legal Spiral‖' (1977) 22 Judges Journal 49.

[140] See Bingham and others, 'Dispute system design and justice in employment dispute resolution: Mediation at the workplace' Available at https://search.proquest.com/openview/c73254a4baee25f66a57cb96732a8a48/1?pq-origsite=gscholar&cbl=1816463

[141] Douglas M. Mahony; Brian S. Klaas; Comparative Dispute Resolution in the Workplace

[142] Bingham, L. and Pitts, D. (2002), "Highlight of mediation at work: studies of the national REDRESS Evaluation Project", Negotiation Journal, Vol. 18 No. 2, pp. 135-146.

Mediation can often resolve disputes within weeks or months, rather than the years required for litigation.[143] For instance, the Equal Opportunities Commission (EOC) held a tribunal in Kampala on 7th and 11th November 2016 at the EOC's head office in Bugolobi. In total, 12 complaints were handled in Kampala, of which six were addressed on the first day.[144]

3.2.3 Confidentiality in Dispute Resolution

Mediation, as a less formal and confidential forum for exploring settlement options, is particularly advantageous when the claimant remains employed by the Organisation and a resolution is reached without attributing blame.[145] The confidentiality of the proceedings precludes concern with precedent-setting settlements.

The parties are free to pursue options that best suit the circumstances of the individual case.[146] According to the PLA's legal officer, most disputes are resolved by the NGO before they reach the labour officers.[147] The NGO undertakes different forms of mediation depending on the complexity of the dispute and the parties' intentions. These include;

(a) Informal mediation via phone call, mainly for disputes like non-payment of wages.
(b) Informal in-person mediations, mainly for informal sector employees.
(c) Formal mediations are mainly for formal sector employees and those with 'adamant' employers who want to see Court papers before they can begin mediation.[148]

The mediation process is conducted in confidence and does not prejudice any subsequent decision to pursue other means of resolution if mediation is unsuccessful.[149] In **Cumbria Waste Management Ltd & Lakeland Waste Management Ltd v Baines Wilson**[150], one party at mediation refused to waive the confidentiality privilege despite the other parties' requests that the Court do so. Kirkham J found that;

1. On the grounds of the "without prejudice" privilege and the contractual confidentiality between the parties, it would be wrong to order disclosure of the mediation documents.

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[143] Sanjeev Kumar; Navigating Business Disputes: When to Litigate and When to Mediate Accessed on 31/12/2025 at https://thekumarlawfirm.com/navigating-business-disputes-when-to-litigate-and-when-to-mediate/

[144] Equal Opportunities Commission, The Equal Opportunities Commission Conducts Tribunal Hearings in The Central and Western Regions. Available at https://www.eoc.go.ug/the-equal-opportunities-commission-eoc-conducts-tribunal-hearings-in-the-central-and-western-regions/

[145] Douglas M. Mahony; Brian S. Klaas; Comparative Dispute Resolution in the Workplace

[146] Cooper L, Nolan D, Bales R (2005) ADR in the workplace. West Publishing, St. Paul, MN Donohue, J III, Siegelman P (1991) The changing nature of employment dispute litigation. Stanford Law Rev 43:983–1033

[147] Interview with Legal Officer, Platform for Labour Action (Kampala, 5 January 2026).

[148] Ibid.

[149] ACAS (2011a), "ACAS individual mediation 2011/12: responses from participants and commissioners", ACAS Research Paper Ref. 16/12, ACAS Publications, London.

[150] [2008] EWHC 786 (QB)

2. He stated an exception to the general rule that confidentiality does not preclude disclosure of material to a court.

This decision lends some support to the occasional suggestion that mediators may themselves have privilege in their own papers that cannot, in normal circumstances, be waived by the parties.[151] In particular, the learned justice wanted mediators to be free to conduct mediations without fear that their notes might be disclosed to others.

3.2.4 Satisfaction of the Parties

In mediation, the onus is on the disputants to identify and agree on an acceptable outcome.[152] This means that the parties have more influence over the resolution during mediation. Rather than having a court render a judgment for them, they collaborate to develop a solution that meets their requirements.[153]

By fostering cooperation and communication, mediation makes it easier for the parties to maintain their professional ties after the dispute is resolved. Parties are frequently happier with the results of mediation than with litigation since they have a voice in the resolution.[154]

The mediation processes are based on the underlying concept of party autonomy, which permits the parties to retain virtually all the power over the resolution and outcome of their dispute. This principle, known as self-determination, provides that:

> *"mediation offers procedural justice protections, providing parties with fairness and dignity.... and parties' perceptions of procedural justice are enhanced when they actively participate in the process and voluntarily consent to an outcome that is free of any coercive influences."*[155]

Without the need to go to court, mediation offers a quick and easy option to resolve workplace conflicts. Parties can identify solutions tailored to their circumstances, maintain relationships, and save time and money through mediation. This is why scholars assert that mediation is a practical means of resolving workplace conflicts agreeably.[156]

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[151] Ibid, at page 42.

[152] Tony Bennett; The role of workplace mediation: a critical assessment 15 June 2014

[153] Glendinning Smith: Resolving Workplace Disputes: Mediation as an Alternative to Litigation; November 14 2024 Accessed at https://glendinningsmith.com/resolving-workplace-disputes-mediation-as-an-alternative-to-litigation/

[154] ibid

[155] Nolan-Haley, Self-determination in International Mediation: Some Preliminary Reflections‖ (2006) 7 Cardozo J Conflict Resol 277 at 278. See also Nolan-Haley, Informed Consent in Mediation: A Guiding Principle for Truly Educated Decisionmaking‖ (1999) 74 Notre Dame L Rev 775

[156] See, for instance, Bingham and others, 'Dispute system design and justice in employment dispute resolution: Mediation at the workplace' Available at https://heinonline.org/hol-cgi-bin/get_pdf.cgi?handle=hein.journals/haneg14&section=4

Litigation effectively delegates power and control over the dispute's resolution to a third party, and the parties do not retain complete control. Some litigating parties become relatively passive, disempowered, and often disillusioned by the entire process.[157] In contrast, mediation, through the principles of self-determination and party autonomy, allows the parties to retain complete control over their dispute.[158]

Its confidential nature further distinguishes it from litigation, providing a private forum that protects sensitive personal and organisational information and encourages open communication between parties. Most significantly, mediation tends to yield higher levels of party satisfaction, as it emphasises collaborative problem-solving, preserves relationships, and empowers parties to shape outcomes that reflect their interests and needs.

Overall, this comparison highlights mediation as a particularly effective and responsive mechanism for resolving employment disputes, especially where efficiency, privacy, and mutual satisfaction are prioritised.

3.3 CASE STUDY: GERT NEL INCORPORATED ATTORNEYS V HEAD OF THE GAUTENG DIVISION OF THE HIGH COURT AND 5 OTHERS: IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA; CASE NO: 96/2025

The case arises from the head of the High Court for the Gauteng Division issuing a Directive and Mediation Protocol mandating compulsory mediation for all Civil trials in the division. The directive also required that all civil trial dates already set after 1 January 2027 be cancelled outright, and that parties to those cases start afresh by engaging a mediator and then reapplying for a trial date with a mediator’s report in hand.

Even though the case has not yet been decided, the arguments and prayers of the Applicant are important for an appreciation of such a directive, which, on its face, is well-meaning and seems to lean towards the adoption of compulsory mediation.

3.3.1 Contextual Background

These proposed measures aim to alleviate pressure on the congested trial rolls by diverting appropriate cases to mediation, thereby reserving court time for matters that genuinely require judicial determination.

The Gauteng Division of the High Court is currently facing an acute backlog in civil trials, with new trial dates reportedly set as far out as 2031. In practical terms, litigants must wait six to seven years for their matters to be adjudicated, a situation the Honourable Judge President has himself

[157] Law Reform Commission; Alternative Dispute Resolution: Mediation and Conciliation; (LRC 98-2010); accessed on 31/12/2025 at https://www.lawreform.ie/_fileupload/reports/r98adr.pdf

[158] ibid

described as unacceptable and inimical to the constitutional right of access to justice enshrined under Section 34 of the South African Constitution.

In response to this crisis, on 20 March 2025, the Office of the Judge President circulated the Draft Directive and the Draft Mediation Protocol for public comment. The stated aim of these proposed measures is to alleviate pressure on the congested trial rolls by diverting appropriate cases to mediation, thereby reserving court time for matters that genuinely require judicial determination.

3.3.2 Applicant's Prayers

The applicant contended that the Head of Court for the Gauteng Division of the High Court lacked the power, under either Section 173 of the South African Constitution or Section 8(4) of the Superior Courts Act, to mandate compulsory mediation for all civil trials in the Gauteng Division through a practice directive and protocol.

The applicant asked the Honourable Court to declare the Directive and Mediation Protocol ultra vires and constitutionally invalid under Section 172(1)(a) of the Constitution. As just and equitable relief, the applicant asks that the Directive and Mediation Protocol be set aside retrospectively in terms of Section 172(1)(b) of the Constitution.

The Applicant also seeks that a direction be issued to the Registrar in the Gauteng Division to reinstate civil trial dates allocated before the Directive and Mediation Protocols Implementation, and resume the allocation of civil trial dates in accordance with the Superior Courts Act and the Uniform Rules of Court (i.e., to restore the status quo ante)

3.3.3 Applicant's Arguments

The Applicant raised several grounds for removing compulsory mediation. These include;

1. For personal injury claimants, mandatory mediation introduces additional costs, delays, and procedural burdens. Where a plaintiff is unable to secure a trial date without first enduring and funding a mediation process, regardless of the other party's stance, the practical result is a narrowing of the constitutional right of access to courts.
2. If mandatory mediation is to be introduced as a peremptory procedural requirement, then it must be done through duly promulgated legislation or an authorised amendment to the Uniform Rules of Court, and not by way of a practice directive.
3. Mediation is voluntary. Therefore, compelling parties to mediate and withholding trial dates until mediation has occurred constitutes coercion.
4. The directive violates the separation of powers, as it extends the administrative role of the judge president of the managing court in the process to the legislative rule-making domain.

5. The directive lacks institutional support. There was no independent statutory body or council to oversee the process, no guaranteed accreditation system for mediators under the Directive, and no provisions to help parties bear the costs of the newly required mediation.
6. Some jurisdictions require an initial mediation information session (England for certain small claims, some Canadian provinces for specific case types) or mandate mediation only in select categories. The select categories include family disputes in parts of Australia or commercial cases below a threshold in Italy. Crucially, these programs are backed by legislation or court rule and often provide public mediators or funded services to ease compliance.
7. Compulsory mediation would not reduce the case backlog because the belief that mandatory mediation would resolve disputes was unfounded, as most mediations fail. He argued that for mediation to succeed, it would have to be voluntary and supported by mechanisms that would help it grow.
8. The cancellation of court dates would disrupt litigants' ability to obtain timely trial hearings. Litigants who have patiently secured trial dates (often after waiting in the backlog for years)

The key aspect that stands out in the Applicant's arguments is that mediation is an effective dispute-resolution mechanism. However, compulsory mediation is not an effective dispute resolution mechanism. As of the date of this study, the matter has not yet been decided on its merits, but it does raise essential arguments both for and against compulsory mediation.

Before the conclusion of this chapter, it is important to note that while mediation is a wholesome mechanism of employment dispute resolution, not all labour disputes are the same. From the interview with the Legal Officer at PLA, one of the most important aspects the NGO's officers focus on is treating each case on its own merits.[159] Sometimes, a case will transition from informal mediation to formal mediation and end up at the Industrial Court.

Once each employment dispute is treated on its merits, it becomes easier to appreciate that some disputes must be mediated informally, others formally, and some should be taken to the Industrial Court immediately. For instance, once a former employee expresses a desire to receive full compensation, it usually indicates they want to litigate the case.[160]

3.4 CONCLUSION

When comparing mediation and litigation in employment disputes, clear distinctions emerge regarding speed, confidentiality, and party satisfaction. Mediation consistently demonstrates

[159] Interview with Legal Officer, Platform for Labour Action (Kampala, 5 January 2026).

[160] See details in Vivian Berger, 'Employment mediation in the twenty-first century: Challenges in a changing environment' (2002) 5 U Pa J Lab & Emp L 487. Available at https://heinonline.org/hol-cgi-bin/get_pdf.cgi?handle=hein.journals/upjlel5&section=33

advantages in timeliness, offering a more flexible and efficient process that allows disputes to be addressed promptly and with minimal disruption to ongoing employment relationships.

CHAPTER 4: PRACTICAL BARRIERS LIMITING THE UPTAKE AND EFFECTIVENESS OF MEDIATION IN EMPLOYMENT DISPUTES

4.1 INTRODUCTION

Despite the recognition of mediation as a more effective method of dispute resolution, its practical uptake and effectiveness in employment disputes remain limited. Many disputes continue to proceed to formal litigation or arbitration, suggesting a gap between the legal endorsement of mediation and its use in practice. This gap is mainly attributable to practical barriers that impede the meaningful application of mediation in the employment context.

This chapter examines the key practical barriers limiting the uptake and effectiveness of mediation in employment disputes in Uganda, including limited awareness, power imbalances, institutional and capacity constraints, and prevailing attitudes towards dispute resolution. It argues that addressing these challenges is essential for mediation to function as a viable and effective tool within Uganda's labour dispute resolution system.

4.2 LIMITATIONS AT THE LABOUR OFFICE

4.2.1 Ambiguous framework

The challenges to mediation, as far as labour officers are concerned, stem from ambiguity in the law, which leads to inconsistent application; the roles of labour officers are not clearly defined in the Labour Disputes Arbitration and Settlement Act, Cap 227.

Before 2018, labour officers could either mediate or adjudicate labour disputes. They exercised this power without any framework, and the only restriction on their powers was developed by precedent from the Industrial Court. The Court held that if mediation failed, adjudication was to be conducted by another labour office.

This was recognised in several cases, including **Fiona Mawadri Mulema vs. Stanbic Bank Uganda Ltd**,[161] **AIG Uganda Ltd v Maguru,**[162] and **Musimenta v United Bank for Africa.**[163]

The jurisprudence changed in 2018 when the Court of Appeal, in the case of **John Eric Mugyenyi v Uganda Electricity Company Limited,**[164] *held* that the powers of Labour Officers should be limited to mediation and conciliation. The Court of Appeal, therefore, took away the powers of the labour officers to adjudicate labour matters.

[161] Labour Dispute Claim No. 224 of 2018
[162] Labour Dispute Appeal No. 29 of 2017
[163] Labour Dispute Claim No. 210 of 2020
[164] Civil Appeal No. 167 of 2018

The uncertainty surrounding the proper dispute handling methods ought to have been conclusively settled by the Court of Appeal in **Eng. John Eric Mugyenyi v Uganda Electricity Generation Company Limited (supra).** The decision should have settled this issue, particularly because the Court of Appeal is the last appellate court in labour matters.[165] Unfortunately, this decision, even though binding, has been largely ignored in practice. Labour Officers continue to conduct arbitrations, and the Industrial Court has done little to enforce prevailing precedent.

For instance, in a recent award delivered on 3 October 2025 in **Ruthra Agaba Kamukama v UBC,**[166] the Industrial Court handled a dispute in which a Labour Officer had arbitrated and concluded that the claimant had been constructively dismissed. This was a missed opportunity for the Court to emphasise that the Labour Officer had no such powers! Instead, the Court validated the proceedings before the Labour Officer and awarded damages.

The above ambiguity in the law creates uncertainty for labour officers in executing their statutory mandates. The provision for both mediation and adjudication creates uncertainty about the procedures they must employ to resolve labour disputes. This uncertainty is further increased by the fact that the law has not been amended to expressly provide that a labour officer cannot conduct both mediation and adjudication.

Section 63(2)(b), 69(1) of the Employment Act, empowers the Labour officer to resolve complaints from employees by mediation, however Section 12(1)(a) of the Employment Act still provides for the power of the labour officer to investigate complaints and settle or attempt to settle complaints by way of conciliation, arbitration, adjudication or such procedure as s/he thinks appropriate and acceptable to the parties.

In the interview with the Labour Officer, he stated that most mediations were previously conducted by advocates.[167] However, the Labour Officers started complaining that they needed to be involved in all the employment mediations. This increased the bureaucracy and the costs of the mediations.

4.2.2 Lack of qualification requirements for labour officers

The law does not require labour officers to receive any legal training before exercising their functions; there is no monetary limit on the disputes they handle.[168] The Industrial Court and the legal fraternity have noted that Labour Officers often lack the legal background to perform quasi-judicial functions, particularly arbitration and adjudication.[169]

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[165] See DFCU Bank v Donna Kamuli Civil Application No. 29 of 2019

[166] LDR No. 163 of 2021

[167] Interview with Legal Officer, Platform for Labour Action (Kampala, 5 January 2026).

[168] Justice Asaph Ntengye; The Role of the Industrial Court in The Administration of Justice**.** Available at https://judiciary.go.ug/files/downloads/The%20Role%20of%20the%20Industrial%20Court%20in%20Administration%20of%20Justice%20by%20Hon.%20Justice%20Asaph%20Ruhinda%20.pdf

The Industrial Court has repeatedly noted that Labour Officers are not legally trained, and that some of the decisions made in arbitration are ultra vires. For instance, in **Hima Cement Limited v Uganda Building Construction, Civil, Engineering, Cement & Allied Workers Union**,[170] the court held that;

> *The expectation is that each labour officer should at least comply with section 4(a) and (c) to conciliate or cause a conciliation before referring to the Industrial Court. However, the Court has taken Judicial notice that most Labour Officers are not lawyers or are not very conversant with the law, therefore they may not be able to handle certain complaints, hence having to refer them without recourse to sections 4(a) (c) and 5(1) of the LADASA. We believe this is the reason why the legislators provided the labour officer with an option to inform the parties where the report comprised of matters which could not be handled under the Employment Act.*[171]

This concern about the powers of Labour Officers is one of the key issues addressed in the Employment (Amendment) Bill, but the progress of the Bill has stalled, and the practical challenges remain unresolved. Section 3(a) of the Labour Disputes Arbitration and Settlement Act empowers the labour officer to refer the dispute back to the parties with comments and proposals on the terms upon which a settlement of the labour dispute may be negotiated.

The lack of minimum legal qualifications limits the labour officer's role in mediation. Without minimum legal skills, they cannot suggest any legal advice or opinions in the form of evaluative mediation.[172] Consequently, Labour Officers who are not legally trained cannot acquire the interpretive and analytical skills necessary to understand complex employment contracts, statutory provisions, or precedent from the Industrial Court.

The Ministry of Gender, Labour and Social Development, often in collaboration with development partners, occasionally organises workshops and short trainings for Labour Officers; however, these are largely introductory and lack the depth and continuity required to build real legal competence.[173] Workshops typically focus on procedural awareness or administrative updates rather than the substantive law governing employment relations.

This shortfall has practical implications: untrained mediators may misinterpret legal provisions, overlook procedural fairness, or draft settlement terms that are legally unenforceable. While

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[169] An Insight into the key provisions of the Employment (Amendment) Act, 2022 accessed on 4/10/2026 at https://www.kaa.co.ug/an-insight-into-the-key-provisions-of-the-employment-amendment-act-2022/

[170] Labour Dispute Miscellaneous Application No. 1 of 2020

[171] Labour Dispute Miscellaneous Application No. 1 of 2020 at page 12.

[172] Evaluative mediation is a directive dispute resolution style where the mediator actively assesses case strengths/weaknesses, offers opinions, and predicts trial outcomes to guide parties toward settlement.

[173] See details in Ministry of Gender, Labour, and Social Development, Training Manual. Available at https://mglsd.go.ug/training-material/?vn/2023-03-2321434.html

workshops raise awareness, they cannot substitute for the minimum legal qualifications or certification frameworks necessary to professionalise mediation.[174] Therefore, the lack of institutionalised training and accreditation continues to weaken the credibility and consistency of mediation conducted by Labour Officers.

4.3 INSTITUTIONAL CHALLENGES AT THE INDUSTRIAL COURT

The Industrial Court's Annual Performance Report (FY 2023–2024) indicates that while over 2,000 labour disputes were carried forward from previous years, only 41 mediations were completed during the same period, with 36 still pending. This demonstrates that mediation accounts for a very small fraction of dispute-resolution activities compared with litigation.

[174] Interview with Legal Officer, Platform for Labour Action (Kampala, 5 January 2026).

The persistently high backlog of 2,761 pending cases underscores the institutional strain facing the Court and highlights the underutilisation of mediation as an early dispute-resolution mechanism.[175] These statistics reinforce the argument that mediation's limited effectiveness in Uganda is not merely a legal issue but a result of structural and institutional bottlenecks within the labour justice system.

[175] See the Annual Performance Report of the Industrial Court for 2023/24.

To underscore this point, the Industrial Court has a minimal reach. The Industrial Court is located only in Kampala, yet it is expected to serve the entire country, including populations in remote areas such as Kotido, Zombo, Kisoro, Bukwo, and Pader. [176]

A combination of the removal of adjudicatory powers of the labour officers and the limited reach of the Industrial Court makes it difficult for many Ugandans to access labour justice. Since the Court operates mainly in Kampala, this setup is costly and inconvenient, especially for workers who cannot afford the transport or the time away from work. As a result, many labour disputes remain unresolved or are handled informally at the local level, which limits the fairness and consistency of outcomes.[177] The lack of regional access, therefore, weakens mediation's potential to deliver swift, inclusive justice for all employees.

4.3.1 Limited Public Awareness

Remains the most pervasive problem. The JLOS Citizen Survey (2020) found that only 38% of rural residents understood the concept of arbitration or mediation beyond Local Council Courts; illiteracy, language barriers, and other misconceptions about the legality of ADR procedures contributed to low participation rates.

The low level of public awareness about mediation continues to limit its use and effectiveness in resolving employment disputes.[178] Many workers and employers in rural areas still view mediation as an informal or secondary process compared to court litigation, largely because they are unfamiliar with how it works or doubt its legal standing. Illiteracy, limited civic education, and language barriers make it harder for communities to understand their rights and the procedures involved.

In some cases, cultural beliefs and mistrust of government institutions further discourage participation.[179] Without deliberate awareness campaigns and community-based education, mediation will continue to be seen as a distant, urban process rather than a tool for everyday workplace justice.

4.3.2 The shortage of qualified mediators

The lack of trained and accredited mediators is another major obstacle to the success of mediation in Uganda. Many community mediators operate without any formal training or understanding of

[176] Justice Asaph Ntengye; The Role of the Industrial Court in The Administration of Justice**.** Available at https://judiciary.go.ug/files/downloads/The%20Role%20of%20the%20Industrial%20Court%20in%20Administration%20of%20Justice%20by%20Hon.%20Justice%20Asaph%20Ruhinda%20.pdf

[177] Interview with Legal Officer, Platform for Labour Action (Kampala, 5 January 2026).

[178] Komugisha Darlen, 'The efficacy of mediation as an alternative dispute resolution Mechanism: a critique' (2019) Available at https://ir.kiu.ac.ug/items/f52dd61a-3d65-49b8-b9d8-5d3fabf5b8ba

[179] Oluwafisayo AYITA, 'Mediation practice in Nigeria: experiences from Abuja and Ondo with lessons from Ontario, Canada' (2025) Available at https://mspace.lib.umanitoba.ca/items/eed9f0e6-078e-4d55-a8e6-91d376c43d51

labour law, negotiation principles, or confidentiality standards.[180] This raises legitimate concerns about fairness, neutrality, and the overall quality of mediation outcomes. Judicial officers and policy experts have therefore called for the establishment of a national training and accreditation system to ensure that mediators meet minimum professional standards.

The study found that many community mediators lacked formal training, raising concerns about procedural fairness and consistency. Judicial officers advocated establishing a national ADR training academy and a mandatory accreditation framework for mediators and arbitrators. There is a need for Uganda to professionalise ADR by adopting standardised ethical codes and competency-based assessments.[181]

A dedicated ADR training academy could help build a pool of competent mediators with both technical knowledge and practical skills. In addition, a clear ethical code and competency-based assessments would promote consistency, professionalism, and public trust in the mediation process.[182] Without such measures, mediation risks being perceived as unreliable or biased, which undermines its role as an effective alternative to formal litigation.

4.3.3 Lack of Enforceability

Even when mediation leads to consensus, the absence of an automatic enforcement mechanism critically undermines its effectiveness. Mediated settlements are not binding unless converted into a consent judgment or documented in a formal collective agreement recognised under the law.[183]

However, the terms of the settlement must be incorporated into the consent judgment for them to become enforceable as part of the decree. To ensure enforceability by the court, the parties must memorialise the settlement terms in a consent judgment that directs them to perform the obligations set forth therein.[184]

This means that when the settlement is converted into a consent judgment, it becomes a public document and is no longer private, as it is between the parties.[185] This undermines the confidentiality that is a hallmark of mediation.

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[180] See Platform for Labour Action, Annual Report 2024, p. 10. Available at https://mail.pla-uganda.org/publications/23-pla-annual-report-2024/file

[181] Kasule H and others, 'Access to Justice through Community-Based ADR Mechanisms in Uganda' (2020) 9(1) *East African Journal of Peace and Human Rights*

[182] Whitney Maclons, 'Mandatory court based mediation as an alternative dispute resolution process in the South African civil justice system' (2014) Available at https://uwcscholar.uwc.ac.za/items/1cd94ad7-15ba-40ca-8f70-1e5ae7902301

[183] Rule 16(4) Judicature Mediation Rules 2013

[184] KAA Chapter for the Chambers Litigation 2024 guide (Law and Practice); Jan 23, 2024, Accessed at https://www.kaa.co.ug/kaa-chapter-for-the-chambers-litigation-2024-guide-law-and-practice/

[185] ibid

4.3 STATUTORY LIMITATIONS

A central challenge is the absence of a clear statutory framework providing detailed guidance on mediation processes for public service labour disputes. For example, the Public Service (Negotiating, Consultative and Dispute Settlement Machinery) Act acknowledges mediation (under the term 'conciliation')[186], but it:

- Does not specify how mediation should be conducted.
- Does not establish qualification standards for mediators.
- Does not define the enforceability of mediated settlements.
- Does not create timelines or monitoring mechanisms for implementation.

This legal uncertainty weakens mediation in several critical ways:

i) Ambiguity in Procedural Rules: Without clearly defined procedures, mediation practices vary widely in quality, process, and outcome. Parties rely on informal negotiation styles, resulting in inconsistent outcomes.

ii) No Automatic Enforcement of Settlement Agreements: Even when mediation produces a consensus, the agreement does not automatically bind the parties unless it is converted into a formal collective agreement or a consent judgment. This gives employers discretion to delay or selectively implement terms.

iii) Weak Sanctions for Non-Compliance: The absence of legal consequences for breaches of mediated settlements undermines trust and encourages the use of repeated industrial action as the sole mechanism of enforcement.

Another statutory limitation arises from the labour officer's duties upon receiving a labour claim under Section 5 of the Labour Disputes (Arbitration and Settlement) Act. The Court of Appeal, in **Eng. John Eric Mugyenyi v Uganda Electricity Generation Company Limited (supra)** elaborated the procedure under section 5(1) as follows:

> *…[I]t presupposes that the matter was properly lodged before a labour officer, whereupon it was sent for conciliation. In the alternative, if the matter is not sent to the Industrial Court within 8 weeks from the time the report is made by the conciliator, any of the parties or both parties to the dispute may refer the dispute to the Industrial Court.*[187]

[186] Section 1; Interpretation Section; defines Conciliation as "a Process of trying to get people to agree", which by implication includes mediation.

[187] Civil Appeal No. 167 of 2018 at page 5.

The manner of dealing with the complaint is provided for under section 4 of the Labour Disputes (Arbitration and Settlement) Act. The labour officer is expected to act within two weeks of receipt of the report made under section 3 of the Act. Ideally, the process is:

a) First of all, it is important to serve the respondent a copy of the report of complaint in a labour dispute made by a party.
b) Thereafter, the labour officer may:
    i. meet the parties and endeavour to conciliate and resolve the dispute; or
    ii. appoint a conciliator to conciliate the parties in dispute and inform the parties in writing of the appointment; or
    iii. refer the dispute back to the parties with comments and proposals to the parties of the terms upon which settlement of the labour dispute may be negotiated;
    iv. reject the report and inform the parties accordingly, giving reasons for rejecting it, having regard to the matters provided.
c) Lastly, the Labour Officer may inform the parties to the dispute that the report comprises matters which cannot be dealt with under the Act.[188]

Unfortunately, this procedure is not clearly spelt out in the Act. Section 4(e), which allows the Labour officer to inform the parties to the dispute via a report that comprises matters which cannot be dealt with, is silent on what steps the Labour officer should take, in such circumstances, which may include situations where questions of law or fact have arisen, and the Labour officer cannot handle them.

Therefore, these ambiguities in Uganda's labour laws have greatly reduced the uptake of mediation, as they create confusion about the roles, powers, and procedures of those responsible for handling labour disputes. This lack of clarity discourages both employers and employees from choosing mediation, as they are unsure about the process, its legal effect, or the enforceability of its outcomes.[189] Inconsistent practices by labour officers and varying interpretations by the Industrial Court further weaken public confidence in the system.

When people do not clearly understand what mediation entails or how its results are recognised by law, they are more likely to bypass it altogether and go straight to litigation. Therefore, the unclear legal framework not only hinders the smooth operation of mediation but also limits trust in it as a credible and dependable method of resolving employment disputes.

A COMPARATIVE ANALYSIS OF MEDIATION IN EMPLOYMENT DISPUTES IN KENYA AND GHANA

[188] Ibid.

[189] See details in Ramadhani Mussa Kalinga, 'The Challenges Facing the Mediation Centre of the High Court of Tanzania Mainland' (2024) 7 Issue 4 Int'l JL Mgmt & Human 2186 Available at https://heinonline.org/hol-cgi-bin/get_pdf.cgi?handle=hein.journals/ijlmhs30&section=173

To strengthen the doctrinal foundation for the reforms proposed in Chapter Five, this section adds a focused comparison of two African jurisdictions: Kenya in East Africa and Ghana in West Africa.[190] Both are common-law jurisdictions, have a substantial informal labour sector akin to Uganda's, and, in the last two decades, have embedded mediation more deeply into their labour-justice systems than Uganda has yet managed.

Kenya is selected as the East African comparator for three reasons. First, Kenya, like Uganda, is an EAC Partner State whose labour markets are integrated with Uganda's through the Common Market Protocol, generating shared categories of cross-border employment disputes.[191] Second, Kenya's 2010 Constitution constitutionalised alternative dispute resolution under article 159(2)(c), thereby converting mediation from a procedural option into a constitutional imperative.[192] Third, Kenya operates a specialised Employment and Labour Relations Court (ELRC) and an institutionalised Court-Annexed Mediation (CAM) programme that has now generated a decade of empirical data directly relevant to Uganda's reform debate.

Ghana is selected as the second comparator because it has built sub-Saharan Africa's most coherent statutory architecture for mediation in labour matters: a dedicated Alternative Dispute Resolution Act 2010 (Act 798), and a constitutionally established National Labour Commission (NLC) created under the Labour Act 2003 (Act 651), which performs functions broadly analogous to South Africa's Commission for Conciliation, Mediation and Arbitration (CCMA), but within a West African setting whose economic profile is closer to Uganda's. Ghana's experience, therefore, offers an African parallel to the CCMA model, while highlighting reforms that are realistic in a lower-middle-income context.

4.4 KENYA

4.4.1 Constitutional and Statutory Framework

Kenya's mediation framework for employment disputes operates on three layers. At the constitutional level, article 159(2)(c) of the Constitution of Kenya 2010 obliges every court and tribunal to "promote" alternative dispute resolution, including mediation.[193] Muigua argues that

[190] Kenya is selected as a fellow East African Community (EAC) Partner State that shares Uganda's common-law heritage, while Ghana provides a contrasting West African model that has been internationally recognised for the depth of its statutory ADR regime.

[191] Treaty for the Establishment of the East African Community (signed 30 November 1999, entered into force 7 July 2000), arts 5 and 104; see also EAC Common Market Protocol (2010) art 10 on free movement of workers.

[192] Constitution of Kenya 2010, art 159(2)(c) ("In exercising judicial authority, the courts and tribunals shall be guided by the following principles—… alternative forms of dispute resolution including reconciliation, mediation, arbitration and traditional dispute resolution mechanisms shall be promoted…").

[193]

this provision elevates mediation from a residual procedural option to "an integral component of the right of access to justice" in Kenya.[194]

At the statutory level, the Employment Act 2007 governs the substantive employer–employee relationship;[195] the Labour Relations Act 2007 governs collective labour relations and provides for compulsory conciliation before strike action;[196] and the Labour Institutions Act 2007 establishes the cadre of labour officers and conciliators, as well as the National Labour Board.[197] At the institutional level, the Employment and Labour Relations Court Act 2011 established the Employment and Labour Relations Court, a specialised court of equal status with the High Court, with exclusive jurisdiction over disputes between employers and employees.[198] Section 15(1) of that Act expressly empowers the Court to adopt mediation, conciliation, and traditional dispute resolution mechanisms either of its own motion or on application by the parties.[199]

4.4.2 The Court-Annexed Mediation Programme

The most distinctive feature of Kenya's system is the Court-Annexed Mediation (CAM) programme. Sections 59A and 59B of the Civil Procedure Act, introduced in 2012, established the Mediation Accreditation Committee (MAC), a statutory committee of the Judiciary tasked with maintaining a register of accredited mediators, setting professional standards, and supervising court-referred mediation.[200] The programme was operationalised through the Mediation (Pilot Project) Rules, 2015, and the Practice Directions on Court-Annexed Mediation, 2016.[201]

Empirically, the CAM programme has produced encouraging results. The Judiciary's State of the Judiciary and the Administration of Justice Annual Report 2022/2023 records a settlement rate of approximately 56 per cent, with an average resolution time of 78 days, compared with an average litigation timeline of more than 3 years for comparable employment disputes.[202] Within the ELRC specifically, mediation is now a default first stage for most monetary claims under the Mediation

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[194] Kariuki Muigua, Resolving Conflicts through Mediation in Kenya (2nd edn, Glenwood Publishers 2017) 23–27.

[195] Employment Act 2007 (No. 11 of 2007) (Kenya) ss 47, 49 and 87.

[196] Labour Relations Act 2007 (No. 14 of 2007) (Kenya) ss 62–73 (conciliation) and s 76 (no strike before conciliation).

[197] Labour Institutions Act 2007 (No. 12 of 2007) (Kenya) ss 12–16 (functions of labour officers and conciliators).

[198] Employment and Labour Relations Court Act 2011 (No. 20 of 2011) (Kenya) s 4 (status equivalent to that of the High Court) and s 12 (jurisdiction over disputes between employers and employees).

[199] Ibid s 15(1) (the Court "may adopt and implement, on its own motion, with the agreement of or at the request of the parties, any other appropriate means of dispute resolution, including internal methods, conciliation, mediation and traditional dispute resolution mechanisms").

[200] Civil Procedure Act, Cap 21 (Kenya) ss 59A and 59B (introduced by the Statute Law (Miscellaneous Amendments) Act 2012 and operationalised through the Mediation (Pilot Project) Rules 2015, Legal Notice No. 197 of 2015).

[201] Practice Directions on Court-Annexed Mediation, Kenya Gazette Notice No. 1088 of 2016; see also Mediation Accreditation Committee, Mediation Rules (Judiciary of Kenya 2022) rr 4–7.

[202] Judiciary of Kenya, State of the Judiciary and the Administration of Justice Annual Report 2022/2023 (Office of the Chief Justice 2023) 88–91, recording that the Court-Annexed Mediation programme had achieved a settlement rate of approximately 56% with average resolution time of 78 days.

(Pilot Project) Rules and is conducted by mediators drawn from a public register.[203] Settlement, when reached, is reduced to an agreement which the court records as a consent judgment, conferring on it the same enforceability as a court order.[204]

Kenyan scholarship has, however, identified persistent fault lines. Muigua warns that the institutional gains are vulnerable to under-funding and to inadequate accreditation infrastructure outside the major court stations.[205] The case law also confirms a residual judicial reluctance: in *Wesonga v Mumias Sugar Co Ltd*, the Industrial Court accepted mediation as competent but emphasised that referral remains discretionary, while in *Kenya Plantation and Agricultural Workers Union v Kakuzi Ltd*, the Court declined to compel the parties into mediation absent express consent.[206]

In *Sammy Ndung'u Waity v Independent Electoral and Boundaries Commission*, the Court of Appeal endorsed the constitutional duty to promote mediation under article 159(2)(c), and the Civil Procedure (Amendment) Rules 2020 have since expanded the scope of mandatory referral.[207] Wamai's five-year evaluation concludes that, although uptake is rising, the principal constraint remains the limited number of accredited mediators outside Nairobi.[208]

4.5 GHANA

4.5.1 Constitutional and Statutory Framework

In Ghana, the right to a fair and effective remedy is guaranteed by Article 33(1) of the Constitution of the Republic of Ghana, 1992, and is complemented by the directive principles in Articles 35 and 36, which oblige the State to promote a just social order.[209] These constitutional commitments are operationalised through two flagship statutes: the Labour Act 2003 (Act 651), which dedicates Part

[203]See Mediation (Pilot Project) Rules 2015, r 4 read with the Practice Directions, paras 7–9.

[204]Compare Civil Procedure Act, Cap 21 (Kenya) s 59B(4) (CAM agreement filed with the court has the same force and effect as a judgment of the court) with Alternative Dispute Resolution Act 2010 (Act 798) (Ghana) s 82 (a settlement agreement may, with the consent of the parties, be registered with the court and become enforceable as a judgment) with Judicature (Mediation) Rules 2013 (Uganda) r 16 (settlement only enforceable upon being recorded as a consent judgment).

[205]Kariuki Muigua, "Institutionalising Mediation in Kenya: Promise and Pitfalls" (2020) 8(2) Alternative Dispute Resolution Journal 1, 12–15.

[206]Wesonga v Mumias Sugar Co Ltd (Industrial Cause No. 92 of 2014) [2015] eKLR; see also Kenya Plantation and Agricultural Workers Union v Kakuzi Ltd [2015] eKLR.

[207]Sammy Ndung'u Waity v Independent Electoral and Boundaries Commission [2017] eKLR; see further the Civil Procedure (Amendment) Rules 2020 expanding mandatory referral to CAM in employment disputes.

[208]Daniel Wamai, "The Court-Annexed Mediation Programme in Kenya: Five Years On" (2021) 9(1) Strathmore Law Review 117, 123–125.

[209]Constitution of the Republic of Ghana 1992, art 33(1) (right to remedy) read with the Directive Principles of State Policy in arts 35 and 36 (social and economic objectives).

XVIII (sections 135 to 174) to dispute settlement and the National Labour Commission;[210] and the Alternative Dispute Resolution Act 2010 (Act 798), which is regarded as one of the most comprehensive ADR statutes in sub-Saharan Africa.[211]

Section 1(1) of the ADR Act expressly preserves employment disputes within the scope of mediation, since none of the carve-outs (national interest, environment, constitutional interpretation) excludes them.[212] Mensa-Bonsu observes that Ghana's deliberate decision to legislate ADR in a single, integrated statute reflects an ambition to mainstream mediation rather than to confine it to the margins of civil procedure.[213]

4.4.2 The National Labour Commission

The National Labour Commission (NLC) is the institutional anchor of Ghana's labour mediation system. Established under section 135 of the Labour Act 2003, the NLC is empowered by section 138 to settle industrial disputes through negotiation, mediation, conciliation, and arbitration.[214] Where the parties' own internal negotiation under the collective agreement fails, section 153 mandates referral of the dispute to the Commission for mediation;[215] if mediation fails, section 154 permits referral to compulsory arbitration,[216] and section 159 confirms the Commission's power to take that step where conciliation has failed.[217]

The NLC's 2022 Annual Report records a settlement rate of approximately 72% through mediation/conciliation, with an average disposal time of 42 days.[218] Appiagyei-Atua attributes this performance to two structural features that Uganda's framework lacks: the mediation step is mandatory rather than discretionary, and the Commission is operationally autonomous rather than nested within the executive ministry responsible for labour policy.[219] Decisions such as *Ghana Telecom v Communications Workers Union of TUC* confirm that the NLC will refuse to certify a

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[210] Labour Act 2003 (Act 651) (Ghana) Part XVIII (ss 135–174).

[211] Alternative Dispute Resolution Act 2010 (Act 798) (Ghana), Part Two (ss 63–88, mediation).

[212] Ibid s 1(1) excludes from ADR matters relating to (a) the national or public interest; (b) the environment; (c) the enforcement and interpretation of the Constitution; or (d) any other matter that by law cannot be settled by an alternative dispute resolution method. Employment disputes therefore fall squarely within the Act.

[213] Henrietta J A N Mensa-Bonsu, "The Quest for the Pursuit of Justice" in HJAN Mensa-Bonsu and others (eds), Ghana Law since Independence: History, Development and Prospects (University of Ghana Press 2007) 115–117.

[214] Ibid s 138 (functions of the National Labour Commission, including settlement of industrial disputes by negotiation, mediation, conciliation and arbitration).

[215] Labour Act 2003 (Act 651) (Ghana) s 153 (process where parties fail to settle through negotiation: referral to NLC for mediation/conciliation).

[216] Ibid s 154 (referral to compulsory arbitration where mediation fails).

[217] Ibid s 159 (where conciliation fails the Commission may refer the dispute to compulsory arbitration); see also National Labour Commission Regulations 2006 (LI 1822).

[218] National Labour Commission, Annual Report 2022 (Accra 2023) 14–18 (recording that the Commission resolved approximately 72% of the disputes referred to it through mediation/conciliation, against an average disposal time of 42 days).

strike where mandatory mediation has not been attempted, while *Industrial and Commercial Workers Union v Coca-Cola Bottling Co* confirms that mediated settlements registered with the Commission are binding on the parties.[220]

4.4.3 The ADR Act 2010 and Court-Connected ADR

Beyond the labour-specific architecture, the ADR Act 2010 establishes a generally applicable mediation regime: Part Two of the Act (sections 63 to 88) sets out the procedural code, the qualifications of mediators, and the legal effect of mediated settlement agreements. Section 82 provides that a mediated settlement agreement, once registered with the High Court with the parties' consent, *"shall have the same force and effect as a judgment of the court."*

Separately, the Judicial Service of Ghana operates a Court-Connected ADR Programme, launched in 2005 under Article 162 of the Constitution and supplemented by Order 64 of the High Court (Civil Procedure) Rules 2004 (CI 47), which makes pre-trial referral to mediation a routine case-management step.

Yiadom-Boakye argues that the combination of the NLC's mandatory pre-arbitration mediation under the Labour Act and the broader court-connected ADR programme has produced "two converging routes" for resolving employment disputes, both anchored in mediation.[221] That redundancy, far from being wasteful, is part of the reason mediation has become culturally normalised in Ghanaian workplace dispute resolution.

4.6 COMPARATIVE SYNTHESIS

When the Kenyan and Ghanaian models are placed side-by-side with Uganda's, three structural variables stand out: (i) the constitutional or statutory mandate to mediate; (ii) the existence of an autonomous institution charged with mediation; and (iii) the enforceability of mediated settlements. These variables are summarised in the table below.

Variable	Kenya	Ghana	Uganda
Mandate to mediate	Constitutional duty (art 159(2)(c)); Civil Procedure Act ss	Statutory mandate (Labour Act 2003, s 153) and ADR Act	Discretionary; Judicature (Mediation) Rules

[219] Kwadwo Appiagyei-Atua, "Twenty Years of the National Labour Commission of Ghana: Achievements and Challenges" (2024) 12(1) African Journal of International and Comparative Law 75, 83.

[220] See Ghana Telecom v Communications Workers Union of TUC, NLC/CR/56/2007 (NLC) (mandatory mediation prior to strike); Industrial and Commercial Workers Union v Coca-Cola Bottling Co, NLC/IR/107/2012 (binding settlement following NLC mediation).

[221] Linda Yiadom-Boakye, "Mandatory Pre-Arbitration Mediation under the Ghanaian Labour Act" (2022) 30(2) African Journal of Legal Studies 211, 226–228.

Variable	Kenya	Ghana	Uganda
	59A–59B; ELRC Act s 15.	2010, ss 63–88.	2013; ambiguous Employment Act s 12 and LADASA Cap 227.
Anchor institution	Employment and Labour Relations Court + Mediation Accreditation Committee.	National Labour Commission (autonomous statutory body).	Industrial Court (Kampala-only) and labour officers under MGLSD.
Geographic reach	ELRC sits at every county with a High Court; CAM rolled out at major court stations.	NLC operates regional offices in all sixteen administrative regions.	Industrial Court physically located only in Kampala; no permanent regional registries.
Enforceability of settlement	Settlement filed with the court has the force of a judgment (Civil Procedure Act, s 59B(4)).	Settlement registered with the court enforceable as judgment (ADR Act, s 82).	Settlement enforceable only if recorded as consent judgment (Judicature (Mediation) Rules 2013, r 16); see s 5(3) LADASA.
Mediator accreditation	Mediation Accreditation Committee maintains a public register and a Code of Conduct.	ADR Act ss 79–81 establish mediator qualifications and a code of conduct.	No statutory accreditation regime; ICAMEK accredits some commercial mediators but not labour mediators specifically.
Most recent reported settlement rate	Approx. 56% (Judiciary, SOJAR 2022/23).	Approx. 72% (NLC Annual Report 2022).	Industrial Court conducted only a few dozen mediations against thousands of pending cases (Industrial Court, Annual Performance

Variable	Kenya	Ghana	Uganda
			Report 2023/24).

Two cross-cutting observations emerge. First, both Kenya and Ghana have elevated mediation from mere procedural rule-making to either constitutional (*Kenya*) or organic-statutory (*Ghana*) status. Uganda's framework, by contrast, locates mediation within the Judicature (Mediation) Rules 2013 and the ambiguous interface between sections 5 and 12 of the LADASA and the Employment Act,[222] which Chapter Four has already shown to be a principal source of inconsistency in practice.

Secondly, both Kenya and Ghana solve the enforceability problem by giving registered mediated settlements the legal effect of a judgment, whereas Uganda still requires a separate consent-judgment step that, paradoxically, sacrifices the very confidentiality that drives parties into mediation in the first place.[223]

Two further differences of architecture matter. Both Kenya and Ghana operate explicit mediator accreditation regimes (the MAC in Kenya, sections 79–81 of the ADR Act in Ghana), each with published qualifications and codes of conduct;[224] Uganda has no labour-specific accreditation regime. And both Kenya and Ghana have addressed geographic reach: the ELRC has a presence in every county with a High Court, while the NLC has regional offices in each of Ghana's sixteen administrative regions.[225]

4.7 LESSONS FOR UGANDA

The Kenyan and Ghanaian experiences yield four discrete lessons for Uganda's reform agenda. First, anchor mediation in higher-order law. Kenya's constitutional commitment in Article 159(2)(c) and Ghana's integrated ADR Act 2010 demonstrate that the mediation mandate must be insulated from ministerial discretion. Uganda's reform package in Chapter Five should accordingly elevate mediation from the Judicature (Mediation) Rules 2013 to a substantive provision in either the Employment Act, Cap 226, or a stand-alone Mediation Act, on the Ghanaian template.[226]

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[222] Section 5(3) of the Labour Disputes (Arbitration and Settlement) Act, Cap 227 (Uganda); see also discussion in section 4.2.1 ("Ambiguous framework") above.

[223]

[224] Mediation Accreditation Committee, Mediator's Handbook (Judiciary of Kenya 2021) chs 2–3; ADR Act 2010 (Ghana) ss 79–81 (qualifications and code of conduct for mediators).

[225] Employment and Labour Relations Court Act 2011 (Kenya) s 28 establishes the court at every county where there is a High Court, while the National Labour Commission of Ghana operates regional offices in each of the sixteen administrative regions: NLC, "About Us" https://nlcghana.org/about

Secondly, vest mediation in an institution with operational autonomy. Both the Kenyan MAC and the Ghanaian NLC are statutorily independent of the executive ministry responsible for labour policy. Uganda's current mediation location within the MGLSD and the labour-officer system creates a structural conflict of interest, since labour officers report to the same ministry that is sometimes a respondent in public-sector employment disputes. A statutory body, whether a re-purposed Industrial Court ADR division or a free-standing Labour Mediation Commission, would replicate the Kenyan and Ghanaian institutional model.[227]

Third, give mediated settlements automatic enforceability. Section 82 of Ghana's ADR Act 2010 and section 59B(4) of Kenya's Civil Procedure Act both confer judgment status on registered settlements without requiring a separate consent-judgment hearing. This directly addresses the enforceability problem.[228]

Finally, decentralise the institutional footprint. The presence of the ELRC at every county High Court in Kenya and the regional offices of the NLC across all sixteen Ghanaian regions show that geographic reach is not an aspiration reserved for wealthy jurisdictions. It is achievable on a budget comparable to Uganda's. Chapter Five's call for sub-registries of the Industrial Court at every High Court Circuit is therefore not radical; it is the African baseline.[229]

4.8 CONCLUSION

The comparison with Kenya and Ghana confirms and concretises the argument advanced throughout Chapter Four: Uganda's mediation framework lags behind its African peers not because of any peculiarity of Ugandan labour markets, but because of identifiable, remediable institutional and statutory choices. Kenya's constitutionalisation of mediation under article 159(2)(c), and Ghana's integrated statutory regime under the Labour Act 2003 and the ADR Act 2010, together demonstrate that mandatory mediation, autonomous anchoring institutions, automatic enforceability, and decentralised reach can be combined within an African common-law context to produce settlement rates well above fifty per cent and disposal times measured in weeks rather than

[226]Section 12 of the Employment Act, Cap 226 (Uganda) read together with the Court of Appeal's decision in Eng. John Eric Mugyenyi v Uganda Electricity Generation Company Ltd, Civil Appeal No. 167 of 2018 (limiting labour officers to mediation/conciliation).

[227]See discussion at section 5.2 above on automatic enforceability of mediated settlements; see also W Maclons, "Mandatory Court-Based Mediation as an Alternative Dispute Resolution Process in the South African Civil Justice System" (LLM thesis, University of the Western Cape 2014) 87.

[228]See Kariuki Muigua, "Institutionalising Mediation in Kenya: Promise and Pitfalls" (n 205) 18 (warning that absent sustained funding and accreditation infrastructure, court-annexed mediation risks becoming "a symbolic compliance with Article 159 rather than a genuine route to justice").

[229]Appiagyei-Atua (n 219) 90 (concluding that the National Labour Commission has succeeded primarily because mediation under the Labour Act is structurally mandatory and the Commission is operationally autonomous).

years. The reforms proposed in Chapter Five draw their strongest empirical justification from precisely these African experiences.[230]

[230]See section 4.6 above ("Take-Aways for Uganda").

CHAPTER FIVE: REFORMS TO ENHANCE THE USE AND EFFICACY OF MEDIATION IN EMPLOYMENT DISPUTES

5.1 INTRODUCTION

Effective resolution of employment disputes in Uganda requires strengthening mediation not only as a procedural option but also as a credible and enforceable mechanism. To achieve this, reforms must target the legal framework, institutional structures, operational processes, and employer-employee relations that shape mediation outcomes.

Building on the findings from Chapter Four, which revealed that unclear laws and institutional weaknesses limit the uptake of mediation, this chapter proposes targeted reforms to strengthen its use and effectiveness in employment dispute resolution. The first step tois in reform the legal framework to remove ambiguity, establish clear procedures, and make mediation outcomes legally enforceable.

5.2 REFORMS TO THE LEGAL FRAMEWORK

First, there is a need to amend the Employment Act to provide clear mediation procedures. At the moment, the Act gives a mixed position under both sections 12 and 92. This ambiguity needs to be resolved and reconciled with the Court of Appeal decision in **John Eric Mugyenyi v Uganda Electricity Company Limited, Civil Appeal No. 167 of 2018.** The learned justices noted that the powers of Labour Officers should be limited to mediation and conciliation only.

Another fundamental amendment to the Employment Act Amendments should remove the ambiguity between mediation and conciliation. It is one thing to establish mediation as a structured and credible legal process; however, it is another thing altogether to distinguish between a mediator and a conciliator. In Chapter Two, we showed that mediators and Conciliators perform different roles. Therefore, a correct distinction should be made between the two.

The Labour Disputes (Arbitration and Settlement) Act should be amended to set clear mediation timelines and procedures, and to specify mediator qualifications, including the required expertise of labour officers, to enable them to perform their duties as mediators and conciliators fully. This will align Uganda's legislation with best practices in South Africa and the United Kingdom, as discussed in Chapter Four above.

Similarly, both the Public Service (Negotiating, Consultative and Dispute Settlement Machinery) Act[231] and the Employment Act[232] need to be amended to clearly provide for mediation as the preferred initial procedure for all labour disputes. This provision is in several laws around the

[231] Section 1 subsumes mediation under conciliation, yet the two processes are distinct,

[232] Section 12 empowers the labour officer to resolve disputes by adjudication; yet the Court of Appeal *in Civil Appeal No. 167 of 2018* noted that the powers of Labour Officers should be limited to only mediation and conciliation

world. For instance, the Civil Rights Act of 1991, which amends the Americans with Disabilities Act, Title VII of the Civil Rights Act of 1964, and various other statutes, also provides:

> *Where appropriate and to the extent authorised by law, the use of alternative means of dispute resolution, including settlement negotiations, conciliation, facilitation, mediation, fact finding, mini-trials and arbitration, is encouraged to resolve disputes arising under the Acts or provisions of Federal law amended by this title.*[233]

The Labour Disputes (Arbitration and Settlement) Act should also be amended to ensure Automatic Enforceability of Mediated Settlements. The legislation should provide that all mediated settlements reached at government-recognised mediation bodies automatically take effect as binding, enforceable instruments and may be registered as consent judgments of the Industrial Court. This will remove the need for separate enforcement proceedings.

Additionally, it should also be amended to provide sanctions for breaches of mediated agreements in bad faith. Chapter Three observed that one challenge was the non-binding nature of the mediation agreements. By making them binding on the parties, the Act will protect employees and increase their faith in using mediation as the primary labour dispute settlement mechanism.

While legal reforms can clarify the framework within which mediation operates, their success depends on strong and capable institutions to implement them. The next set of reforms, therefore, focuses on strengthening the Industrial Court and Labour Officers, who play a central role in managing and promoting mediation nationwide.

5.3 INSTITUTIONAL REFORMS

5.3.1 Industrial Court

The most appropriate remedy at present is for the Industrial Court to establish dedicated mediation panels and properly equipped mediation rooms. Such decentralisation would not only reduce backlog but also make mediation more accessible to workers and employers in remote districts who often face high costs and long delays when travelling to Kampala.[234] Ultimately, regional mediation centres would promote faster, fairer, and more community-based resolution of employment disputes.

The Industrial Court should also formally adopt mediation as the preferred primary dispute resolution mechanism before any case proceeds to full adjudication. This approach would ensure that parties first attempt to resolve their differences through dialogue rather than confrontation.[235]

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[233] Paragraph 118 of the Published Legislation No. 103-283 (amending published legislation No. 102-166)

[234] Interview with the Accredited Mediator at the Industrial Court (Kampala, 30 April 2026)

[235] See the comparative analysis in Ghana in Chapter 4.5

Early mediation encourages cooperation, saves time, and preserves employment relationships that might otherwise be destroyed by lengthy litigation.

By positioning mediation as the first step in the dispute-handling process, the Court would demonstrate its commitment to restorative justice and the efficient use of judicial resources. It would also align Uganda's labour justice system with international best practice, where mediation is viewed as a fundamental rather than optional stage of dispute resolution.

To make mediation an integral part of labour justice, the Industrial Court can be restructured to include dedicated mediation panels staffed by trained and accredited mediators. These panels would specialise in handling employment disputes through negotiation and settlement rather than through prolonged hearings. If the Court is to truly promote justice for all, the government must empower it with adequate resources, personnel, and infrastructure to establish multiple panels that can reach a broader range of employers and workers.

This structure would enable the Court to handle cases more efficiently, reduce backlog, and promote public confidence in alternative dispute resolution. A well-resourced and regionally accessible Industrial Court would therefore become a key pillar in ensuring fair, timely, and affordable labour justice for every Ugandan worker.

It would also be prudent and essential for the Industrial Court to open regional centres at the High Courts and conduct out-of-station circuits in the different regions. This would enhance the court's effectiveness and make access to justice achievable for all citizens, including marginalised and vulnerable groups.

5.3.2 Labour Officers

The major reform is to set the minimum qualification for a labour officer at least a diploma in law, together with a certificate in mediation. The MGLSD should establish criteria for mediator certification in Uganda, including mandatory training, practical skills assessment, adherence to strict ethical codes, and continuous professional development, often overseen by institutions like ICAMEK, with a focus on competence, integrity, and experience to ensure quality mediation services.[236]

In addition to training Labour Officers, their roles should be clearly defined to avoid overlap and confusion with other dispute-resolution actors.[237] At present, many Labour Officers perform both mediation and adjudication functions without clear legal or procedural guidance, often resulting in inconsistent decisions and a loss of public confidence. Clearly outlining their mandate, particularly

[236] Interview with Legal Officer, Platform for Labour Action (Kampala, 5 January 2026).
[237] Interview with the Makindye Division Labour Officer (Kampala, 30 April 2026)

by distinguishing among their administrative, advisory, and mediation duties, would ensure accountability and professionalism in handling disputes.[238]

A well-defined framework would also make it easier for employees and employers to understand what to expect when they appear before a Labour Officer. This clarity would not only promote consistency in the application of the law but also enhance the credibility of mediation as a structured, fair, and transparent process.

Additionally, mediators should be empowered to conduct informal mediations within communities or workplaces, rather than requiring all parties to travel to district headquarters. Many employees who are dismissed or in conflict with their employers lack the financial means to cover transport costs or legal representation, making it difficult for them to participate in formal proceedings.[239] Allowing trained mediators to handle such cases locally, perhaps through mobile telephones, mediation clinics or community-based sessions, would greatly increase access to justice.

Informal mediations can be conducted in neutral community spaces, with flexibility in scheduling and language to suit the parties.[240] This approach would not only reduce costs and delays but also make mediation feel more approachable and inclusive, particularly for vulnerable workers in rural areas. By bringing mediation closer to the people, Uganda can make dispute resolution more humane, efficient, and practical.

Even with sound laws and strengthened institutions, mediation will remain ineffective without practical mechanisms that encourage its use in everyday workplace relations. The following section, therefore, discusses operational and contractual reforms aimed at integrating mediation into routine employment practices and promoting early, voluntary dispute resolution.

5.4 OPERATIONAL AND CONTRACTUAL REFORMS

5.4.1. Operational Reforms

Amendments can be made to the Employment Act, the Labour Disputes Arbitration and Settlement Act, and the various labour laws to provide for mediation as the preferred primary mode of dispute resolution. After the amendments, enforcement can be done in several ways:

The first step is to introduce initial settlement sessions, in which parties are encouraged to explore resolving their dispute through mediation before proceeding to formal litigation. These sessions can be structured as short, guided meetings facilitated by trained mediators at the start of every labour complaint.[241] They would provide both parties with an opportunity to clarify their positions, understand the legal issues, and consider compromise in a neutral environment.

[238] Interview with the Makindye Division Labour Officer (Kampala, 30 April 2026)
[239] Interview with Legal Officer, Platform for Labour Action (Kampala, 5 January 2026).
[240] Ibid.
[241] Interview with the Accredited mediator at the Industrial Court (Kampala, 30 April 2026)

Importantly, this process would preserve the voluntary nature of mediation, ensuring that parties choose settlement freely rather than through compulsion. By institutionalising these early sessions, the system would encourage dialogue, reduce hostility, and promote quicker, mutually beneficial resolutions. Over time, this practice would also help cultivate a culture of cooperation and trust in mediation as a normal and preferred means of addressing workplace disputes.

Secondly, mediation can be institutionalised by requiring employers to include it as the preferred initial step in their internal grievance procedures.[242] This would make mediation part of everyday workplace practice, not just a tool used when disputes reach the Industrial Court. Companies could be encouraged to appoint or train internal mediators who handle conflicts between management and employees at an early stage.

Integrating mediation in this way would promote dialogue, strengthen workplace relationships, and reduce the likelihood that small disagreements escalate into major legal battles. Institutionalising mediation also empowers both employers and employees to take ownership of conflict resolution, fostering a sense of fairness and accountability within the organisation.

Thirdly, mediation training institutes can be supported and incentivised through public–private partnerships to make professional training more affordable and accessible.[243] High training costs often discourage potential mediators from seeking certification, resulting in a shortage of qualified practitioners. Through partnerships with universities, legal training centres, and private-sector organisations, the government can help subsidise training programmes, provide scholarships, or offer logistical support, such as training materials and venues.[244]

These collaborations would not only expand the pool of skilled mediators but also ensure that training standards remain high and aligned with international best practice. Reducing training costs and increasing access to quality instruction would significantly contribute to building a strong, sustainable mediation culture across the country.

Finally, incentives can also be provided to promote early intervention; this means that mediation can be used at an early stage, before attitudes harden, allowing it to act as a preventive tool. These incentives include structural support, like refunding court fees if parties settle through mediation, extending legal aid to cover mediation costs, so that it is accessible to parties with limited financial resources.

[242] Interview with Legal Officer, Platform for Labour Action (Kampala, 5 January 2026).
[243] Interview with the Accredited Mediator at the Industrial Court (Kampala, 30 April 2026)
[244] Ibid.

5.4.2. Contractual Reforms

The provisions of the Law can be amended to require employers to add mediation as the preferred mode of dispute resolution; this would provide a structured, voluntary, and confidential process for resolving disagreements amicably.

Employers should be legally required to include mediation clauses in all employment contracts as the first step for resolving workplace disputes. These clauses would set out clear procedures for initiating mediation, selecting a mediator or institution, and establishing timelines for settlement attempts. Having such clauses in place ensures that both parties are aware from the outset that mediation is the preferred and recognised process before litigation.

A clear contractual provision for mediation also helps reduce misunderstandings about procedure and encourages early, cooperative problem-solving. By embedding mediation directly into the employment relationship, disputes can be addressed quickly, privately, and affordably, thus preserving working relationships and reducing the burden on the Industrial Court.

The mediation clause should be specific, stating the types of disputes that must be mediated, using language that requires, not just suggests, mediation, and identifying the institution or mechanism for selecting the mediator.

Another important contractual reform is the standardisation and enforcement of mediation agreements. Once parties reach a mediated settlement, the terms should automatically form part of the employment contract or be easily registrable as a consent judgment of the Industrial Court. This would give mediated agreements the same binding force as court decisions, making them easier to enforce and protecting both parties from bad-faith breaches.

Standardised formats for mediation clauses and settlement agreements, developed and approved by the Ministry of Gender, Labour and Social Development, would ensure consistency, legal certainty, and trust in the mediation process.[245] This reform would bridge the current gap between successful mediations and actual compliance, turning agreements into durable, enforceable commitments.

Before concluding, it is important to emphasise that together, these reforms would transform mediation from an underused alternative into a central pillar of Uganda's labour justice system. Clear laws, professional mediators, decentralised access, and enforceable settlements would make the process faster, fairer, and more inclusive.

Finally, operational and contractual reforms should embed mediation within workplace structures to promote early intervention before conflicts escalate. In doing so, Uganda would align its labour

[245] Interview with the Accredited mediator at the Industrial Court (Kampala, 30 April 2026)

dispute resolution system with global best practices, fostering industrial harmony, protecting workers' rights, and promoting a culture of dialogue over confrontation.

5.5 CONCLUSION

This chapter has shown that the future of mediation in Uganda's employment dispute resolution system depends on deliberate and coordinated reforms across several levels. Legal reforms must first clarify the scope, procedures, and enforceability of mediation to restore confidence in the process. Institutional strengthening, particularly of the Industrial Court and Labour Officers, must then ensure that mediation is not only a legal formality but also a functional, accessible, and credible mechanism.

This chapter concludes that although mediation is legally recognised in Uganda's employment dispute resolution system, it remains ineffective due to unclear laws, weak institutional support, and inconsistent practice. Legal ambiguities within key statutes undermine confidence in mediation and limit its enforceability, while institutional challenges affecting the Industrial Court and Labour Officers restrict access to justice and the quality of mediation outcomes.

The chapter, therefore, emphasises the need for comprehensive reforms that clarify the legal framework, strengthen institutional capacity, and prioritise mediation in both operational and contractual settings. By professionalising Labour Officers, decentralising the Industrial Court, ensuring enforceability of mediated settlements, and embedding mediation within workplace grievance systems and employment contracts, mediation can become a credible, accessible, and effective tool for resolving employment disputes and promoting industrial harmony in Uganda.

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INTERVIEW GUIDES

Interview Guide for Interviewing An Accredited Mediator at the Industrial Court

Instructions to the interviewer: Please introduce yourself, explain the purpose of the study (an academic research study on the efficacy of mediation in resolving employment disputes in Uganda), and request informed consent before proceeding.

Unless the respondent agrees otherwise, do not record names in the dissertation; use a neutral identifier (e.g., “”).

Consent (tick/confirm):
(a) I consent to participate in this interview voluntarily.
(b) I understand that I may decline to answer any question.
(c) I understand that I may stop the interview at any time.
(d) I consent/do not consent to audio recording.

Section A: Respondent Profile (non-identifying)

1. Position/role in the Industrial Court.
2. Number of years served in the Industrial Court.
3. Main duties related to employment disputes (tick all that apply): mediation/case management/hearing support/adjudication/enforcement / other (specify).
4. Have you received any formal mediation/ADR training? If yes, from where and when?

Section B: Mediation at the Industrial Court (practice and experience)

1. What is the Industrial Court’s current mandate regarding mediation in employment disputes?
2. Does the Court offer court-annexed mediation for labour disputes as a routine step, or only in selected matters? Please explain the criteria used.
3. At what stage are cases typically referred to mediation (before first hearing, after pleadings, during scheduling, after partial hearing, etc.)?
4. Who conducts mediation at the Industrial Court (e.g., accredited mediators, judicial officers, registry/ADR unit)? How are mediators assigned?
5. What types of employment disputes are most suitable for mediation in your experience (e.g., termination, wage arrears, discrimination, benefits, union disputes)? Which types are least suitable, and why?
6. How would you describe the typical mediation process used by the Court (pre-mediation session, joint session, caucus, documentation, timeframes)?

7. What proportion of mediated cases result in a settlement, and what factors most influence settlement rates (e.g., representation by counsel, willingness of employer, clarity of law, strength of evidence)?
8. What are the most common terms of settlement reached through mediation (e.g., compensation, reinstatement, certificate of service, payment schedules, confidentiality clauses)?
9. How does the Court handle power imbalances between employers and employees during mediation (e.g., self-represented workers, fear of retaliation, information asymmetry)?
10. What safeguards exist to ensure voluntariness, confidentiality, and fairness during the mediation process?
11. How are mediated settlements documented and made enforceable (e.g., consent judgments, orders, registration)? What practical challenges arise with enforceability?
12. In your view, does converting settlements into consent judgments undermine confidentiality? If yes, what alternatives would you recommend (e.g., statutory enforcement of mediated settlements without full public disclosure)?
13. How does the Industrial Court coordinate with Labour Officers and the Ministry of Gender, Labour and Social Development regarding cases that originate at labour offices?
14. What challenges does the Court face in promoting or implementing mediation (e.g., staffing, funding, backlog, facilities, awareness, resistance from parties/lawyers)?
15. What is the impact of the Court's centralised location in Kampala on access to mediation services? Have there been any initiatives (circuits, regional registries, remote mediation) to address this?
16. Does the Court maintain statistics or reports on mediation (number of mediations registered, completed, settled, pending; average time to settle)? If yes, can you describe the trends in recent years?
17. Based on your experience, how does mediation compare to litigation in terms of cost, time, compliance with outcomes, and preservation of employment relationships?
18. What reforms (legal, institutional, operational) would you prioritise to strengthen mediation in employment disputes in Uganda?
19. Are there lessons the Industrial Court has drawn from other models (e.g., South Africa's CCMA, UK ACAS, US FMCS)? Which features would be most realistic to adopt in Uganda?
20. Is there anything else you would like to add about mediation and the resolution of employment disputes in Uganda?

Closing: Thank the respondent for their time.

Interview Guide for Interviewing a Legal Officer at Platform for Labour Action (PLA)

Instructions to the interviewer: Please introduce yourself, explain the purpose of the study (an academic research study on the efficacy of mediation in resolving employment disputes in Uganda), and request informed consent before proceeding.

Consent (tick/confirm):
(a) I consent to participate voluntarily.
(b) I understand I may decline to answer any question.
(c) I understand I may stop the interview at any time.
(d) I consent/do not consent to audio recording.
(e) I confirm that sharing general information about PLA's mediation work does not breach my organisational confidentiality obligations.

Section A: Respondent Profile (non-identifying)

1. Position/role at PLA.
2. Number of years served at PLA.
3. Primary tasks related to dispute resolution (tick all that apply): intake/triage, mediation, legal advice, court support, referrals, community outreach, monitoring & evaluation, other (specify).
4. Any formal mediation/ADR training received (institution and year):
5. Which categories of workers does your work most commonly serve? (e.g., formal sector, informal sector, domestic workers, migrant workers, unionised workers):

Section B: PLA's mediation model and procedures

1. What is PLA's mandate and approach in handling employment disputes (mediation, legal advice, litigation support, advocacy)?
2. How do disputes reach PLA (walk-ins, hotline, referrals from unions/labour officers/CSOs, social media, community outreach)?
3. What are the key steps in your intake and case-triage process (screening, document review, jurisdiction checks, risk assessment)?
4. Which disputes are most frequently mediated by PLA (e.g., wage arrears, unlawful termination, NSSF issues, workplace harassment, injury/compensation, union matters)?
5. Which disputes are least suitable for mediation, and what criteria guide the decision to refer/decline (e.g., criminal allegations, urgent injunction needs, precedent issues, severe power imbalance)?
6. In your practice, what forms of mediation does PLA use? Please explain when and why each is chosen:

a) Informal mediation by phone/online messaging
b) Informal in-person mediation
c) Formal mediation meetings (including written invitations and structured sessions)

7. When PLA mediates, who usually serves as mediator (lawyers, trained mediators, paralegals)? How is neutrality managed when the PLA also supports workers?
8. How do you obtain participation from employers who may be reluctant to engage? What techniques or leverage points are effective (e.g., legal information, reputational considerations, escalation options)?
9. How do you manage confidentiality in PLA mediations, especially where a case may later proceed to the Labour Office or Industrial Court?
10. What is the typical timeframe for resolving a dispute through PLA mediation (from intake to settlement)?
11. How does PLA document outcomes (written settlement agreements, minutes, undertakings, payment schedules)? Do parties sign? Is there a standard template?
12. How does PLA follow up to ensure compliance with settlement terms (monitoring calls, reminders, instalment tracking)?

Section C: Effectiveness, fairness, and safeguards

1. Approximately what proportion of cases handled by PLA are resolved through mediation/settlement (as opposed to referral to the Labour Office or Court)?
2. What factors most influence whether a case settles (e.g., size of claim, documentation, employer type, worker expectations, legal representation, public pressure)?
3. How does PLA address power imbalances (e.g., low literacy, language barriers, fear of retaliation, intimidation, information asymmetry)?
4. What safeguards are used to ensure voluntary participation and informed decision-making (explaining rights, options, and consequences of settlement vs litigation)?
5. How do you handle cases involving vulnerable groups (e.g., domestic workers, young workers, persons with disabilities, migrant workers) or sensitive issues (e.g., harassment)?
6. To what extent does PLA engage in evaluative elements (e.g., explaining likely legal outcomes) versus facilitative mediation, and why?
7. Do you face situations where workers prefer litigation over mediation (e.g., desire for “full compensation” or a precedent)? How do you counsel them?
8. What are the most common settlement terms and remedies achieved (wages, notice pay, compensation, certificates of service, reinstatement, apology, payment plans)?

Section D: Referrals, enforceability, and linkages with public institutions

1. When mediation fails at PLA, what are the typical next steps (referral to District Labour Officer, filing at Industrial Court, other mechanisms)?

2. How does PLA coordinate with Labour Officers, MGLSD, the Industrial Court, and other actors (e.g., trade unions, EOC)? What works well and what does not?
3. In practice, how enforceable are PLA-mediated settlements? What happens when an employer defaults?
4. Do you ever help parties convert a settlement into a formal enforceable instrument (e.g., filing for a consent judgment, a formal complaint at the Labour Office)? Please explain the process and barriers.
5. What are the main legal or institutional gaps you observe in Uganda that make mediated settlements hard to enforce?
6. In your view, would a statutory mechanism for automatic enforceability of mediated settlements (without undermining confidentiality) improve outcomes for workers? How should it be designed?

Section E: Institutional capacity, data, and recommendations

1. What resources support PLA's mediation work (staffing, funding, training, partnerships), and what resource gaps most affect effectiveness?
2. Does PLA keep statistics on labour disputes and mediations (case types, settlement rate, time to settlement, compliance rates)? If yes, what are the trends you have observed?
3. What ethical or practical challenges do you face in mediation (e.g., confidentiality vs accountability, conflict of interest concerns, threats/harassment, unrealistic expectations, non-cooperation)?
4. How does PLA measure success in mediation beyond settlement (e.g., compliance, client satisfaction, relationship preservation, deterrence, systemic change)?
5. What reforms would you recommend to strengthen mediation in employment disputes in Uganda (legal reforms, institutional reforms, awareness, decentralisation, legal aid for mediation)?
6. Is there anything else you would like to add about PLA's experience with mediation and how it complements (or substitutes for) state dispute resolution mechanisms?

Closing: Thank the respondent for their time.

Interview Guide for Interviewing the Makindye Division Labour Officer

Instructions to the interviewer: Please introduce yourself, explain the purpose of the study *(an academic research study on the efficacy of mediation in resolving employment disputes in Uganda)*, and request informed consent before proceeding.

Consent (tick/confirm):

(a) I consent to participate voluntarily.
(b) I understand I may decline to answer any question.
(c) I understand I may stop the interview at any time.
(d) I consent/do not consent to audio recording.
(e) I confirm that I will not disclose confidential personal data of complainants/employers and will speak in general terms and/or anonymised examples.

Section A: Respondent Profile (non-identifying)

1. Current designation/role.
2. Station/administrative area of responsibility (district/municipality) (optional).
3. Number of years served in this role and/or within MGLSD/local government labour administration.
4. Core duties related to employment disputes (tick all that apply): complaint intake/triage, conciliation/mediation, inspection/enforcement, legal advice, referrals, prosecutions, reporting, workplace sensitisation, other (specify).
5. Any formal mediation/ADR training received (institution and year).
6. Main sectors you handle most often (e.g., private security, hospitality, education, manufacturing, construction, domestic work, public service, informal sector).

Section B: Legal/Institutional Mandate and Dispute-Handling Procedures

1. What is the mandate of your office in handling employment disputes (conciliation/mediation, investigation, enforcement, referrals to court)?
2. How do employment disputes reach your office (walk-ins, written complaints, phone calls, referrals from CSOs/unions/employers, RDC/LC referrals, court referrals)?
3. Please walk me through the key steps from receipt of a complaint to conclusion (registration, jurisdiction checks, summoning parties, fact-finding, conciliation session(s), documentation of outcome).
4. What types of disputes are most frequently handled through conciliation/mediation at your office (e.g., wage arrears, termination, notice pay, discrimination, NSSF issues, workplace injury, sexual harassment, contracts)?

5. Which disputes are least suitable for mediation/conciliation, and what criteria guide the decision to refer/escalate (e.g., criminal matters, urgent interim relief, violence/threats, severe power imbalance, public interest issues)?
6. What forms of conciliation/mediation are commonly used by your office, and when?

    a) Informal conciliation by phone
    b) Informal in-person meetings
    c) Formal scheduled conciliation meetings (written summons/structured sessions)

7. Who usually facilitates conciliation/mediation (labour officer, inspector, committee, panel), and what measures ensure neutrality and fairness?
8. How do you secure attendance/cooperation from employers who are reluctant to engage? What works in practice (summons, inspections, legal explanations, escalation to court/other agencies)?
9. How is confidentiality managed during conciliation/mediation, especially if the matter later proceeds to the Industrial Court?
10. What is the typical timeframe for resolving disputes through your office (from complaint intake to settlement/closure)?
11. How do you document outcomes (settlement agreements, undertakings, minutes, computation sheets, payment schedules)? Do parties sign, and is there a standard template?
12. What follow-up mechanisms exist to ensure compliance (follow-up calls, return visits, deadlines, reminders, enforcement options)?

Section C: Effectiveness, Fairness, and Safeguards in Mediation

1. Approximately what proportion of cases at your office are resolved through conciliation/mediation versus referral to the Industrial Court or other mechanisms?
2. What factors most influence settlement outcomes (documentation, employer type, worker expectations, representation, relationship history, amounts claimed, power imbalance)?
3. How do you address power imbalances (illiteracy, language barriers, fear of retaliation, intimidation, unequal access to records, unequal bargaining power)?
4. What safeguards ensure voluntary participation and informed decision-making (explaining rights, options, likely outcomes, and consequences of settlement vs litigation)?
5. How are cases involving vulnerable groups handled (domestic workers, young workers, persons with disabilities, migrants, low-wage informal workers)?
6. To what extent do you use evaluative approaches (e.g., indicating likely legal outcomes) versus facilitative approaches (supporting parties to craft solutions), and why?
7. Do you encounter cases where workers or employers prefer litigation over mediation? What reasons are commonly given, and how do you respond?

8. What are the most common settlement terms/remedies achieved (wages, notice pay, compensation, certificate of service, reinstatement, apology, payment plans, provision of records)?

Section D: Enforceability, Referrals, and Linkages with Other Institutions

1. When conciliation/mediation fails, what are the typical next steps (referral to Industrial Court, inspections/enforcement route, referral to police where criminal, EOC/other bodies, legal aid/CSOs)?
2. How does your office coordinate with the Industrial Court, MGLSD, police, RDC/LC structures, trade unions, employer associations, and CSOs? What works well and what does not?
3. In practice, how enforceable are Labour Office-mediated settlements? What happens when an employer defaults?
4. Do you assist parties to convert settlements into more enforceable instruments (e.g., filing for consent in court, formal registration, or issuing compliance directives)? Please explain the process and barriers.
5. What legal or institutional gaps make mediated settlements hard to enforce (e.g., lack of sanctions, delays, limited follow-up resources, weak inspection capacity)?
6. In your view, would reforms to strengthen the enforceability of mediated settlements improve outcomes for workers and employers? What reforms would you recommend?

Section E: Institutional Capacity, Case Trends, and Recommendations

1. What resources support your dispute-handling work (staffing, budget, transport, office space, training, ICT, inspection tools), and what resource gaps most affect effectiveness?
2. Does your office keep statistics on disputes and mediations (case types, settlement rate, time to settlement, compliance/default rates)? If yes, what trends have you observed?
3. What ethical or practical challenges arise in conciliation/mediation (confidentiality vs accountability, threats/harassment, corruption risks, political interference, unrealistic expectations, non-cooperation)?
4. How do you measure “success” beyond settlement (compliance, satisfaction, reduced repeat disputes, improved workplace practices)?
5. What reforms would you recommend to strengthen mediation/conciliation in employment disputes in Uganda (legal reforms, institutional reforms, decentralisation, awareness, legal aid, standard guidelines, capacity building)?
6. Is there anything else you would like to add about your office’s experience with mediation/conciliation, and how it interacts with CSO-led mechanisms?

Closing: Thank the respondent for their time.