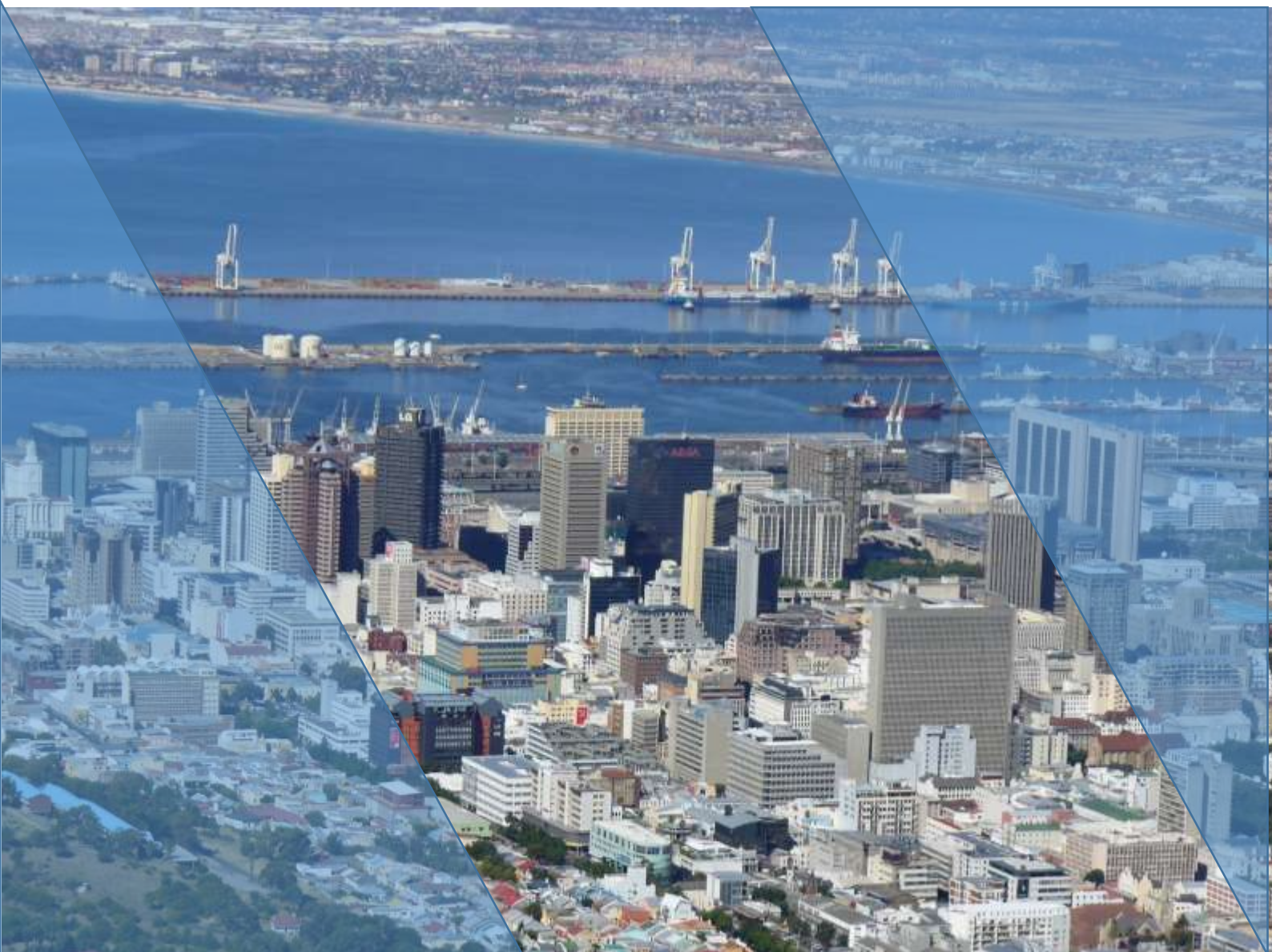


# SOAS Arbitration in Africa Survey

Domestic and International Arbitration: Perspectives from  
African Arbitration Practitioners

2018



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Statistics from some arbitration institutions including ICSID<sup>i</sup>, reveal that African disputes have a strong presence in international arbitration. However, the same cannot be said for African arbitration practitioners either as counsel, arbitrator or tribunal secretary. This disparity has raised concerns particularly among African arbitration practitioners. Some of the reasons noted in published materials and at conferences can generally be classified into three main headings: lack of expertise; lack of information on skilled African arbitration practitioners; and lack of trust in the capability of African arbitration practitioners.

The basis or evidence for these assertions has never been empirically determined. They remain perceptions. Unfortunately, the direct consequence of such perceptions is that African arbitration practitioners ‘miss out’ on participating in international arbitration references, and arbitration flight from Africa. With the growing importance of arbitration globally, and in Africa, such perceptions are becoming entrenched and need to be empirically challenged. This maiden edition of the SOAS Arbitration in Africa survey sets out to prove or disprove these perceptions.

This survey:

1. Provided a platform for African practitioners to express their views of and experiences in domestic and international arbitration;
2. Effectively articulates ‘African voices’ in the international arbitration discourse; and
3. Provides evidence from arbitration practitioners in Africa of their knowledge, expertise and skills in domestic and international arbitration.

This survey Report therefore provides the facts on which to base future discussions on the expertise, experience, skills and participation of African arbitration practitioners.

## The Team

Emilia Onyema: is the principal investigator for this research and author of this Report. She is a Reader in International Commercial Law at SOAS University of London. Her research interrogates the development of arbitration in Africa and she convenes the SOAS Arbitration in Africa conference series (2015-2018). Her latest publication is an edited collection on *Rethinking the Role of African National Courts in Arbitration*, (Kluwer International, 2018).

Isaiah Bozimo: is a Partner at Broderick Bozimo and Company, Abuja, who part-funded the research and contributed to writing up this Report.

Prince N. C. Olokotor: is the research assistant who worked on writing up this Report. He holds a PhD in Law, International Commercial Arbitration, from SOAS University of London.

Christine Djumpah: is the academic department officer at SOAS School of Law who provided the technical support for the online questionnaire and designed the cover for the Report.

## Executive Summary

Arbitration has become a global mechanism for the resolution of primarily commercial disputes. There is evidence that domestic and Africa connected international arbitration references are on the increase. There is also evidence that very few African arbitrators and counsel participate in international arbitration references, including Africa connected disputes. This is irrespective of the strong showing of African parties as disputants in international arbitration.

This Report from the survey of African arbitration practitioners provides original data and information on their expertise, experience, skills and views on arbitration and the depth of their participation in domestic and international arbitration. The data provides the, long absent and much needed, African voices in arbitration. Finally, it provides some explanation for the imbalanced representation of African arbitrators, counsel and tribunal secretaries in international arbitration, from the perspective of the Africans themselves.

## Key findings

The key findings from the survey are as follows:

A significant majority of the respondents have a legal background:

- 90.6% of the respondents are lawyers, of which 73.3% work in law firms.
- 83.8% of the respondents describe themselves as arbitration practitioners.
- Respondents have acted in the capacities of: counsel, arbitrator, registrar or tribunal secretary, academic, consultant, and legal adviser.

Some African jurisdictions have active arbitration practitioners:

- There are active arbitration practitioners in the following African countries: Benin, Botswana, Egypt, Ethiopia, Ghana, Kenya, Lesotho, Malawi, Mauritius, Namibia, Nigeria, Rwanda, Sierra Leone, South Africa, Sudan, Tanzania, Togo, Zambia, and Zimbabwe.
- Some of the respondents are professionally dual qualified and also practice in non-African jurisdictions including: Australia, Brazil, France, India, Malaysia, Netherlands, New Zealand, Portugal, Singapore, United Arab Emirates (Dubai), United Kingdom, and the United States of America.

African arbitration practitioners are underrepresented in arbitration:

- Over the reporting period (2012-2017) 82.2% of respondents did not sit as arbitrator in international arbitration; and 58% did not sit as arbitrator in domestic arbitration.
- Over the same period, 59.2% of respondents did not act as counsel in international arbitration; and 40.3% of respondents did not act as counsel in domestic arbitration.

African arbitration practitioners believe they do not adequately participate in international arbitration:

- 74% of the respondents believe they do not adequately participate in international arbitration.

The top three reasons for the under representation of African arbitration practitioners in international arbitration are:

- Poor perception of African arbitration practitioners (by their foreign colleagues) as lacking in expertise and experience.
- Bias by appointors in favour of foreign counsel and arbitrator.
- Africans not appointing fellow Africans as arbitrators.

More African arbitration practitioners have experience in domestic arbitration in comparison to international arbitration:

- Over the reporting period, 41.1% of respondents sat as arbitrator in at least one domestic dispute compared to 17.8% of respondents who sat as arbitrator in at least one international dispute.
- Over the same period, 64.4% of respondents acted as counsel in at least one domestic arbitration dispute; and 40.8% acted as counsel (or co-counsel) in at least one international arbitration dispute.

More African tribunal secretaries have acted in domestic arbitration than in international arbitration hearings:

- Over the reporting period, 22.5% of respondents acted as tribunal secretary in domestic arbitration disputes against 7.9% that acted as tribunal secretary in international arbitration disputes.

A significant majority of African arbitration practitioners are formally trained in arbitration:

- 81.7% of the respondents have undergone formal training in arbitration law and practice, while 23% studied arbitration as part of a higher degree at university.
- 72% of these were trained by the Chartered Institute of Arbitrators while 28% attended training by other organisations.



A significant majority of African arbitration practitioners hold memberships of Arbitration associations:

- 80.1% of the respondents belong to a membership-based arbitration organisation.
- 80% of these are members of the Chartered Institute of Arbitrators.
- 42% hold multiple memberships of different arbitration organisations and institutions.

Some African arbitrators also sit as mediators:

- 45.5% of the respondents have acted as mediator (in addition to their arbitration practice).
- 32.1% of these have mediated six or more disputes while 64.4% have mediated between one and five disputes.

Some African Arbitrators use online media platforms to market their expertise and availability to sit as arbitrator:

- 74.3% of respondents have their profiles or CVs available on their firm's website and other professional (e.g. LinkedIn) and social (e.g. Facebook) online media platforms.
- A significant 25.7% of respondents do not have their profile or CVs posted online.

Domestic arbitration is growing in Africa:

- 85.3% of respondents believe that domestic arbitration is growing in their jurisdiction. Only 8% of respondents did not think domestic arbitration is growing in their jurisdiction.

African national arbitration laws are effective:

- 55% of respondents believe their national arbitration law is effective.
- 33% of respondents believe their national arbitration law needs review.
- 12% of respondents believe their national arbitration law is not effective

There is robust judicial support for arbitration in Africa:

- 55.7% of respondents rated their judiciary as effective.
- 32.2% of respondents rated their judiciary as average.
- 12.1% of respondents rated their judiciary as poor.

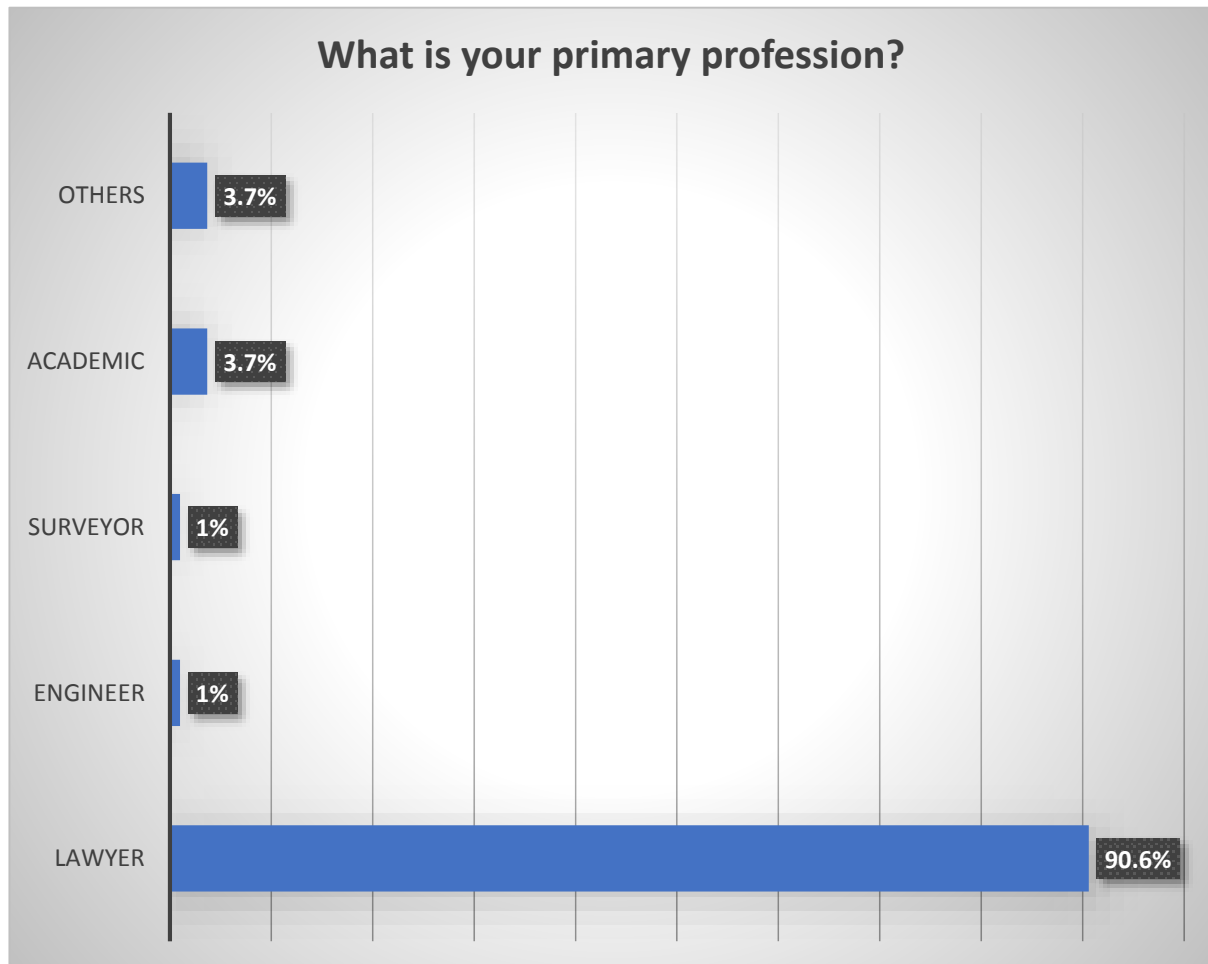
## Methodology

This research was conducted using online questionnaire only. This quantitative research method was chosen to enable us reach as many African arbitration practitioners as possible and to ensure geographical spread. The questionnaire was made up of 36 questions and was circulated in three languages: Arabic, English and French. These languages capture 89% of African countries, leaving out the six Lusophone countries (Angola, Mozambique, Guinea-Bissau, Cape Verde, Sao Tome & Principe, and Equatorial Guinea) that use the Portuguese language and that represent 11% of African States.<sup>ii</sup>

The questionnaires in the Arabic, English and French languages were uploaded onto a website with the web-links to the questionnaires circulated by email to arbitration practitioners from across the continent, via several databases, using the cascading method.

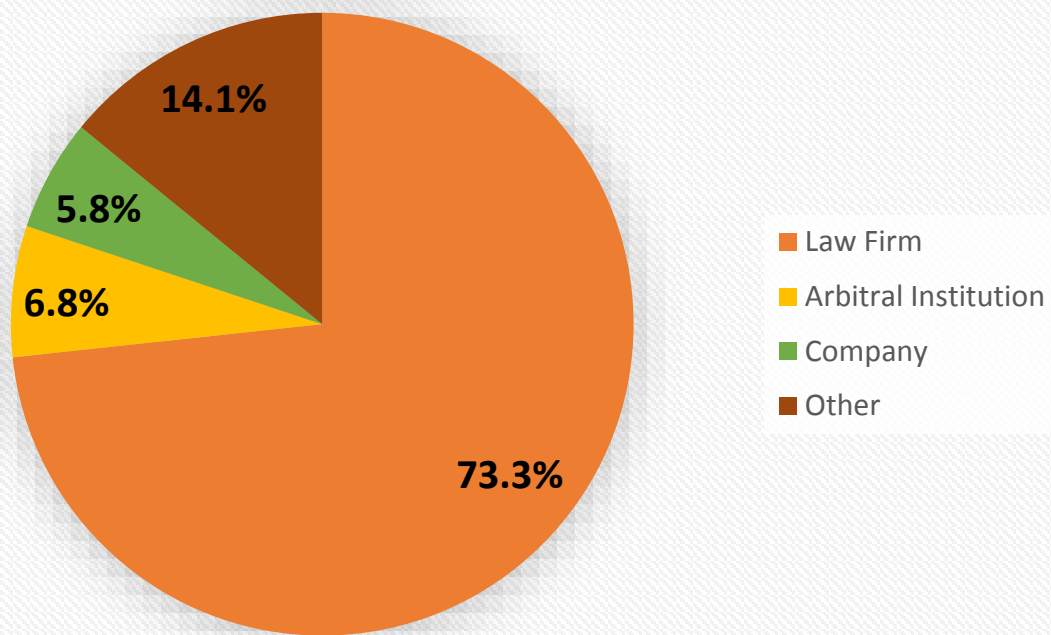
The questionnaire was available for completion over a six-week period. At the end of this period, 191 responses were received with 161 in English; nine in Arabic; and 21 in French. We must mention that the software used for the questionnaire automatically translates the questions and answers into the English language. In addition, we acknowledge that many African practitioners fluently conduct business in more than one of these languages. There is therefore a likelihood that most respondents may have completed the survey in English even though they are fluent in either or both of the Arabic and French languages. The findings from the survey are below.

## Primary Profession of Respondents



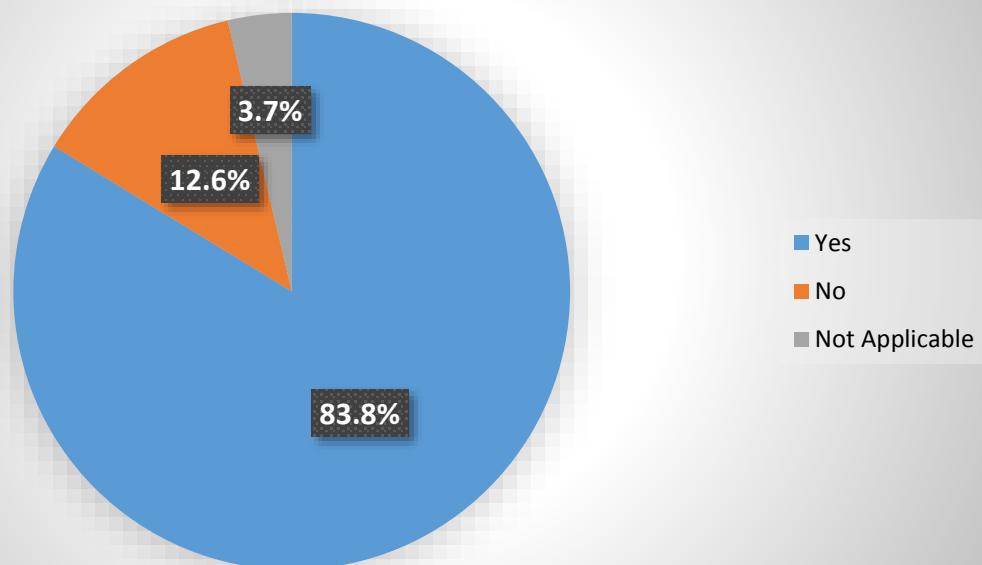
The overwhelming majority (90.6%) of respondents who consider arbitration as their primary profession are lawyers. This result is not particularly surprising. Arbitration is a dispute resolution mechanism and, as in other parts of the world, lawyers are the primary professionals engaged in the business of dispute resolution in Africa. On the nature of the organisation that the respondents work for, a majority of 73.3% of the respondents work in law firms with some respondents working in arbitral centres, in-house, in construction and other companies.

### How will you describe the organisation you work for?

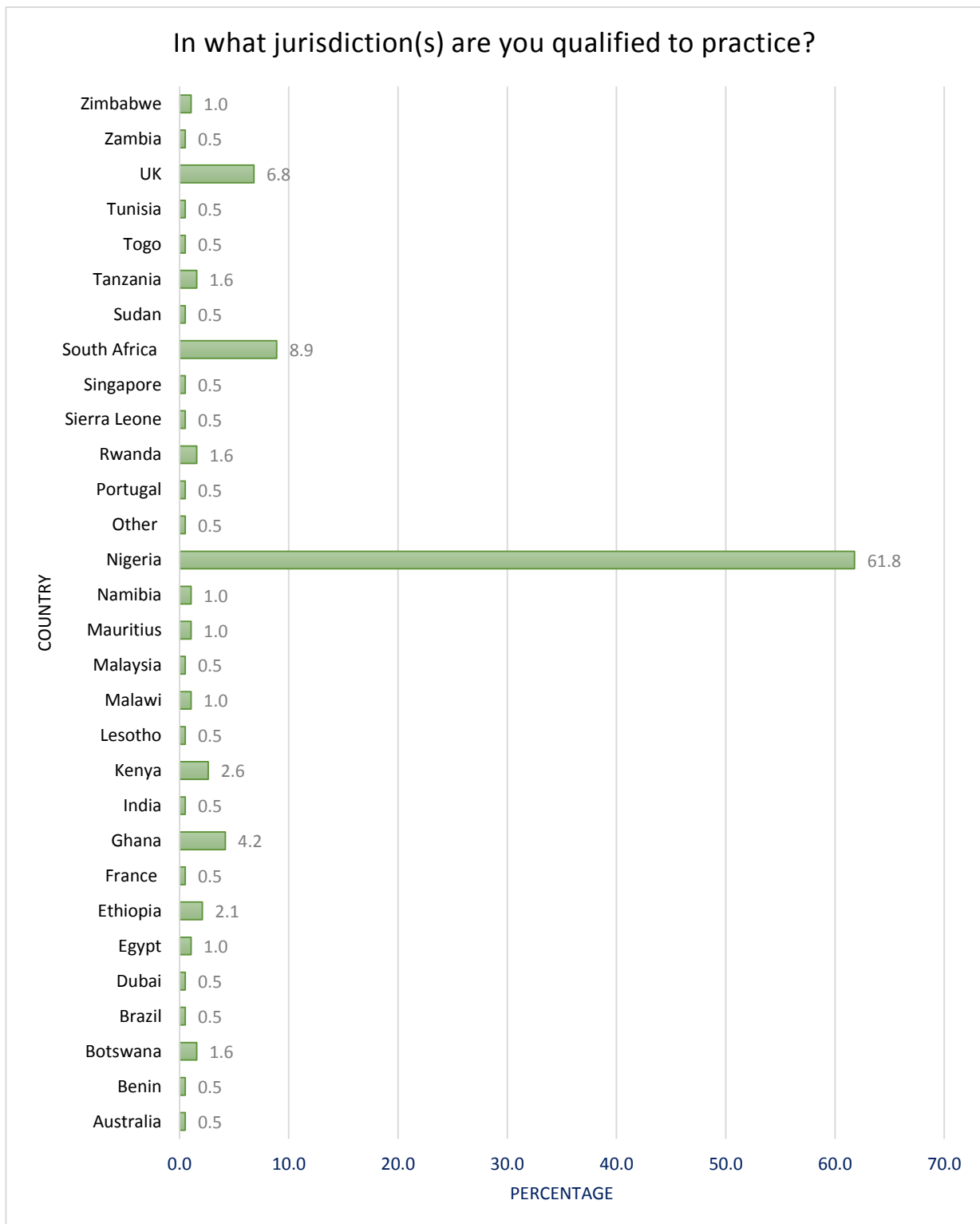


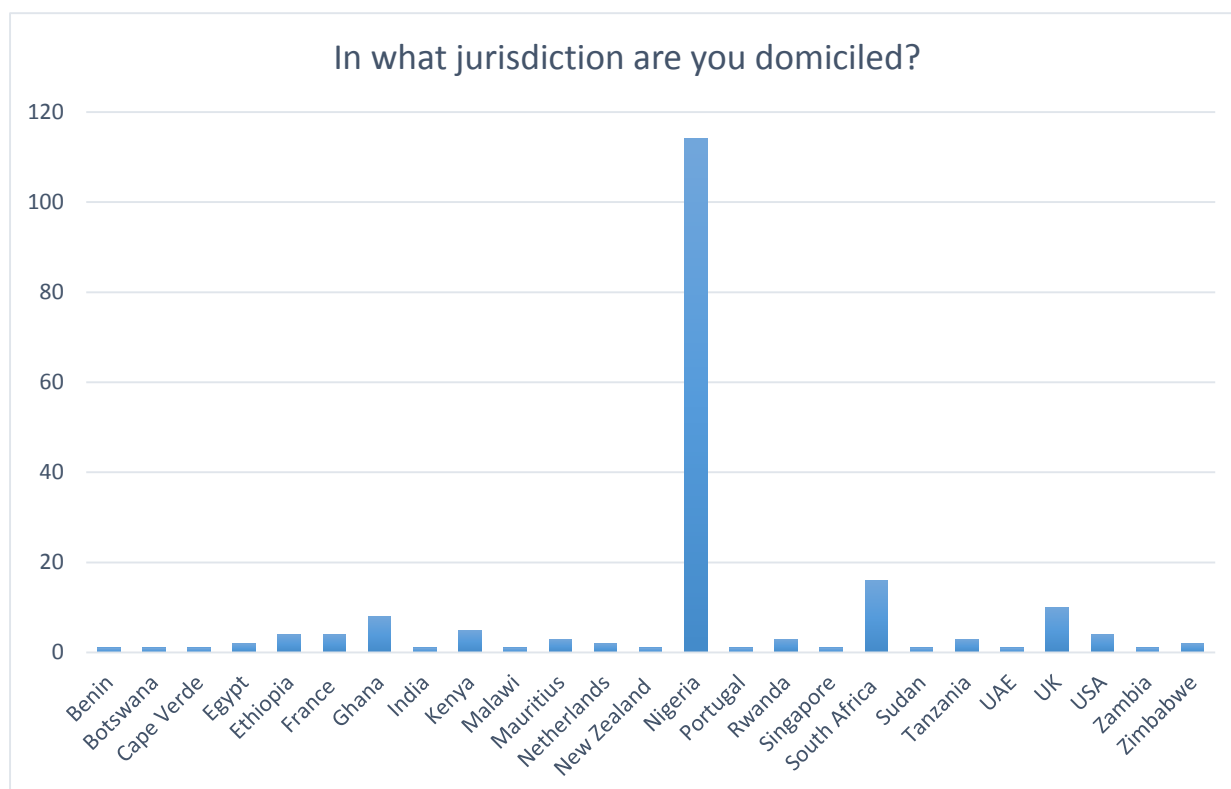
A corresponding question on whether the respondents consider themselves as arbitration practitioners garnered 83.8% affirmative answers. These respondents have acted in the capacities of counsel, arbitrator, registrar or tribunal secretary, consultant, legal adviser and as trainers in arbitration.

### Do you consider yourself an arbitration practitioner?



## African Jurisdictions with Active Arbitration Practitioners





The jurisdictions of practice and domicile give us an indication of where the bulk of our respondents are located. We received responses from Nigeria, Ghana, South Africa, Mauritius, UK, Australia, New Zealand, Kenya, Ethiopia, Netherlands, Rwanda, Tanzania, Sudan, Malawi, Botswana, Sierra Leone, Zimbabwe, Benin, Togo, Malaysia, Dubai, USA, France, UAE, Egypt, Brazil, Portugal, Singapore, Zambia, Lesotho, Namibia, and India. The majority of respondents are domiciled in Nigeria raising the question whether Nigeria has more arbitration practitioners as compared to other African countries.

To answer this question, we compared this data with the numbers of African memberships of the Chartered Institute of Arbitrators (CIArb) by country as at the end of December 2017. According to figures obtained from the CIArb, a total of 2,483 of its 15,000 members are domiciled in African States. 51.3% (i.e. 1,250) of these are in Nigeria. Kenya comes a distant second with 25.65% (i.e. 637) members; South Africa is third with 4.67% (i.e. 116) of the membership; and Egypt is fourth with 4.18% (i.e. 104) of the membership.<sup>iii</sup>

This comparison can be taken as evidence that there are many more CIArb trained arbitration practitioners in Nigeria than in any other African country.<sup>iv</sup>

If CIArb arbitration training is acknowledged as ‘world respected’<sup>v</sup>, this data shows that there are at least 2,483 individuals across different African countries from which parties (and their advisors) seeking to appoint trained arbitrators can make their selection.



## Experience of African Arbitration Practitioners

The second group of questions sought to understand the experience of the respondents in arbitration in the past five years (2012-2017) which is the reporting period.

### As Arbitrator

Over the reporting period, 41.1% of respondents sat as arbitrator in at least one domestic dispute against 17.8% of respondents who acted as arbitrator in at least one international dispute. 10% of respondents sat as arbitrator in over ten domestic disputes against 5% of respondents who sat as arbitrator in over ten international arbitration references.

However, the majority of respondents did not sit as arbitrator in the past five years in domestic (58%) or international (82.2%) disputes. This finding supports the anecdotal evidence that there is a disproportionate imbalance in the appointment of African arbitrators in international disputes, though some (albeit very few) African arbitrators are sitting in international disputes.

The surprising finding from this survey is that this dearth of appointment is also noticeable on the domestic scene. As mentioned above, 58% of the respondents did not sit as arbitrator in any domestic dispute over the reporting period, but about 10% of the respondents sat as arbitrator in 11 or more domestic references. This raises the question whether a select group of individuals are arbitrating most of the domestic disputes in various African countries. If this is correct, it means that the same complaint observed in international arbitration, with few arbitrators getting the vast majority of appointments, is replicating itself in domestic arbitration in African countries.

This finding should push the need for diversity in domestic arbitration in Africa up the agenda and the same should be addressed urgently. This is because 85.3% of respondents believe domestic arbitration is growing in their jurisdictions. With this growth, we must ensure that more African arbitration practitioners are appointed as arbitrators in such domestic disputes.

## As Counsel

The results are better when African practitioners act as counsel in arbitration, both domestic and international. In domestic arbitration and over the reporting period, 42.4% of the respondents acted as counsel in one to five disputes with 12% of respondents having acted as counsel in six to ten disputes and about 10% having acted in 15 or more disputes. This evidence points to the majority of 'arbitration practitioners' in Africa being active as counsel.

This data is supported by the 90.9% of respondents who are lawyers with 73.3% of them working out of law firms. It can be surmised that such law firms are instructed on arbitration disputes as counsel. We do not discount the 40.3% of respondents that have not acted as counsel in any domestic arbitration reference. These may partly be accounted by those respondents (26.7%) who are not affiliated with law firms.

Almost the same picture is seen in international arbitration over the same reporting period, with 31.4% of respondents having acted as counsel in one to five disputes, 4.2% in six to ten disputes, 1% in 11 to 15 disputes, and 4.2% in 15 or more disputes. Therefore 40.8% of the respondents have acted as counsel in international arbitration references in the past five years. This again leaves a slight majority of 59.2% of respondents not having acted as counsel in international arbitration over the reporting period. The 40.8% of respondents that have acted as counsel include those acting as co-counsel (with foreign firms).

This data is encouraging when it is compared with the 17.8% of respondents that sat as arbitrator in international references over the same period. With the projected growth and development of arbitration on the continent, the expansion of African businesses and increase in arbitrable disputes, there will be greater opportunity for the increased participation of African lawyers as counsel (or co-counsel) in international arbitration.

## Tribunal Secretary

Similar patterns are seen as it relates to African arbitration practitioners acting as tribunal secretaries over the reporting period. More respondents (22.5%) have acted in domestic references than in international (7.9%) references. In domestic arbitration, about 2% of respondents acted as tribunal secretary in 11 to 15 references while in international references, the highest number was between six and ten references by about 2% of the respondents. No respondent acted as tribunal secretary in 15 or more international arbitration references over the reporting period.

The role of tribunal secretary is another area with propensity for growth and increased diversity. This is because of the large numbers of young African arbitration practitioners active on the continent and who are trained and available to act as tribunal secretaries.

About 21% of the respondents (40 responses) have also acted in other capacities in arbitration. These include as expert witnesses, transcribers, interpreters, research assistant and consultant.

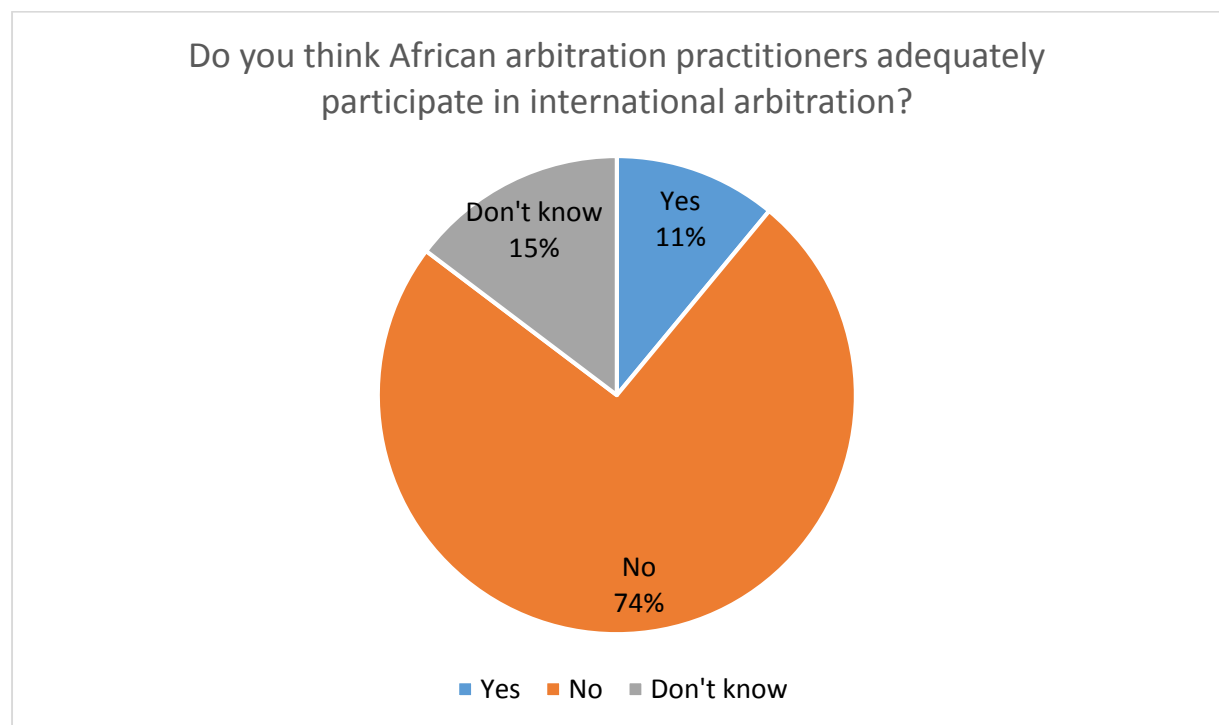
One respondent commented:

*“It will be good to have actual figures to measure but it appears that African arbitrators are not often chosen and do not often choose each other for majority of the matters in International Arbitration. There are however a few Africans that are well known in international arbitration and probably get a lot of work. Most of the matters are private so again, empirical research such as this will be beneficial”.*

This Report provides the evidence to support this presumption.

Our finding that African arbitration practitioners are under-represented in international arbitration is further supported by 74% of the respondents who do not believe that African arbitration practitioners adequately participate in international arbitration. 11% of the respondents think they do while 15% had no view on this issue.

Some of the reasons given for the lack of adequate participation range from poor perception and negative stereotypes to the failure of Africans to nominate fellow Africans.



#### Comments from Respondents:

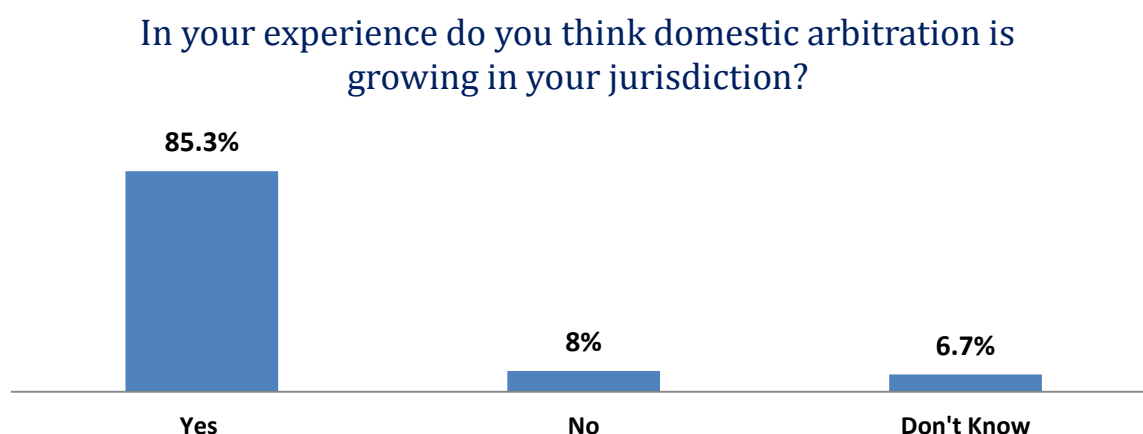
*"Parties tend to gravitate towards counsel located in established arbitral seats. There is a perception that African based practitioners lack the requisite expertise and experience".*

*"Africans, particularly African countries, do not nominate Africans for international arbitration. They prefer foreign arbitrators".*

*"Bias and lack of opportunity. There are many African arbitration practitioners who are suitably qualified to participate in international arbitration but the parties who are usually multinationals have bias for engaging foreign arbitration practitioners, either as counsel or arbitrator, from their home countries".*

## Growth of Domestic Arbitration

We observed above the few appointments available for arbitrators in domestic disputes. This means that there is a lot of scope for growth of the domestic arbitration market in Africa. We, therefore, sought to know whether respondents felt domestic arbitration was growing in their jurisdictions. 85.3% of the respondents believe that domestic arbitration is growing in their jurisdiction against 8% who did not think so.



There is already some experience with the 64.4% of respondents who acted as counsel and the 41.1% of respondents who acted as arbitrator in domestic arbitration over the reporting period. However, these numbers are still low and need to increase especially as demand is projected to increase in the future. One route to preparing trained arbitrators for this future increase in domestic arbitration caseload will be diversity of appointment. For example, appointors can balance out the appointments between the 41.1% of respondents who had not acted as arbitrator in domestic disputes and the 8.4% of respondents who had acted as arbitrator in more than six domestic disputes over the reporting period.

Comments from Respondents:

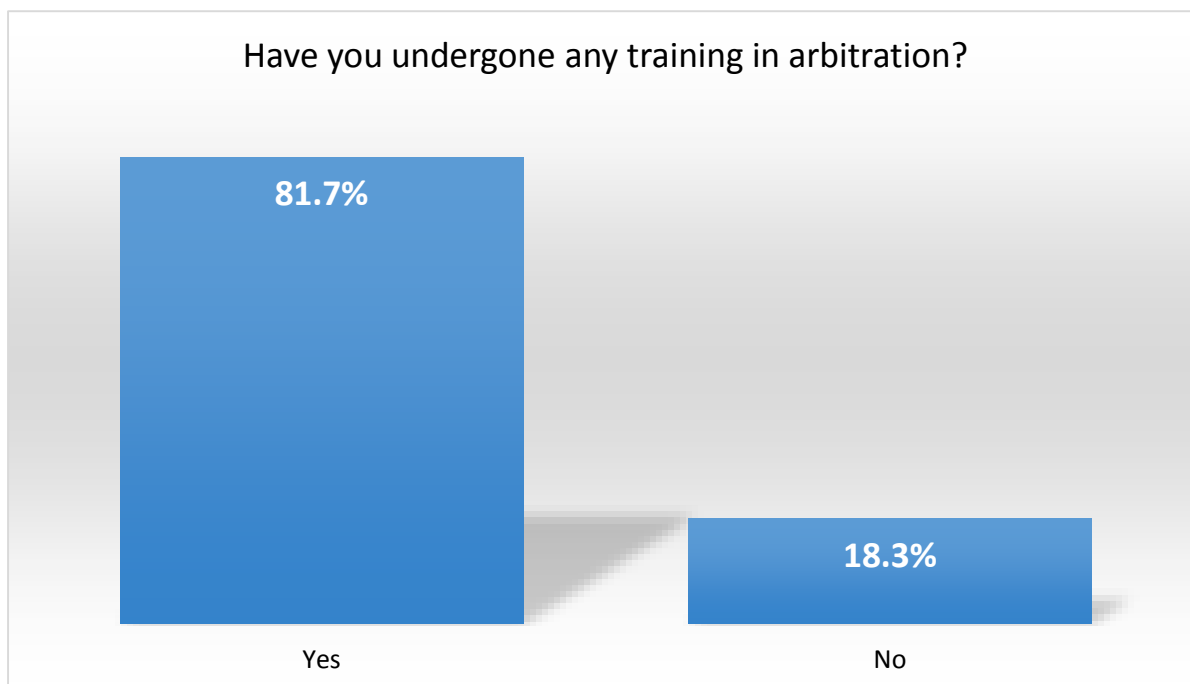
*“First the domestic market of ADR should be better developed through adequate creation of awareness and training of potential customers, i.e. companies and MDAs”.*

*“There exists in Africa a relatively large number of arbitral institutions. These institutions ought to work together to market Africa as a destination for arbitration. Practitioners have a duty to inform their clients about what arbitration can achieve for them that courts will never be able to achieve”.*

The growth of domestic arbitration must be supported as this is a veritable source of workflow which will provide the opportunity for arbitration practitioners to gain practical experience as arbitrator, counsel and tribunal secretaries. This will require that domestic arbitration institutions, appointing authorities and arbitration organisations, commit to the appointment of local arbitrators and tribunal secretaries in domestic disputes. For completeness, arbitration centres and organisations in Africa must also commit to raising awareness of commercial arbitration in their local and regional spaces to generate the workload for themselves and their local arbitration practitioners.

## Arbitration Training

81.7% of respondents had undergone some form of formal training in arbitration while 18.3% of respondents had not. Of those who had undergone arbitration training, the overwhelming majority (72%) had been trained by the Chartered Institute of Arbitrators (CI Arb), with almost a quarter of respondents (23%) having completed a university based arbitration course as part of a higher degree qualification and 35% of respondents having completed training in arbitration with various other organisations and centres including law firms. Slightly more than a quarter (28%) of respondents have attended arbitration training by more than one organisation or training provider, while 18.3% of respondents were yet to attend any arbitration training program.



All 81.7% of respondents who have attended arbitration training said the training is useful for their arbitration practice.

This data confirms the anecdotal evidence that the Chartered Institute of Arbitrators is the primary arbitration training provider in Africa. It is important to examine why African arbitration practitioners prefer to acquire the training conducted by the Chartered Institute of Arbitrators (CI Arb). One reason may be the international certification of the CI Arb training as noted above. Acquisition of this certification by respondents may be to enable them project to the users of

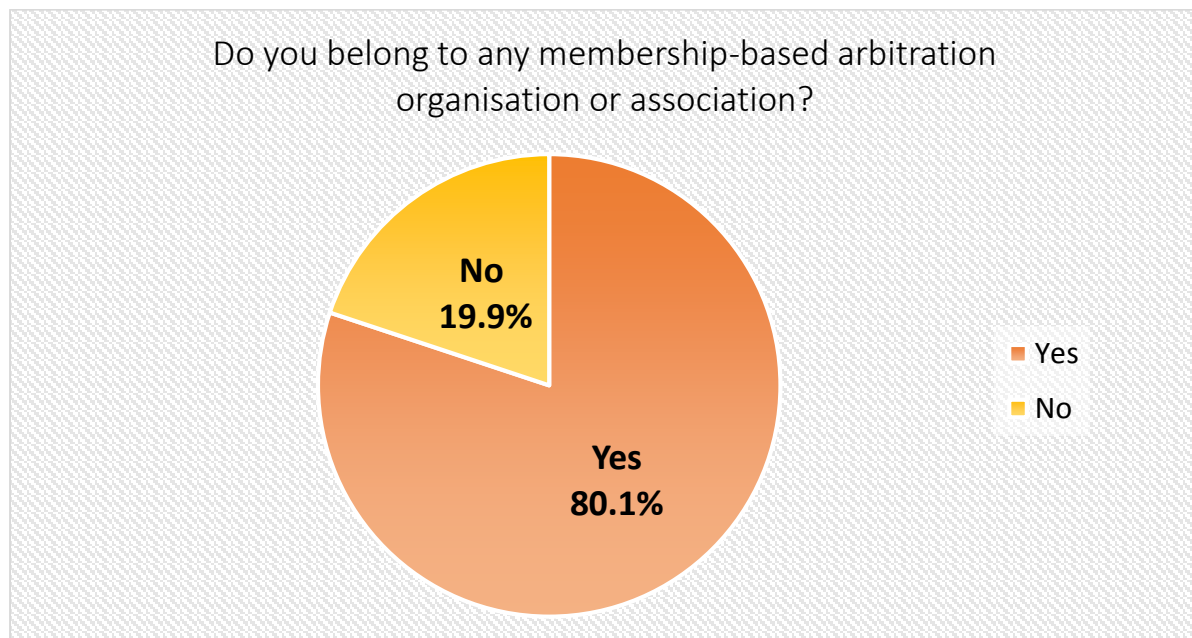
arbitration (and appointors) that they have internationally recognised knowledge and qualification in arbitration. The presumption is that this should reassure appointors so they can appoint them. However, the data above shows that the acquisition of such certification does not appear to satisfy appointors of the abilities of African CIArb trained persons to sit as arbitrators in their disputes.

This is an important finding because it will assist aspiring arbitrators to determine where to put their marketing efforts and professional experience acquisition to enable them be better placed to receive arbitral appointments. Each training program costs money. As much as it is accepted that investment in arbitration (through training, membership fees, and attendance at conferences, among others) is a long-term investment strategy, such investment must, at the same time, be better targeted. This is to ensure that disproportionate resources are not put into acquiring certification if it will not lead to getting appointment as arbitrator (which is the primary purpose of acquiring such training).



## Membership of Arbitration Associations

80.1% of respondents belong to a membership-based arbitration organisation while 19.9% of respondents do not belong to any such association. To further support the conclusion above that the CIArb is the primary arbitration training provider in Africa, of the 80.1% of respondents who belong to a membership-based arbitration organisation, 80% belong to the various African branches of the Chartered Institute of Arbitrators while 42% of respondents hold multiple memberships of at least two arbitration associations within and outside the continent.

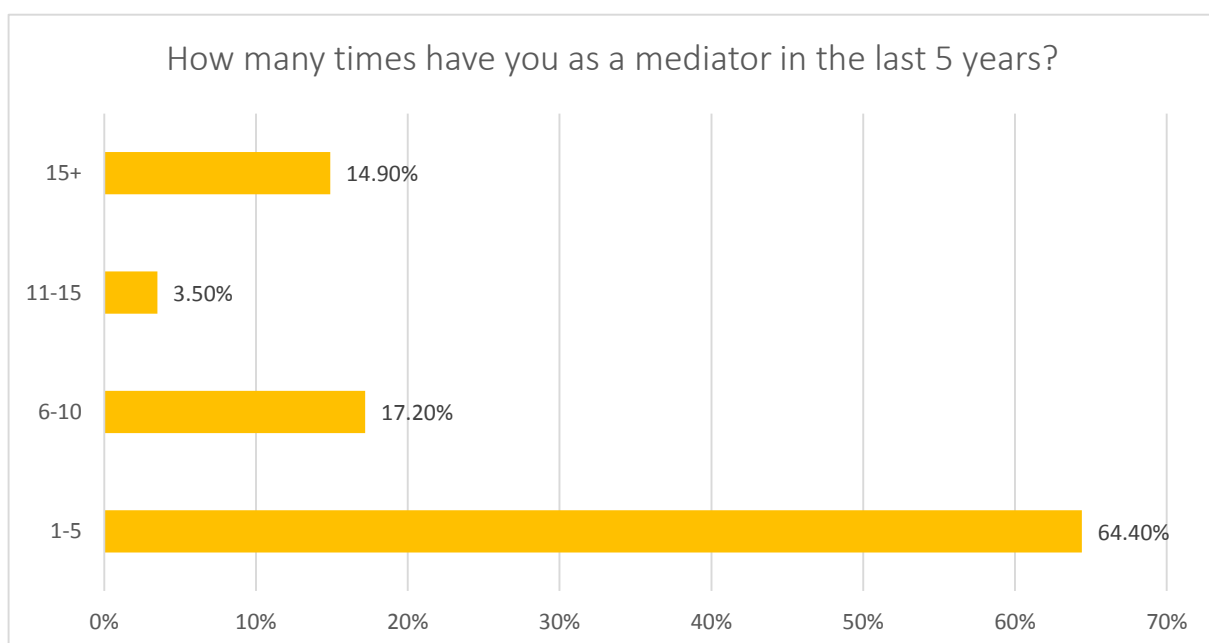
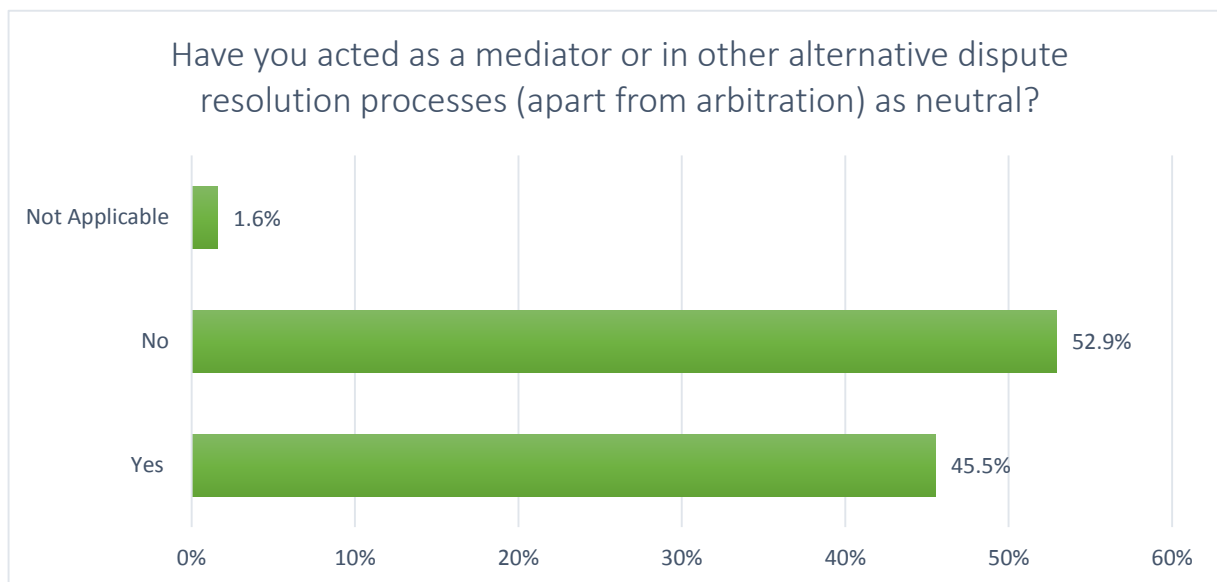


This finding is evidence of the value African arbitration practitioners place on membership-based arbitration organisations. It also confirms that membership-based arbitration organisations in Africa are thriving. Each organisation charges membership fees which are all part of the investment of African arbitration practitioners for the purpose of fully participating in arbitration, primarily as arbitrators. It is therefore, for the individuals who hold the memberships of the various organisations to determine whether such memberships are good value for their money.

To assess the effectiveness of such memberships, it will be necessary to further interrogate quality of services the organisations provide to their members, and the depth of participation by the members.

## Participation in Mediation

Moving away from arbitration, we wanted to find out if arbitration practitioners also act as dispute resolvers in other alternative dispute resolution (ADR) processes. We focused our question on their participation in mediation as mediators. A slight majority of respondents (52.9%) have not acted as mediators while 45.5% of respondents have so acted over the reporting period (2012-2017). 64.4% of those respondents who have sat as mediators, so acted in one to five mediations over the reporting period, while 17.2% mediated six to ten disputes, with a healthy 14.9% of respondents having mediated 15 or more disputes.

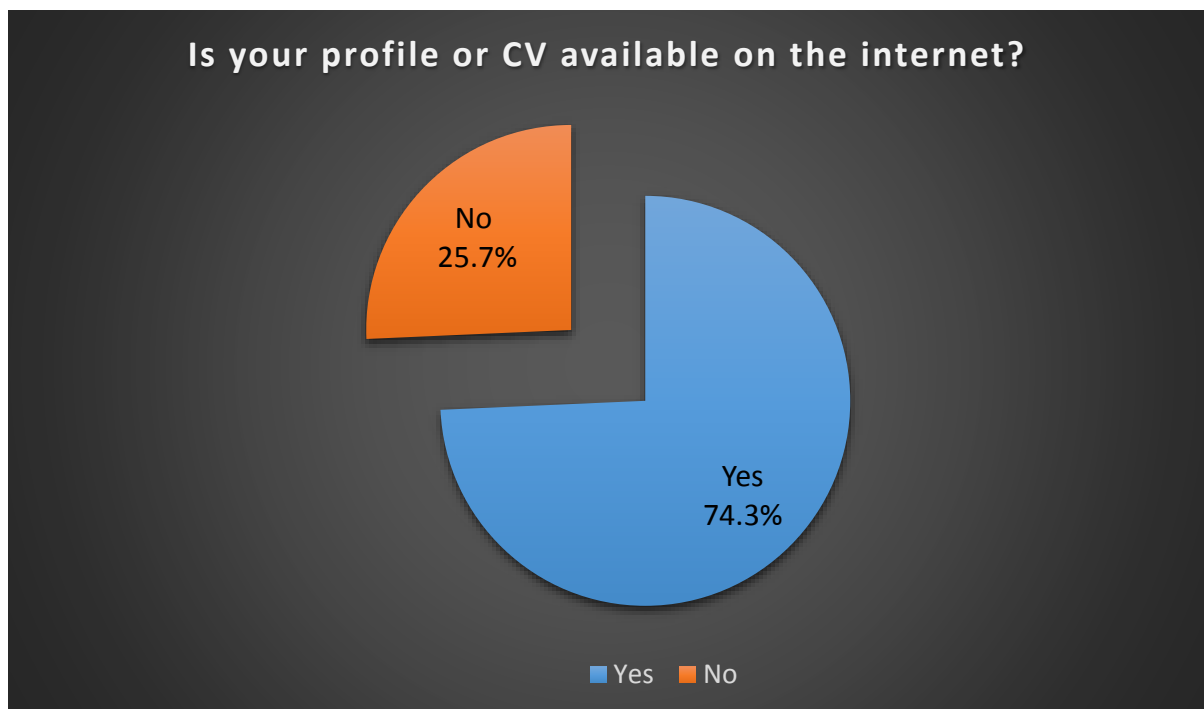


This data is evidence of the growing practice of practitioners as dispute resolvers and not merely as either arbitrator or mediator. This is encouraging and will lead to cross fertilisation of skills and greater professionalism. It will also lead to practitioners expanding their portfolio of dispute resolution processes to which they may receive appointments.

## Visibility of Arbitration Practitioners

One method<sup>vi</sup> of attracting greater visibility as an arbitration practitioner is by the individual maintaining an online presence on the worldwide web. This may require the individual to upload their curriculum vitae (CV) or professional profile onto an online platform. In this manner, prospective appointors will easily find such individual through conducting an online search.

The professional profile or CV of the majority of respondents (74.3%) is available online including, on professional (such as LinkedIn) and social (such as Facebook) media platforms. One reason given by some of the 25.7% of respondents, who do not yet have an online presence, is the brevity of their CV or profile. This effectively implies that such persons do not have any experience in arbitration, particularly sitting as arbitrator, and therefore do not feel they have any experience to market. For some of the respondents, they do not think it is appropriate for their CV or professional profile to be made available online. This finding is quite interesting as it raises the question of how (in this information age) prospective appointors can find such candidates for possible appointment.



We note that there are some arbitration practitioners who do not believe in marketing their expertise and services through online media. This does not mean,

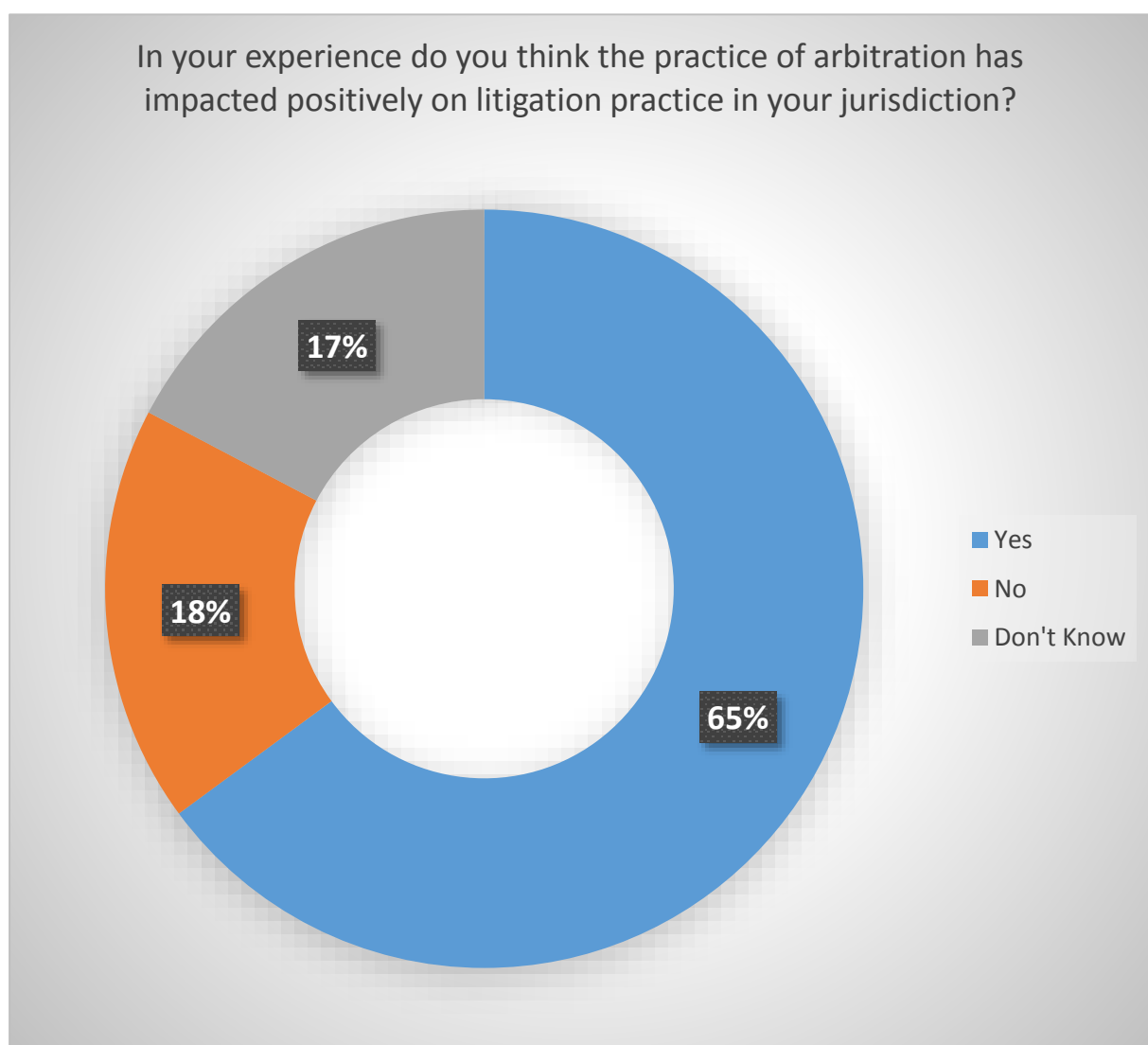
however, that they do not market their expertise and services at all. One reason for this attitude towards the use of online platforms for this purpose may be differences in the preferred media of communication by different generations of practitioners. The younger and more technology savvy practitioners feel more comfortable with their profiles and CVs being made available online (even on social and professional media platforms). While some of the older practitioners (who may still be technology shy) prefer to rely on personal contacts and word of mouth referrals. This 'negative' attitude towards internet marketing may also be the result of the legal training in some African jurisdictions where the legal training frowns on lawyers advertising their services to the general public.

We must note, however, that there is no evidence that practitioners who make more use of the internet attract more appointments than those that do not. At the same time, there is no evidence that having an online presence does not lead to appointments for those practitioners with their profiles or CVs available online. At the very least, prospective appointors will easily find the online profiles when searching for possible appointees. This is in recognition that in a globalised world, an online presence (whether by a limited profile on a professional website or other platforms) has almost become a necessity.

There appears to be greater use of online platforms where the profiles and CVs of African arbitration practitioners can be found. Such media platforms are in addition to profiles uploaded onto the websites of law firms (for the 73.3% of respondents that belong to law firms). The use of online platforms for this purpose will increase in the future. This may be driven by some online platforms creating their own arbitrator finding tools.<sup>vii</sup>

## Impact of Arbitration on Litigation Practice

64.9% of respondents believe arbitration has positively impacted on the practice of litigation in their jurisdiction. 17.8% of respondents do not think arbitration has impacted positively on litigation in their jurisdiction while 17.3% of respondents did not know whether arbitration had impacted positively on litigation in their jurisdiction. 64.9% is a high number of respondents who believe arbitration has positively impacted on litigation in their jurisdiction.



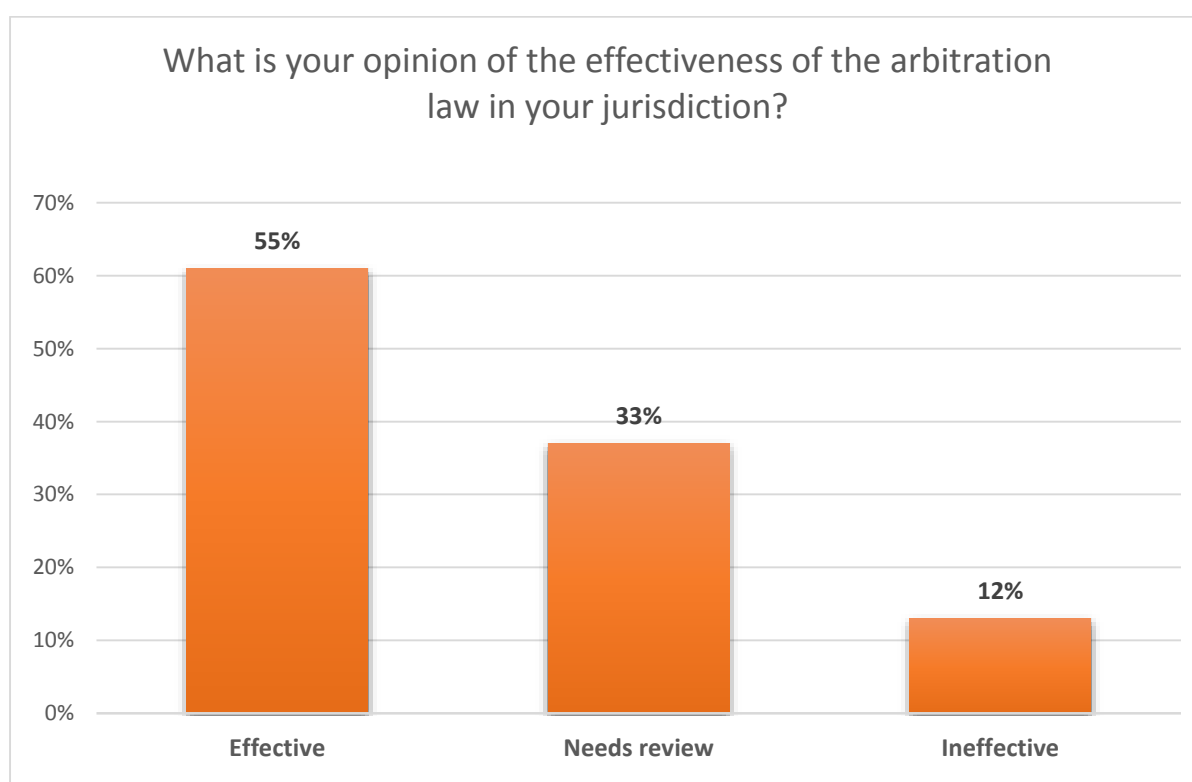
Respondents' views of how arbitration has succeeded in positively impacting on litigation include:



These testimonials are very encouraging and they evidence the positive impact and influence arbitral practice can have on litigation particularly in jurisdictions where the legal systems are no longer fit for purpose, especially for commercial expediency, as is the situation for the majority of African States.

## Effectiveness of National Arbitration Laws

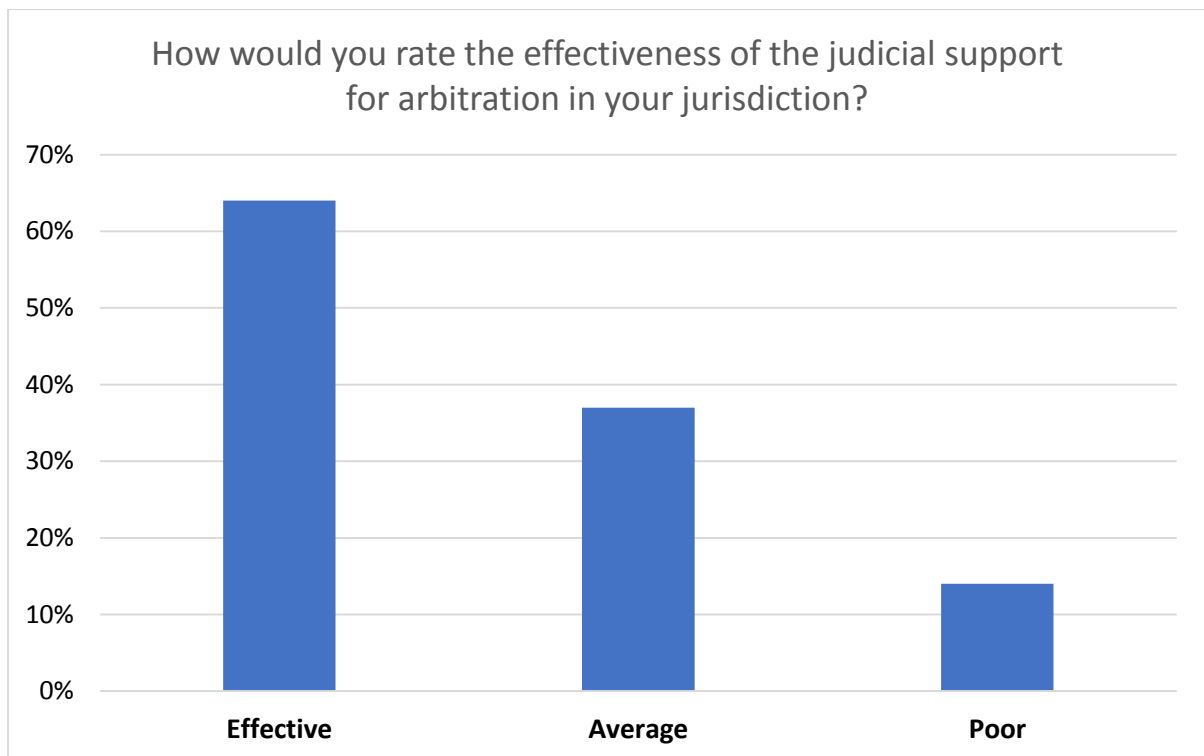
The majority of the 111 respondents (55%) who answered this question believe the national arbitration law in their jurisdiction is effective and some 33% of them believe their national arbitration law needs review while 12% of respondents believe that their national arbitration law is ineffective. One respondent noted that the international arbitration law in their jurisdiction is very effective but not the law applicable under domestic arbitration which is still based on “old rules derived from the old French procedural rules”.



This data supports the finding that for the majority of African practitioners, their national arbitration laws are fit for purpose. We, however, note that for complex disputes, most of these national laws will need to be reviewed and updated if they are to meet the expectations of contemporary arbitration disputants.



## Judicial Support for Arbitration



On the effectiveness of the judicial support for arbitration in their jurisdictions, the majority of the 115 respondents who answered this question (55.7%) rated their judiciary as effective. 32.2% of the respondents rated their judiciary as average while 12.1% rated their judiciary as poor. These favourable views of African judiciaries are encouraging though, very few African judiciaries have specialist arbitration courts.<sup>viii</sup> Specialist commercial courts, which also determine arbitration related cases, are more common in African jurisdictions.<sup>ix</sup> We however, note that standards of judicial expertise and support are not uniform across the continent.

*“There is a huge knowledge gap in the judiciary and this has very much affected the type of judgments delivered of recent”.*

## Summary

This Report provides evidence of the very low participation of African arbitrators in international disputes. It, nevertheless, evidences better showing in domestic arbitration. Participation in domestic arbitration is one important route for African arbitrators to gain the much-needed experience in arbitration. The evidence from our survey shows that there needs to be diversity of appointment of arbitrators in the domestic sphere.

There is, therefore, arbitration expertise on the African continent though such expertise is not evenly spread. Those African countries with greater expertise can better support the growth and development of arbitration in those countries within their regions which lack such expertise. In this way, strong regional and continental connections will be cultivated and developed, and this will lead to qualitative skills-based expertise in arbitration and the greater appointment of African arbitrators, counsel and tribunal secretaries in Africa connected disputes.

in exploring what African arbitration practitioners can do themselves to increase their participation in international arbitration various suggestions were proffered by respondents. One respondent commented:

*African arbitration practitioners are increasing in their participation in arbitration. There are a relatively few senior African practitioners who participate in African arbitration with an increasing number of young lawyers interested in arbitration. As this next generation of lawyers progresses in their careers, I expect participation of African practitioners in arbitration to significantly increase.*

Therefore, African arbitration practitioners need to continue to participate in professional development; increase their visibility in arbitration circles; and appoint fellow skilled Africans as arbitrators, tribunal secretaries and counsel.

This Report concludes that the perception that African arbitration practitioners lack expertise and skills in arbitration is untrue and baseless in some African States. We acknowledge that there are certain sections of the continent where knowledge and skills in arbitration are in short supply but this is by no means the case across the continent. There are many well trained and skilled African practitioners who are available to be appointed as arbitrator, counsel and tribunal secretaries in domestic arbitrations and international references particularly those connected to Africa.

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<sup>i</sup> For example: ICC 2017 Statistics: 153 (i.e. 6.6%) parties were from 30 Sub-Sahara African States and 55 (i.e. 2.4%) parties were from six North African States, against 24 arbitrators (i.e. 1.6%) from nine sub-Sahara African States and 34 (i.e. 2.3%) arbitrators from four North African States. ICSID 2017 Statistics: 15% of cases were against sub-Sahara African States while 2% of arbitrators appointed were from sub-Sahara African States. As it relates to Middle East North African (MENA) States, 11% of cases were against the MENA States while 4% of arbitrators were from the MENA States. In the just released LCIA 2017 Statistics, 5.2% of the parties were from African States against the 2.18% Africans appointed as arbitrators (Ghana (3), Nigeria (4), South Africa (1) and Uganda (1)).

<sup>ii</sup> We expect to add Portuguese as one of the languages in future surveys. In this way, we shall capture all of the relevant interests and sections of the continent. This will make our survey much more representative of the continent.

<sup>iii</sup> CIArb membership in Africa is spread across the following States: Nigeria (1250); Kenya (637); South Africa (116); Egypt (104); Mauritius (95); Zambia (76); Ghana (57); Uganda (32); Zimbabwe (22); Tanzania (19); Rwanda (16); Malawi (12); Botswana (9); Sudan (7); Sierra Leone (6); Cameroon (5); Ethiopia (4); Seychelles (4); Algeria (2); Cote d'Ivoire (2); Gambia (2); Namibia (2); Angola (1); Burkina Faso (1); Liberia (1); Swaziland (1).

<sup>iv</sup> The CIArb is a good comparator for this purpose because the vast majority of arbitration practitioners in Africa are members of the CIArb as shown below.

<sup>v</sup> See CIArb website, <http://www.ciarb.org/about> accessed 09 April 2018.

<sup>vi</sup> This is in addition to speaking at conferences, publishing arbitration related articles in recognised journals, etc.

<sup>vii</sup> See for example the ART by GAR; and for African arbitrators, see lists by I-Arb and AILA on their websites.

<sup>viii</sup> One notable jurisdiction is Mauritius with a specialist chamber that determines international arbitration cases.

<sup>ix</sup> Such specialist commercial courts exist for example in Egypt, Tunisia, Ghana, and Kenya.







