

INFLUENCE OF ALTERNATIVE JUSTICE SYSTEM ON RESOLUTION OF DISPUTES IN ISIOLO COUNTY, KENYA

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ABSTRACT

Many Kenyan communities rely on non-formal justice systems for fairness alongside established legal frameworks, but face several challenges. There are also concerns that some outcomes of these alternative systems may violate human rights and constitutional provisions. This research aimed to explore the impact of reconciliation, and mediation, on conflict resolution in Isiolo County, grounded in restorative justice theory. A descriptive research design was used, targeting a population of 1,600 individuals, including Borana elders, council members, residents, pastoralists, village elders, and the area chief, with a sample size of 160 (10% of the target population). Random and stratified sampling were applied, and both quantitative and qualitative data were collected through questionnaires and interviews. The data were analyzed using the Statistical Package for Social Sciences (SPSS), with both descriptive and inferential statistics, including correlation and regression analysis. The researcher obtained permits from relevant authorities,

such as NACOSTI and the county director of education. Participants were informed about the study's purpose and guaranteed anonymity, privacy, and confidentiality, using pseudonyms when necessary. The findings indicated that alternative justice systems positively impact peace, relationship restoration, and conflict resolution. Community forums and facilitated dialogues helped individuals' express grievances and collaboratively seek solutions. The study concluded that these systems enhance social cohesion, build trust, and prevent conflict escalation in Isiolo County. Involving community elders and the area chief in the resolution process further strengthens these systems. The study recommends that government agencies collaborate with community organizations and traditional leaders to promote awareness of reconciliation, mediation, and negotiation.

Key words: Reconciliation, Mediation and Resolution of Disputes.

INTRODUCTION

The United Nations 2030 Agenda for Sustainable Development's Goal 16 emphasizes the significance of universal access to justice for the creation of inclusive, peaceful communities with inclusive, responsible, and effective institutions at all levels of government. The rule of law and justice are much desired on a global scale, yet there are many different routes to achieving these goals, as well as many difficulties in the design and administration of justice. There are many different formal and informal legal systems, but the principles and ideals of the rule of law are universal and must be upheld by everyone. Understanding the range of justice actors and procedures that people utilize, including resolving disputes outside of formal courts, is crucial to enhancing the reach and caliber of justice systems (OECD, 2009).

According to Les Davey, criminal offense mediation was first implemented in England in the 1980s. Since then, it has been used to resolve a variety of criminal cases, including those involving arson, assault, theft, breach of peace, deception, fraud, reckless driving, disorderly conduct, drug possession, sexual offenses, and even manslaughter. Since the 1970s, mediation has been utilized in criminal trials in the United States of America (USA). It is typically used to manage less serious crimes including misdemeanors, property crimes, and juvenile crimes. However, many organizations are starting to expand victim-offender mediation to more serious and violent crimes as a result of the success of victim-offender mediation in the USA and the introduction and acceptance of the restorative justice movement. These serious and genuine violations incorporate equipped burglary, vehicular manslaughter, sexual attack, and manslaughter.

On May 31, 2010, Ghana passed the Alternative Dispute Resolution Act 23, a comprehensive law. Arbitration, mediation, and customary arbitration are available methods for resolving conflicts under the Alternative Dispute Resolution, 2010 (Act 798). Part 1 of the Act is titled Arbitration; Part 2 is titled Mediation; Part 3 is titled Customary Arbitration; Part 4 is titled Alternative Dispute Resolution Center; and Part 5 is titled Financial, Administrative, and Miscellaneous Provisions.²⁴ Under Ghanaian law, Part Two, which addresses mediation, is innovative since it is the first attempt to provide a thorough statutory framework for mediation. Torgor ²⁶ has praised this piece of legislation, stating that, in addition to the arbitral proceedings' cost-effectiveness, timeliness, and non-adversarial nature, they also give parties autonomy over the process, give the tribunal authority, and minimize court intervention.

The history of traditional conflict resolution techniques in Rwanda dates back to the time before the country was colonized. '*Gacaca*', meaning 'justice on the grass' in Kinyarwanda, was the community body that settled disputes between families or neighbors, for example. Mediators were selected from the community based on their wisdom and integrity (*Inyangamugayo*). '*Ubupfura*' (nobility of heart) and respect were the cornerstones of *Gacaca* justice. *Gacaca's* goal was to make amends for the harm done and to bring the community back together, not to punish the offenders. It was also not the intention of the offender or the community at large to suffer financial losses as a result of the compensation they paid (Ngarambe, 2015).

Similar to the *Gacaca* Courts, the *Abunzi* committee system was a component of a larger decentralization (of justice) movement that the Rwandan government started in the post-2000 era to make justice more reasonably priced and easily accessible. *Abunzi* literally translates to "those who reconcile." The *Abunzi* committee was established as a municipal dispute resolution body by the legislature. The *Abunzi* committee's composition, authority, and operations are outlined in Organic Law 02/2010 Of 09/06/2010 on Organization, Jurisdiction, Competence, and Functioning of the Mediation Committee. The guidelines for the election of the members of the mediation committee are outlined in Presidential Order No. 43/01 of August 16, 2006. The Ministry of Justice started a comprehensive reform of the mediation committees' legal framework in 2013.

According to Kenya's Framework Policy on Alternative Justice Systems (2020) supporting various dispute resolution techniques, such as the conventional dispute settlement procedures, is a fundamental guideline that directs the administration of justice and the exercise of judicial power. This demand represents a significant departure from previous conceptions of justice, particularly in light of the Kenyan environment. Kenyan villages have long established self-governing justice systems that have served as social glue. Although the administration of justice has placed a premium on the justice delivered by the courts, the bulk of disputes among Kenyans are actually settled through non-formal justice institutions, with the Policy estimating that this percentage is close to 90%. Consequently, the constitutional directive to accept and acknowledge alternative justice systems is situated inside a larger framework of action that takes a comprehensive approach to addressing the idea of justice in the Kenyan environment. Traditional dispute resolution procedures are recognized by the Kenyan Constitution in Articles 60(1) (g), 159(2) (e), and 159(3). "Kenyan land shall be held, used, and managed in a way that is just, efficient, productive, and sustainable; additionally, land shall be encouraged to be divided among communities in accordance with this Constitution by means of acknowledged local community initiatives," according to Article 60(1)(g). When exercising their judicial authority, courts and tribunals must take into account the limitations of applying traditional conflict settlement methods, as well as the mechanisms that are provided for as an alternative to them under Articles 159(2)(e) and 159(3) of the Constitution. As previously said, AJS differs according to one's community, customs, and adherence to customary law (Kinama, 2015).

According to Sharamo (2014), Isiolo is a dry, multicultural county made up of five main ethnic groups that are drawn to it from the other counties it borders; the Meru, Samburu, Borana, Turkana, and Somali. There are numerous other settlements with lesser populations. Due to the region's aridity, the majority of the local populations are pastoralists who travel both inside and beyond the county in quest of pasture and water for their animals. Since the beginning of time, the lack of these resources has led to violent conflicts between various societies. Cattle rustling, interethnic violence, and community displacement are examples of these violent conflicts. Disagreements over administrative and electoral boundaries create environmental problems such as greater droughts, famines, and other natural disasters that worsen these man-made calamities.

According to Chopra (2009), the lack of established government institutions in the county has led to a predilection for alternative dispute resolution procedures. For example, one law court located in Isiolo town serves the entire county. Many residents find it incredibly difficult to visit this court due to the inadequate road system, which forces them to resolve their conflicts at the community level. The inclination towards community justice methods stems from the reality that every community possesses a unique way of handling disputes and resolving conflicts, deeply embedded in their traditions and culture, which the community fully relies upon. In light of this, the study aims to assess the effect of alternative justice system implementation on conflict resolution in Isiolo County, Kenya.

Statement of the Problem

The majority of Kenyans seeking justice use AJS methods, which are complementary to the official legal systems. However, they encounter a number of difficulties, such as: Not being acknowledged: Although alternative dispute resolution is acknowledged and elevated to the rank of a judicial principle in the 2010 Kenyan Constitution, AJS is not officially acknowledged as an adjunctive branch of the legal system. Furthermore, AJS processes are perceived to provide women less leeway to make decisions because they are mostly controlled by men. In addition, disagreements affecting women or girls are thought to be less likely to be handled fairly and sensitively because the majority of AJS panels are made up of men.

For example, research on the alternative justice system has been done in the past. Mumina (2018) studied how women's participation in elective politics in the Borana community of Isiolo county was influenced by clan councils. The research indicates that since women do not belong to any clan, they are unable to join clan councils or have their political support centered around them. In Bauchi State, Nigeria, traditional institutions are frequently viewed as sacred and exceptional, according to a research by Jahun (2015) on the duties and obstacles of traditional rulers in land conflict resolution and management. According to article 15(2) of the Kenyan constitution, Kinama (2015) investigated traditional justice systems as an alternative dispute resolution method in Kenya and observed that alternative justice systems (AJS) ought to be encouraged in a country with a pluralistic legal system. Living customary law must, nevertheless, advance in order for it to be consistent with both the letter and the spirit of the Constitution.

The preceding studies looked at the role of councils of elders in women's political engagement, while the other looked at the roles and obstacles of land conflict settlement and traditional judicial systems as alternatives to dispute resolution in Kenya. Instead, this study will look at the impact of implementing alternative judicial systems on dispute settlement in Isiolo County, Kenya. The study focused on how the council of elders in Isiolo implemented alternative justice systems by investigating reconciliation, mediation, and alternative dispute resolution conflicts that were not addressed in the previous research.

Objectives of the study

- i. To establish the effects of reconciliation on resolution of disputes by the council of elders in Isiolo county, Kenya.
- ii. To investigate the effects of mediation on resolution of disputes by the council of elders Isiolo county, Kenya.

LITERATURE REVIEW

Theoretical Framework

This section involves a discussion of relevant theories to this study.

Traditional Malthusian Theory

Malthus created the Malthusian theory in 1798. It implies that human demands for natural resource consumption will outpace supply due to population expansion. Consequently, he notes that conflict over natural resources is unavoidable when demand surpasses supply to this extent. This idea is pertinent to the study since the main reason of pastoral conflict in Isiolo County is the depletion of natural resources brought on by unfavorable climate change, which affects not only Kenya but the entire sub-region of the Horn of Africa. For the majority of people in Isiolo County, pastoralism is their entire way of life and a significant contributing element to the war. Depletion of agricultural land and resources due to harsh climate shifts, environmental pressures, population increase, and demographic changes is the root cause of pastoral conflict. Nevertheless, because pastoralists move around a lot, even though pastoral conflict is restricted to Isiolo County, it may have transboundary dimensions.

Conflict theory

Every society and its various social factions encounter various levels of conflict. These conflicts can involve individuals, groups, or combinations of both. Understanding the origins and dynamics of these conflicts can be aided by the concept of conflict theory. The core of conflict theory centers on the examination of power relationships both within and among social groups. This argument suggests that individuals inherently have a competitive nature as they seek power and riches. This perspective is rooted in the theories of Niccolo Machiavelli, Thomas Hobbes, and Karl Marx. Conflict Theory holds that conflict is a natural byproduct of social interaction and that it always exists in family connections. It became popular during the Civil Rights Movement as many questioned the historically higher dominance of Whites and men in society.

However, there are benefits to conflict as well, especially when it results in positive changes and problem-solving. While total conflict avoidance is not the goal, disagreements should not worsen to the point where group members feel it is not in their best interests to continue as a group or suffer irreversible injury. Unresolved conflict within the family can lead to communication breakdowns between family members, opposing groupings forming within extended families, and divorce. Conflict arises from struggles for resources, clout, and authority.

According to conflict theory, inadequate resources lead to conflict. These resources could be tangible items like money, food, a television, or the family vehicle. Having said that, abstract ideas such as love, affection, or focus can also be seen as resources. Who gets to use these resources may cause arguments amongst families. This viewpoint holds that there is a perpetual lack of resources, which will lead to conflict because some people will never be able to get their hands on the resources they want. In a traditional family, children would battle for their parents' time and attention, and a husband and wife might argue about how to spend the husband's salary (buying a luxury purse or a golf set, for example). The majority of people think that individuals who have the most power are also the ones who have the most control over resources.

Empirical Review

Resolution of Disputes by council of elders

A rapid evaluation of organizational architecture for mitigation of conflict was carried out by Agade and Halakhe (2019). They stated that disputes beyond county borders can arise from political or communal issues. For instance, a bitter boundary dispute between the counties of Meru and Isiolo has resulted in persistent intercommunal strife, shoplifting, theft of cattle, and a few murders, prompting the army's presence. There are border problems between several other nearby counties, even at the intercommunal level. The investigation also revealed that inadequate legal protections. The legal frameworks are insufficient to safeguard indigenous peoples' land rights, resolve conflicts or contestations over land rights, and define indigenous peoples.

An analysis of the change in pattern of resource-based conflict on human security in Isiolo County was conducted by Guyo (2019). According to the report, the main factor influencing resource-based conflicts in Isiolo County is global climate change. Conflict in the county is closely linked to desertification, grazing, water, and land degradation. Conflict is not caused by climate change alone; rather, it is exacerbated by inadequate governance, ethnic politics, and competition for limited resources. Furthermore, the study found that there are two primary ways in which climate change has impacted resource-based conflict in Isiolo County: when access to natural resources is restricted or unevenly distributed, and when natural resource levels decline due to deterioration. Resource-based conflict occurs in both situations when individuals fight for the few resources at hand and/or their ownership rights over them, particularly when certain groups have been disenfranchised.

The government of Bauchi State has assigned specific tasks to the traditional leaders, such as managing disputes over land and borders, as detailed in Jahun's (2015) study on the roles and obstacles of traditional leaders in managing and resolving land conflicts in Bauchi State, Nigeria. This action acknowledges their deep connection with the community and their responsibility as guardians of their traditions and way of life. Other responsibilities of these traditional leaders in the State encompass, but are not limited to, maintaining peace and order, helping to resolve disputes over land and farms without affecting the legal framework, and collecting taxes as directed by the local government.

According to Chelanga (2012), the common elder councils in Kenya, whose knowledge is supported by their experience, age, ancestry, and occasionally myth, are in the business of assuring the future leadership of their communities by putting themselves in a favorable position with the present leadership. The president would give away important government positions to community members in exchange for votes. According to Chelanga, these newly created roles are pointless because they don't promote women's empowerment or the advancement of a national development goal. Similar opinions are noted in a research by Chidongo and Nyamweru (2018). According to the experts, these institutions as they currently stand are incompatible with the principles of contemporary democratic administration and will lose significance over the coming years.

Reconciliation and resolution of disputes by council of elders

Research was conducted by Chepkoiywo (2010) on how community-driven methods impact peacebuilding and conflict resolution within pastoralist communities in Kenya's Olmoran division, located in Laikipia West district. The findings of this research show that while community elder mediation was the preferred method for settling disagreements, the communities involved also utilized peace committees, peace caravans, peace gatherings or barazas, and participation in peace groups to promote peace. According to the study, the majority of residents in the surveyed region believe that the use of locally led initiatives has improved safety and peace in their neighborhood, and the local communities in the study area support the methods employed to resolve disputes and promote harmony. The study area's communities reported gains in interethnic tolerance and a decrease in disputes between members of various ethnic communities.

Mumina (2018) used the Borana community in Isiolo county as a case study to investigate the function of clan councils in women's engagement in elective politics. Giddens' structuration theory was applied in an exploratory qualitative study to investigate how clan councils operate and how women aspiring to leadership traverse them. To gain insight into the workings of the clan councils, four leaders of the councils were interviewed. The results indicate that the Borana community is organized according to a well-defined structure, which includes clan councils, sub-clan councils, an umbrella council of elders, and a supreme assembly at *Gumi Gayo*, Ethiopia. Since women do not belong to any clan, they are unable to join clan councils or have their political support centered around them. Women are restricted to supporting duties like as dancing and cooking under the norms of involvement and membership.

Cheromoi (2019) conducted a study in the Alale division of west Pokot County, Kenya, to investigate the impact of cattle rustling on primary education access and participation. The study looked into the rates of teacher and student enrolment, retention, dropout, and absence in schools. The general performance of the schools' KCPE results was also assessed. It also aimed to inform others involved in education in the area so that they could better oversee children's access to and involvement in school in this area vulnerable to cattle rustling. According to the study, cattle rustling did actually make it more difficult for people in Alale Division to enroll in and participate in basic education. There were high school dropout rates, teacher and student absenteeism, inadequate educational facilities, and a general sense of insecurity. As seen by the low exam scores, all of these pointed to a low level of education.

Mediation and resolution of disputes by council of elders

Future conflicts, in the opinion of Hudson and Milas (2013), will be fought for land and water, not oil. They believe that future conflicts in Kenya and the Horn of Africa will be fought primarily for land and water, particularly among the pastoralist populations living in the area. This situation is comparable to the resource-based conflict in Isiolo County, where pastoralism is a vital means of subsistence for a large number of people. Because of their excessive reliance on natural resources, pastoralists are particularly susceptible to both man-made and natural calamities. The reasoning for this is that the welfare of the pastoralist group is closely related

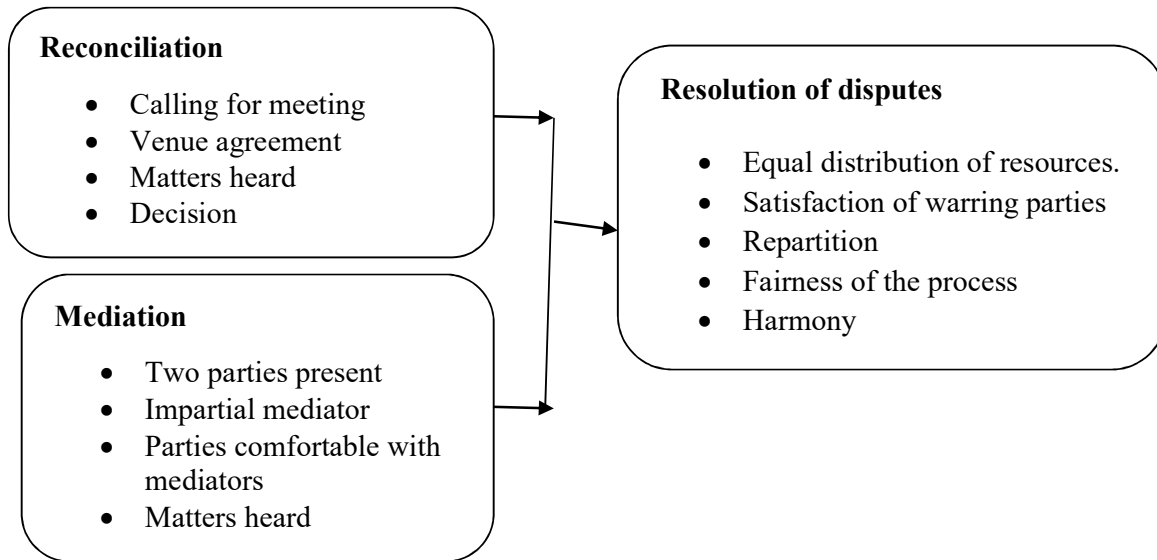
to the environment in which they engage in this activity, much as the production of animals is heavily dependent on the availability of water, pasture, and markets.

A research on the conflict resolution systems of native groups in pastoralist areas of Turkana's Karamoja region was conducted by Apiyo (2014). The main objective of this research was to thoroughly examine these conflict resolution systems, pinpoint their vulnerabilities, and propose improvements to enhance their ability to address the challenges, changes, patterns, and issues faced in the 21st century. The study found that ICRM are commonly used in pastoralist communities, where people regard them highly and have a positive opinion of them. Although there are several ICRM formats, the elders' public forums were the most favored. The study found that ICRM's advantages exceed its disadvantages and that Turkanas have effectively employed it to increase cross-border and intra communal peace. Raids have also been found to decline.

A research project exploring how culture influences ongoing disputes between the Samburu and Pokot communities in Kenya was done by Likaka and Muia (2015). The findings of this research suggested that bringing back the use of traditional laws for solving disputes is crucial. It's important to note that these traditional rules are not random and carry considerable importance for adherents, as they have stood the test of time. These traditions are not irrational or unpredictable, as they emerge from structured, systematic, and planned patterns of conduct. They are also adaptive and reflect changes in societal norms. Furthermore, it's critical to incorporate indigenous customs and cultural values that may greatly contribute to the restoration of stability, safety, and harmony as well as amicable relations between the region's pastoral communities and the general public. Peace-interested parties need to continue assisting pastoral communities by offering peace education. In order to evaluate these groups' influence on peace or conflict within their operational areas, an impartial third party must also conduct independent investigation of them. Peace committees must to include both young people and elders.

According to Muigai's (2017) research, traditional conflict resolution mechanisms and institutions are common in almost all Kenyan communities. These organizations served a variety of purposes, depending on the community, including socio-political organization, cultural, economic, and conflict resolution. The council of elders '*Kokwo*' in Pokot and Marakwet, is the highest form of sociopolitical structure and a means of resolving disputes. The senior men on this council are highly respected, wise, and well-versed in the affairs and past of the town. The elder members of Agikuyu society, referred to as the '*Kiama*' acted as a third party mediator or arbitrator in cases of disagreement. The community could interact with these prominent individuals and their organizations, and their decisions were respected. This notion is consistent with the earlier assertion that, despite not being officially acknowledged, mediation has long been a practice in Kenyan communities. It was a popular way to have informal discussions and come to decisions about a range of topics, including resource allocation.

Conceptual Framework



RESEARCH METHODOLOGY

This research employed a descriptive research approach. Mugenda and Mugenda (2009) argued that investigation on the data collected should be described using a research design which describes the current trends, the events in the relationship between factors in the current time. The research was conducted in Isiolo County. Isiolo County is situated next to Marsabit County to the north, while it is surrounded by Samburu and Laikipia Counties on the west, Garissa County lies to the southeast, Wajir County is located to the northeast, the Tana River and Kitui Counties are on the south, and Meru and Tharaka Nithi Counties are found on the southwest. Covering an area of roughly 25,700 square kilometers, it spans latitudes from 0° 05' south to 20° north and longitudes from 36° 50' east to 39° 50' east. Isiolo Town, the county's administrative center, is about 285 kilometers north of Nairobi, the capital of Kenya. Low-lying and somewhat level terrain characterizes most of Isiolo County. Isiolo County had 143.29 thousand people living there as per the 2009 Population and Housing Census. The county average growth rate from 1999 to 2009 was roughly 3.7%, however growth rates are projected to vary due to demographic factors such in-migration, rising fertility rates, adoption of family planning methods, mortality rates, and life expectancy, among others.

A total of 1260 responses are the target population. Mumina (2018) states that there are six clan councils, eighteen sub-clan councils, and one umbrella council known as the Borana Council of Elders. Members of the Clan Council and the Borana Council of Elders thus make up the sample frame. Members of the sub clan council include pastoralists, village elders, and chiefs from Isiolo County. To determine the sample size, basic random sampling was utilized in the research. Ten to thirty percent of the population is a good representation for a research, as per Mugenda & Mugenda (2003), hence 10% of the responses overall were the study's target group. A representative sample of 160 respondents was reached upon.

The research focused on primary and secondary data. Data was collected through the use of a questionnaire that was completed by pastoralists and Isiolo county residents. The interview

schedule was answered by the Borana council of elders, clan members, sub clan members, village elders, and the area chief. The questionnaire included both open-ended and closed-ended questions to capture respondents' opinions and the extent to which they agreed with the statements provided to them.

Data was coded using the statistical program for social sciences on a computer. Number 1 to 5 were used by the researcher to count and code the questionnaires in order to assess the quantitative data. The mean and standard deviation were used to characterize the data. Tables and charts were created to display the data. The study's variables' correlation and regression coefficients were displayed using inferential statistics. The coefficient of determination and the degree to which the selected factors explained the variations in AJS in health in Isiolo County were displayed in the summary model. The study's qualitative data and topics were examined using content analysis.

RESULTS AND FINDINGS

The researcher administered 120 questionnaires to the selected respondents. However, 109 questionnaires were fully filled and returned to the researcher. This gave a response rate of 90.8% which is deemed sufficient for the study. This correlates with Sammut, Griscti & Norman (2021) recommendation that a response rate of 50% is adequate for analysis and reporting; a rate of 60% is good and a response rate of 70% and over is excellent.

Data collected indicated that on gender indicated that 59.6% of the respondents are male, while 40.4% are female. This distribution suggests a slightly higher participation of males in the study, which could reflect the demographic trends within the communities or institutions being studied (Mwangi, 2021). Data on marital status indicated that 56.9% of the respondents were married, 21.1% were single, 13.8% were widowed or widowers, and 8.2% were divorced. The significant proportion of married respondents suggests that family-related disputes might be a central focus in the utilization of alternative justice systems. Married individuals are likely to face disputes related to family matters such as property, inheritance, or marital conflicts, where alternative justice systems offer a more conciliatory and culturally sensitive approach compared to formal legal processes (Kariuki, 2020). Data on age distribution indicated that the largest group of respondents falls within the 36–40 years age category (29.4%), followed by those aged 41–50 years (22.0%) and 31–35 years (17.4%). The remaining respondents are distributed among the age categories of above 51 years (15.6%), 26–30 years (11.0%), and 18–25 years (4.6%). The significant representation of respondents aged 36–40 years suggests that individuals in this age group may have a higher involvement in disputes that are brought before alternative justice systems. This age group is often at a stage in life where they are managing family, career, and property matters, which can lead to disputes that are well-suited for resolution through alternative mechanisms such as mediation or arbitration (Kariuki, 2020).

Data on the level of education attained indicated that a significant portion of respondents have primary-level education (38.5%), followed by those with secondary-level education (29.4%), college-level education (16.5%), undergraduate-level education (10.1%), and post-graduate education (5.5%). The high percentage of respondents with primary and secondary education

levels (67.9% combined) suggests that alternative justice systems are particularly accessible and relevant to individuals with lower formal education. This attributes to the community-based nature of alternative justice systems, which often emphasize oral traditions, local customs, and straightforward processes that do not require advanced literacy or legal knowledge (Ngoiri, Nekesa & Sang, 2020).

Reconciliation and Resolution of disputes

The first objective of the study was to establish the effects of reconciliation on resolution of disputes by the council of elders in Isiolo County, Kenya. Respondents were asked to rate their level of agreement with each statement about the reconciliation and how it affects the resolution of disputes on a scale of 1 to 5, with 1 (strongly disagree), 2 (disagree), 3 (neutral), 4 (agree), and 5 (strongly agree). The results were presented in Table 1.

Table 1 Descriptive statistics on Reconciliation

Statements	n	Mean	Std. Dev
Warring parties are always served invitations to the reconciliation meetings.	109	3.65	0.683
Involved parties are summoned by council of elders.	109	3.73	0.647
Parties always accept the meeting invitations.	109	3.69	0.651
The parties get to agree on the venue.	109	3.61	0.619
The venue is always a neutral ground.	109	3.54	0.642
Matters are presented by both parties through representatives.	109	3.68	0.649
Every persona present is given an opportunity to air concerns.	109	3.59	0.613
The decision made is always binding.	109	3.55	0.611
The decision made are subjected to a vote.	109	3.49	0.607
The decisions must be agreed upon unanimously.	109	3.43	0.602
Average scores		3.60	0.632

Source: Field Data (2024)

The findings in Table 1 provide insights on how reconciliation affect the resolution of disputes by the council of elders in Isiolo county, Kenya. Majority of the respondents agreed that warring parties are always served invitations to the reconciliation meetings (mean = 3.65; standard deviation = 0.683). The act of serving invitations to all involved parties is crucial because it ensures that everyone affected by the dispute is aware of the reconciliation meeting and has an opportunity to participate. This practice aligns with the principles of restorative justice, which emphasize the involvement of all stakeholders in the resolution process. Through ensuring that all warring parties are served invitations to reconciliation meetings, it indicates a commitment to creating an environment where all parties have the opportunity to engage in constructive dialogue, express their perspectives, and work towards finding mutually acceptable solutions (Ballard, Coughlin & Martin, 2020).

The participants agreed that involved parties are summoned by a council of elders (mean = 3.73; standard deviation = 0.647). Councils of elders are often viewed as impartial and respected authorities in the community, which helps ensure that the reconciliation process is

taken seriously by the disputing parties. This practice aligns with findings by Mumma, Maleche and Achieng'Oluoch (2021), who noted that the involvement of community leaders in dispute resolution enhances the legitimacy and acceptance of the process.

The respondents agreed that parties always accept meeting invitations indicates a high level of willingness among disputants to engage in reconciliation efforts (mean = 3.69; standard deviation = 0.651). This reflects the trust that parties place in the alternative justice system and its ability to facilitate fair outcomes. Studies have shown that voluntary participation is crucial for the success of reconciliation, as it fosters a cooperative rather than adversarial approach to dispute resolution (Umezurike, 2016).

Further, the respondents agreed that parties agree on the venue as indicated with a mean of 3.61 and the venue being a neutral ground with a mean of 3.54 highlight the importance of location in the reconciliation process. Neutral venues are essential in ensuring that all parties feel comfortable and that there is no perceived bias in the process. This practice is supported by findings from Waindim (2018) who emphasized that the selection of neutral venues contributes to the fairness and impartiality of the reconciliation process.

The respondents agreed that with the statement that matters are presented by both parties through representatives (mean = 3.68; standard deviation = 0.649). This indicates that representation in the reconciliation process is a common and accepted practice. This approach allows parties to articulate their positions and concerns effectively, often through individuals who are more experienced or knowledgeable in such matters. The involvement of representatives is beneficial in maintaining focus and ensuring that the reconciliation process is structured and comprehensive (Makwudo & Obj, 2020).

Also, the participants agreed that every persona present is given an opportunity to air concerns (mean = 3.59), decision made is always binding (mean = 3.55), decision made are subjected to a vote (mean = 3.49) and decisions must be agreed upon unanimously (3.43). These practices ensure that all voices are heard and that decisions are reached collectively, which is vital for maintaining the legitimacy of the process and the satisfaction of the parties involved (Eneyew & Ayalew, 2023).

One of the interviewed Borana Council of Elders noted that;

“Reconciliation is a deeply rooted tradition that has been integral to maintaining peace and harmony within the community for generations. The reconciliation process is guided by cultural norms and wisdom passed down through the ages. The success of reconciliation in dispute resolution lies in the collective respect for traditional authority and the willingness of disputing parties to adhere to the council’s guidance”. (BCE01)

Further, the area chief noted that;

“Reconciliation as a collaborative effort between traditional leaders and formal authorities, ensuring that justice is served while respecting cultural practices. The chief role is to provide oversight and legitimacy to the

*reconciliation process, ensuring that it is conducted fairly and transparently.”
(CFR01)*

Clan Council Members noted that while sharing a commitment to traditional reconciliation, often bring a more pragmatic approach to the process. They recognize the importance of maintaining peace within and between clans but also acknowledge the challenges that come with modern influences and pressures. These members often deal with disputes that have escalated beyond the capacity of sub-clan or village elders and require a broader, more inclusive approach. They stress the importance of inclusivity in reconciliation, ensuring that all voices within the clan are heard and that resolutions are reached through consensus. Clan council members see their role as bridging the gap between traditional practices and contemporary societal changes.

Mediation and Resolution of disputes

The objective two was to establish the effects of mediation on resolution of disputes by the council of elders Isiolo county, Kenya. Respondents were asked to rate their level of agreement with each statement about the mediation and how it affects the resolution of disputes on a scale of 1 to 5 where 1 (strongly disagree), 2 (disagree), 3 (neutral), 4 (agree), 5 (strongly agree). The means and standard deviations were developed. The results were presented in Table 2.

Table 2 Descriptive Statistics for Mediation

Statements	n	Mean	Std. Dev
The two parties are always present.	109	3.72	0.693
The two parties have representatives who present their grievances.	109	3.68	0.685
There is always an impartial mediator.	109	3.65	0.676
The mediator gives a verdict that is binding.	109	3.66	0.671
The parties are always receptive of the mediator.	109	3.56	0.689
The parties decide on the choice of mediator.	109	3.63	0.678
All Matters are heard and deliberated upon.	109	3.59	0.664
The meetings have a timeline of handling issues.	109	3.61	0.675
Average scores		3.64	0.679

Source: Field Data (2024)

Table 2 present responses on mediation; from the results majority of the respondents agreed that the two parties are always present (mean = 3.72; standard deviation = 0.693). Also, the respondents agreed that two parties have representatives who present their grievances (mean = 3.68; standard deviation = 0.685). This indicates a strong emphasis on direct participation and representation in the mediation process. This aligns with the principles of alternative dispute resolution, which prioritize active involvement and empowerment of the parties involved in resolving their own conflicts. This high level of participation is crucial because it ensures that both sides have the opportunity to present their grievances directly, fostering open communication and mutual understanding (Muigai, 2017). The presence of both parties is essential for the legitimacy of the mediation process, as it demonstrates a commitment to resolving the conflict through dialogue rather than unilateral decisions.

The respondents agreed that there is always an impartial mediator (mean = 3.65; standard deviation = 0.676) and the mediator gives a verdict that is binding (mean = 3.66; standard deviation = 0.671). This suggests that there is commitment to fairness, neutrality, and collaborative decision-making in the mediation process. Alternative justice systems often advocate for the use of neutral third parties to facilitate dialogue and assist parties in reaching mutually acceptable solutions without imposing decisions on them. An impartial mediator is key to the success of the alternative justice system, as their role is to facilitate a balanced discussion and ensure that neither party is unfairly advantaged (Apiyo, 2014). The perception of impartiality is crucial for building trust in the process and ensuring that the outcome is accepted by both parties. The decisions made by the mediator are generally respected and adhered to by the parties involved. This binding nature of the mediator's decision is important for the finality of the resolution process, reducing the likelihood of ongoing disputes (Hudson & Milas 2013). It also underscores the authority of the mediator within the alternative justice system.

Furthermore, the respondents agreed that the parties are always receptive of the mediator (mean = 3.56; standard deviation = 0.689), and the parties decide on the choice of mediator (mean = 3.63; standard deviation = 0.678). While most parties are receptive, there may be instances where trust in the mediator or the process could be improved. Ensuring that parties are fully engaged and confident in the mediator's role is critical for the success of the mediation process (Njoki, 2018). The collaborative element in selecting the mediator, which enhanced the fairness and acceptance of the process. When parties have a say in choosing the mediator, they are more likely to trust the process and abide by the outcomes (Wambua, 2019). This practice ensures that the mediator is someone who is respected and trusted by both parties, which is vital for the legitimacy of the mediation.

Most participants agreed that all matters are heard and deliberated upon (mean = 3.59; standard deviation = 0.664) and the meetings have a timeline of handling issues (mean = 3.61; standard deviation = 0.675). This indicates that the mediation process is thorough and inclusive. This practice ensures that all relevant issues are addressed, reducing the chances of unresolved matters leading to further conflicts. Comprehensive deliberation is key to achieving a resolution that is satisfactory to all parties involved (Damanik, 2021). The statement that meetings have a timeline of handling issues helps in preventing the mediation from dragging on indefinitely, which could otherwise lead to frustration and disengagement by the parties (Alemneh, 2023). Setting timelines helps to maintain focus and ensures that the process remains efficient and effective.

One of the Sub-Clan Council Members noted that;

“Mediation particularly help in addressing personal and family disputes, where emotions can run high and the potential for escalation is significant. The mediation provides a safe space for all parties to express their concerns and work towards a resolution that is fair and respectful. Moreover, resolving conflicts early through mediation, prevent small disputes from becoming larger, more complex issues that could affect the broader community”. (SCCM 02)

From one of interviewed village elders, it was noted that;

“Mediation is an essential process for maintaining peace and order at the grassroots level. The mediation has been effective in resolving disputes because it allows for immediate and localized intervention, often preventing conflicts from reaching more formal or violent stages. The elders appreciate that mediation is less confrontational and more collaborative, which is crucial in small communities where relationships are close-knit. They also value the role of mediation in teaching conflict resolution skills, helping community members learn how to handle disagreements constructively in the future.” (VER01)

Clan council members view mediation as a crucial tool for managing and resolving conflicts, especially those that could potentially disrupt clan harmony. They acknowledge that mediation allows for a structured and neutral platform where grievances can be aired and addressed before they escalate. These members emphasize that mediation is beneficial because it involves all relevant stakeholders, ensuring that resolutions are inclusive and reflect the interests of the entire clan. They also appreciate that mediation respects the autonomy of the disputing parties while guiding them towards a mutually agreeable solution, which they believe is key to the sustainability of peace within the clan.

Resolution of Disputes

The study to evaluate the efficacy of resolution of disputes by council of elders in Isiolo County, Kenya. The respondents were asked to indicate their effective level with each statement related to resolution of disputes by council of elders on a scale of 1 to 5 where 1 (not effective), 2 (least effective), 3 (fair), 4 (more effective), 5 (most effective). The means and standard deviations were developed. The results were presented in Table 3.

Table 3 Descriptive Statistics on Resolution of Disputes

Statements	n	Mean	Std. Dev
There is equal distribution of resources.	109	3.47	0.626
The warring parties are satisfied.	109	3.43	0.621
There is fairness in the administration of justice.	109	3.39	0.619
There is harmony.	109	3.51	0.642
Repartition is done fairly.	109	3.54	0.647
There exists peace.	109	3.42	0.622

Source: Field Data (2024)

The results presented in Table 3 established that majority of the respondents agreed that there is equal distribution of resources (mean = 3.47; standard deviation = 0.626), and warring parties are satisfied (mean = 3.43; and standard deviation = 0.621). The respondents generally perceive resource distribution as equitable within the AJS. Equal distribution of resources is a critical aspect of justice, as it ensures that all parties involved in a dispute feel they have been treated fairly and without bias. The findings further show that there is moderate level of satisfaction among the disputing parties. Satisfaction is a crucial outcome of any dispute resolution process, as it reflects the extent to which the parties feel that their concerns have been adequately addressed. The findings are supported by findings of a study by Okalo (2019) who established that achieving satisfaction is essential for the long-term sustainability of peace and reconciliation within the community.

The respondents agreed that there is fairness in the administration of justice (mean = 3.39; standard deviation = 0.619). Fairness is a fundamental component of any justice system, as it ensures that all parties are treated equally and that decisions are made impartially. Also, the respondents agreed that there is harmony (mean score = 3.51; standard deviation = 0.642). Harmony is an essential outcome of the AJS, reflecting the system's success in not just resolving disputes but also restoring relationships and fostering a sense of community (Shire, 2021).

Most respondents agreed that repartition is done fairly (mean = 3.54; standard deviation = 0.647), and there exists peace (mean = 3.42; standard deviation = 0.622). This indicate that the redistribution or reallocation of resources or responsibilities after a dispute is handled fairly. This reflect a generally positive perception of the AJS's ability to maintain peace post-resolution. Peace is the ultimate goal of any dispute resolution process, and its achievement indicates that the conflict has been effectively managed and that the relationships between the parties have been restored (Palenewen & Solossa, 2023). Fair repartition is critical for achieving lasting peace, as it ensures that all parties feel that the outcomes of the dispute resolution process are just and equitable (Ibrahim, Abubakari, Akanbang & Kepe, 2022).

Inferential Statistics

Model Summary

The findings of coefficient of correlation R and coefficient of adjusted determination R² is as shown in Table 4

Table 4 Model Summary

Model	R	R Square	Adjusted R Square	Std. Error of the Estimate
1	0.712	0.507	0.503	0.083

a. Predictors: (Constant), Reconciliation and mediation

b. Dependent Variable: Resolution of disputes

Source: Field Data (2024)

Table 4 presents a model summary that highlights the relationship between reconciliation, mediation, negotiation (independent variables), and the resolution of disputes (dependent variable). The R value, which is 0.712, indicates a strong positive correlation between the independent variables (reconciliation and mediation) and the dependent variable (resolution of disputes). This suggests that these components of the AJS collectively have a significant influence on the effectiveness of dispute resolution. The R Square value of 0.507 implies that approximately 50.7% of the variation in the resolution of disputes explained by the combination of reconciliation, mediation, and negotiation. This indicates that these factors are substantial contributors to dispute resolution outcomes in the AJS. However, it also suggests that there are other factors not included in the model that account for the remaining 49.3% of the variation.

ANOVA

An ANOVA was conducted at 95% level of significant, the findings of F_{Calculated} and F_{Critical} are as shown in Table 5.

Table 5 ANOVA Results

Model	SS	df	MS	F	Significance
Regression	19.34	2	.192	12.3	0.003 ^a
Residual	61.21	107	1.237		
Total	80.55	109			

a. Predictors: (Constant), Reconciliation, and mediation

b. Dependent Variable: Resolution of disputes

Source: Field Data (2024)

Table 5 presents the findings of Analysis of Variance (ANOVA) which reveals that the significance level (p-value) of 0.003 indicates that the overall model is statistically significant at conventional levels (e.g., 0.05). This means that the combined effect of reconciliation, mediation, and negotiation significantly contributes to explaining the variability in the resolution of disputes. The F-value of 12.3 is well above the critical value typically required for statistical significance, which confirms that the model's predictors have a meaningful impact on dispute resolution.

Regression Coefficients

In order to establish the individual influence of independent variables on dependent variables, the researcher conducted regression analysis. The findings are as shown in Table 6.

Table 6 Regression Coefficients

Variables	Unstandardized Coefficients		Standardized Coefficients	t	Sig.
	β	Std. Error	Beta		
(Constant)	3.124	0.221		1.135	.002
Reconciliation	0.327	0.0112	0.123	1.131	.004
Mediation	0.301	0.0123	0.126	1.125	.003
Negotiation	0.294	0.0128	0.121	1.127	.001

Source: Field Data (2024)

The researcher conducted a multiple regression analysis in order to determine the relationship between alternative justice system and resolution of disputes in Isiolo County, Kenya. As per the SPSS generated table, the equation ($Y = \beta_0 + \beta_1 X_1 + \beta_2 X_2 + \epsilon$) becomes:

$$Y = 3.253 + 0.319X_1 + 0.296X_2 + \epsilon$$

Where Y = Resolution of disputes by council of elders

X₁ = Reconciliation

X₂ = Mediation

Reconciliation ($\beta = 0.327$, Beta = 0.123, P. = 0.004): The unstandardized coefficient for reconciliation suggests that for each unit increase in reconciliation efforts, there is an expected increase of 0.327 units in the resolution of disputes. The significance level of 0.004 indicates that this effect is statistically significant, implying that reconciliation has a positive and

meaningful impact on dispute resolution. The standardized coefficient (Beta = 0.123) reflects the relative importance of reconciliation in the context of the other predictors.

Mediation ($\beta = 0.301$, Beta = 0.126, P. = 0.003): The unstandardized coefficient for mediation indicates that each unit increase in mediation is associated with a 0.301-unit increase in the resolution of disputes. The significance level of 0.003 shows that this effect is statistically significant, highlighting that mediation is a critical factor in resolving disputes effectively. The standardized coefficient (Beta = 0.126) shows the relative impact of mediation compared to other variables in the model.

CONCLUSIONS AND RECOMMENDATIONS

Conclusion

The study concludes that reconciliation, mediation, and negotiation are integral to the effectiveness of the Alternative Justice System. Each of these mechanisms contributes uniquely to the resolution of disputes, with their combined impact providing a comprehensive approach to conflict resolution. Through an analysis of various aspects of the negotiation process, such as involving key stakeholders, ensuring fair and inclusive practices, and addressing issues satisfactorily, it becomes evident that alternative justice systems offer valuable frameworks for promoting reconciliation and facilitating meaningful dialogue among conflicting parties.

Mediation plays a pivotal role in the negotiation process within alternative justice systems, serving as a facilitative mechanism for guiding discussions, managing conflicts, and promoting collaborative decision-making. Through the intervention of trained mediators, disputing parties are empowered to explore creative solutions, communicate effectively, and work towards mutually acceptable outcomes that prioritize their interests and needs.

Negotiation, as reflected in the study's descriptive statistics, underscores the importance of procedural fairness, transparency, and inclusivity in reaching successful dispute resolutions. Alternative justice systems advocate for principled negotiations that uphold ethical standards, respect diverse perspectives, and promote the empowerment of all parties involved in resolving conflicts.

Recommendation

The following recommendations were made based on study findings:

- i. The government has a responsibility to support the implementation of alternative justice systems at the national and local levels. Government agencies should work closely with community organizations, civil society groups, and traditional leaders to promote awareness and acceptance of reconciliation, mediation, and negotiation as viable options for resolving disputes. It is recommended that the government invest in outreach programs that educate the public about the benefits of alternative justice systems and encourage their active participation in seeking non-adversarial solutions to conflicts.
- ii. County governments have a unique role in promoting the accessibility and inclusivity of alternative justice systems within their jurisdictions. County governments should

prioritize the establishment of community-based dispute resolution centers that offer a range of services, including mediation, counseling, and conflict coaching. These centers can serve as hubs for promoting restorative justice practices and building trust among diverse communities.

- iii. The study recommended that policy makers prioritize the integration of reconciliation, mediation, and negotiation mechanisms into formal dispute resolution processes. This can be achieved through legislation that promotes the recognition and utilization of alternative justice approaches, as well as the allocation of resources for training programs and capacity-building initiatives for mediators and facilitators.
- iv. Stakeholders, including community members, non-governmental organizations, legal practitioners, and academia, have a vital role to play in advocating for the adoption and expansion of alternative justice systems. Stakeholders should engage in dialogue with policymakers and government officials to highlight the benefits of reconciliation, mediation, and negotiation in addressing complex social conflicts and promoting sustainable peace. It is recommended that stakeholders collaborate on research projects, pilot programs, and knowledge-sharing platforms to generate evidence-based practices and innovative solutions for enhancing the effectiveness of alternative justice systems.

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