

**A FRAMEWORK FOR INSTITUTIONALIZING INDIGENOUS KNOWLEDGE
SYSTEMS IN DISPUTE RESOLUTION MECHANISM AMONG THE MAASAI
COMMUNITY IN KAJIADO COUNTY, KENYA**

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Doctor of Philosophy Degree in Information Science in the School of Pure and
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DECLARATION

I declare that this thesis is my original work and has not been presented in any other institution for a degree award or other qualification.

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DEDICATION

I dedicate this work to my family; especially my beloved wife, Aska Monchari Guto, children, Mariana, and Melany, my parents, sisters and brothers for their great support and encouragement to do all my best even when the going was very tough. Thank you all and God bless you.

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ABSTRACT

Disputes and conflicts are ubiquitous occurrences with both negative and positive effects on the social and economic development of societies. A huge number of cases are outstanding in the formal court systems despite the provision of alternate dispute resolution mechanisms. Owing to the presence of renowned indigenous dispute resolution mechanisms, there is a dearth in studies seeking to evaluate the positive contribution of the IDR mechanisms in dispute resolution among communities in Kenya. Therefore this study documented the indigenous dispute resolution mechanisms among the Maasai community and developed a framework in which IDR may be institutionalized and integrated into the formal dispute resolution mechanisms in Kajiado County, Kenya. The study had five-fold objectives: To investigate the existing utilization of indigenous knowledge in dispute resolution mechanisms among the Maasai community in Kajiado County, Kenya, evaluate the effectiveness of indigenous dispute resolution in relation to formal judicial mechanism in dispute resolution, analyse the role of non-state actors in influencing the use of IDR in dispute resolution mechanism, develop a framework for institutionalizing indigenous knowledge system in dispute resolution mechanisms and lastly to validate the developed framework. The study was anchored by three theories: The worldview theory, the frustration – aggression theory and the instrumentality theory. The study employed a mixed-method research design and the location of study was in Kajiado County, Kenya. The target population was 5,202 individuals who are 75 years and above including 171 NGAO leaders from four Sub-Counties in Kajiado County, Kenya. The sample size for the study was 371 individuals who were sampled using multi-stage sampling criteria and calculated using Yamane,(1967) formula. Data collection was done using the focus group discussion and questionnaires. The instruments were validated by piloting and reviewed by a panel of experts. Qualitative data was collected and analysed through thematic and narrative analysis while quantitative data was analysed descriptively. The study established that there is need to institutionalize a framework for indigenous dispute resolution into the formal dispute resolution mechanisms which should observe three main attributes: Legal recognition, capacity building and systematic documentation to enhance legitimacy, efficiency and sustainability. Therefore justice in plural societies is best shown through advanced hybridized frameworks that integrate cultural legitimacy from indigenous dispute resolutions with established enforceability from formal judicial mechanisms. The study recommended: There is need for legal recognition of IDRs, enhanced capacity building, adequate resource allocation and community involvement in all processes.

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LIST OF ABBREVIATION AND ACRONYMS

ADR:	Alternative Dispute Resolution
CIDP:	County Integrated Development Plan
IDR:	Indigenous Dispute Resolution
IK:	Indigenous Knowledge
IKS:	Indigenous Knowledge Systems
KHRC:	Kenya Human Rights Commission
NCIA:	National Centre for International Arbitration

LIST OF SYMBOLS AND NOMENCLATURE

- ‘*Ekitoe Ng’ekeliok*’, - Governing unit in Turkana
- ‘*Kiama*’ -Governing unit in Kikuyu .
- ‘*Kokwo*’ - Governing unit in Pokot
- ‘*Akiriket*’ -The council elders in Karamojong
- ‘*Arem*’ -Means confrontation, violence or absence of peace in Turkana
- ‘*Aremusio*’ - Refers to insecurity;
- ‘*Arriget*’ -The council elders in Teso communities
- ‘*Bashingantahe*’ -Men of integrity
- ‘*Batsadibalolwapa*’ -lower family unit level
- ‘*Batshereganyi*’ - Headmen of records
- ‘*Dangkuto*’ - Connotes a more serious bond
- ‘*Dikgosana*’ -Headmen
- ‘*Egurgur*’ - Refers to quarrels and or disagreement
- ‘*Ejie*’ - is the actual fight or combat
- ‘*erupet*’ is a fine
- ‘*Gadaa*’ *system*-Governing unit in Borana
- ‘*Giichchoten hafa*’ - Clan structure
- ‘*Heegeegen Jenna*’ - Intra-and inter-village level
- ‘*Kayas*’ - Governing unit Miji Kenda
- ‘*Ker*’ - Governing unit in Luo
- ‘*Kgosi-kgolo*’ - Paramount chief
- ‘*Kwindan*’ - Refers to disagreements, arguments or lack of consensus

'Makaban' -Clan leader

'Meexe hafa or libidan dummichc -Assembly of Mareko.

'Minan woran Jaana' -Family congregation

'Moemelakgosi-kgolo' - The chief's representative

'Mutongoria wa kithaka' - Governing unit in Mbeere

'nihuss-gossa' -Sub-clan

'Njuri Ncheke' -Governing unit in Meru

'Poriot' - Describe the actual fights, combat or violence.

'Sanawuya' - Refer specifically to joking relationships or ties between cousins and other people

'Sassywood' - Trial by Ordeal

'Siala, kwindan or porsyo' - Represent quarrels and general disagreements in Pokot.

'Siala' refers to quarrels among people or a group of people.

'Guurti' - Governing unit in Ethiopia (the council of elders)

A kitikotuboka sore' -Means you do not return from a court of law and remain friends

'Uracaca' -which means grass in Kinyarwanda, where the elders of the community would sit on the grass and deliberate on the dispute at hand.

CHAPTER ONE: INTRODUCTION

1.0 Introduction

This chapter presents the background of the study, statement of the problem, aim of the study, objectives of the study, research questions, assumptions of the study, justification of the study, significance of the study, scope of the study, limitations of the study and dissemination strategy including definition of key terms that was used in this study.

1.1 Background of the Study

The trend in disputes and conflicts in Europe is related to territorial disputes that range from intra-state disputes and inter-state conflicts (Yilmaz, 2021). The intra-state disputes include the territorial disputes in the island and Republic of Cyprus between Greek and Turkish Cypriots, the post-soviet conflicts in the Republic of Moldova between the Republic of Moldova and the self-proclaimed "Transnistrian Moldovan Republic (TMR) and the post-soviet conflicts between Georgia and the autonomous regions of Abkhazia and South Ossetia. The inter-state conflicts include the territorial dispute between Azerbaijan and Armenia over Nagorny–Karabakh, the dispute between Serbia and Kosovo and lastly the territorial dispute over Crimea between Russia and Ukraine.

Other important disputes in Europe relate to the conflicts over forest resources and the expanding bio-economical uses of Europe's climate. These disputes typically take the form of protests, blockades, and court actions and relate to forest protection, over-development in forest areas and over-recreation (Bickl, 2019). Forest conflicts in Europe are primarily driven by intensified forestry operations, the growing influence of

environmental movements, and increased societal needs for recreation within forests (Nousiainen & Mola-Yudego, 2022).

The trends of disputes in Latin America related more to social-environmental conflicts which related to a continual battle against natural resource exploitation and the forces of global capital, resulting in repeated and widespread clashes, violence, repression and human rights abuses perpetuated by the state or security forces (Raftopoulos, 2017). The extractive industries and infrastructure frontiers have pushed into the previously isolated or protected and fragile environments populated by vulnerable populations seeking to open up these territories to mineral extraction which has repeatedly brought social and environmental disputes into these regions (Juffe-Bignoli et al, 2021). The disputes arising from the extractive industries take new meaning with broader concerns that threaten community well-being including political freedom, communal identity, and envisioning alternative development paths.

The conflicts in Africa are largely intra and inter-state wars and conflicts. The most cited examples of intra-state disputes include the Sudan (1985-1990), Chad (1965-85), Angola since 1974, Liberia (1980- 2003), Nigeria (1967-70), Somalia (1999-93) and Burundi, Rwanda and Sierra Leone (1991-2001) and many others (Davis & Fazil, 2022). The most defining inter-state conflicts include the territorial dispute over the Bakassi peninsular between Nigeria and Cameroon since the 1970s; the dispute over the Atlas Mountains area between Algeria- and Morocco conflict since October 1963; the recently concluded

Eritrea dispute between Ethiopia and Eritrea; the Chad- Libya crisis of 1980- 1982; among others.

Africa is presented as a region dominated by wars and armed conflicts mainly due to the high incidence of political violence, and the frequency and multiplicity of wars and armed conflicts. Armed conflicts in Africa are a frequent phenomenon with enormous effects on livelihoods and economic development. The communal conflicts in Africa undermine interpersonal and social trust thus destroying the social norms, values and institutions while directly resulting in population displacements, loss of life and property destruction and indirectly diverting developmental resources. Further the violent communal conflicts have threatened national and regional security arrangements and development (Bang & Balgah, 2023).

In Kenya, inter-communal conflicts between pastoralist communities are increasingly becoming violent due to the proliferation of modern weapon technology. The conflicts have transitioned from the traditional resource-based incidents to the economic and political spheres and relates to the resource competition, the proliferation of small arms, poverty, under-development and marginalization across northern regional counties of Baringo, West Pokot, Laikipia, Turkana, Wajir, Mandera, Marsabit, and Isiolo (International Crisis Group, 2023)

1.1.1 Disputes and Conflicts

Disputes occur naturally because they result from people's selfish and competitive desires for power. Disputes can emanate from differences in thoughts or opinion, a grievance or a fight over resources, incompatibility or disagreement. Humans being responds to common beliefs in numerous ways; one can decide to avoid possible conflict, register a claim as a immediate source of reparation or pick a conflict at a societal level ,group or as an individual. According to Radjab et al., (2020), Anthropologist argues that disputes are the principal foundation for potential and active conflicts. Conflict in particular is the interrelationship between different states and actors with tension or hostilities exhibited in subjective political or economic hostilities. It also associated with a struggle over values and claims due to power,status in society and scarce resources. Babatunde and Aremu, (2021) points out that those disparaging disputes are impediments to progress, social cohesion, political stability, economic wellbeing and overall socio-economic development.

A dispute is a state of disagreement , opposition or discordancy between two or more parties, people or entities that may or may not be associated by physical violence. Disputes are ever-present in human relations and occur at all times and in almost all places (Alemneh,2023). In essence, disputes precede conflicts; therefore the challenge is in distinguishing when a dispute becomes a conflict. Conflicts take an active and physical aggression or animosity;because of this challenge and the subtleness of the term dispute, the term conflict takes precedence in definition and use in most instances (Jordaan,

2022). Disputes are inevitable, normal, positive, and even sometimes necessary and useful for societal and social change (Mekonnen, 2016)

Disputes and Conflicts take the form of competition over scarce natural resources especially among the pastoralist communities resulting in land disputes and conflicts and subsequently affecting the social and economic spheres of these communities. The inter-ethnic and intra-ethnic disputes among these communities result in enormous loss of lives, property and displacements (Kalya et al., 2015). A conflict is a latent dispute between two opposing groups or individuals or an opposition between two simultaneous but incompatible interests (Alemneh, 2023). Conflict is a natural and unavoidable part of human existence. It results from individuals or groups that differ in attitude, beliefs, values or needs (Hussein et al., 2020). Conflicts are a social necessity and a normal functional and inevitable aspect of all societies.

Communal conflicts as violent confrontations between non-state actors where the cleavages largely fall along ethnic or tribal lines (Wig & Kromrey, 2018). Conflict emerges due to a clash of interests and gains, and occurs when two or more parties pursue incompatible interests or goals through actions that the parties try to harm each other where by these parties may be groups, individuals entities or countries. The differences among the parties can be due to access to scarce resources, the control of decision making organ or political/traditional supremacy in terms of ideologies, values and identities (Döring & Mustasilta, 2024).

The report by Dowd and Raleigh (2013) showed that 29.5% of these disputes emanated due to scarce resource competition which is attributed to communal relocation in quest for water and pasture for their cattles. These differences is also aggravated by the minimal or weak presence of state security machinery and the proliferation of small and light weapons, and arms. The conflict has become gradually obstinate due to weakened indigenous or traditional system of governance ; the failure of inter-communal societal treaties ; the loss of control over the young people by elders; the persistence of moran culture; and the infiltration of politics in peace-making processes (Jordaan, 2022)

Dispute is a disagreement or argument between two entities with different opinion/ thoughts while conflict is an active disagreement between two opposing entities, that is according to (Oxford Dictionary , 2021). Therefore the words, dispute and conflict are interconnected but the focal difference is that disputes may not automatically lead to active conflicts. Pkalya, Adan & Masinde (2015) adds that conflict is a disagreement or argument between two or more entities due to the usage of natural resources or simply disputes over scarce available resources. Conflicts or dispute may arise from the basic units of society (within families), villages, clans, tribes, or other small entities due to the differences in values, aspirations, interests, goals among others (Kariuki, 2015). However the main question confronting human being is not about the causes of these disputes per se, but how these differences can be resolved to avert further escalation, and these entirely depends on the type and nature of the resolution mechanism used or adopted.

1.1.2 Nature of Disputes and Conflicts

The nature of disputes and conflicts is viewed differently by different scholars, for instance a study by Jordaan, (2022) observed that conflict within a community (communal conflicts) takes its roots from historical acrimonies to pre-colonial wars of authority among various tribes ,territories, clans, chiefdoms and even Kingdoms. This disagreement took a different trajectory due to colonial legacies that formed peculiar nation-state frameworks and systems which left the boundaries of these states unsettled because of undetermined status of social groups, ethnic and religious diversity (Adefisoye & Bamidele, 2018).

According to Adefisoye and Bamidele (2018) conflicts in Africa are broadly classified into four categories; one, those that relate to the global political, and have strategic and developmental dynamics, two, those arising from inter-state engagement; three, those that result from internal political turbulence such as insurgencies and ethnic/sectarian conflicts and four, those caused by non-state actors such as the terrorist groups. Studies show that disputes in Africa are also increasingly linked to the abundance of natural resources (Berman et al., 2017). The literature obtained from the Uppsala Conflict Data Program (UCDP) showed that the mainstream of fights in Africa countries takes the form of inter-communal conflicts. Communal conflicts are violent skirmishes among non-state actors where the main cause largely fall along ethnic or tribal lines and this conflict in most cases are ignored by the government of the day and therefore remain unsettled or unresolved.

According to Adefisoye & Bamidele, (2018), the post-independence African countries have several dimensions of disputes/conflicts stretching from communal/ethnic differences to political differences for example, intra-state disputes/conflict took prominence in many cases such as the inter-communal conflict among Dinka and Nuer communities in South Sudan that ravaged the country for over two decades and these low level dispute disagreement ascended into conflict because of ineffective judicial system mechanism in place (Wig & Kromrey, 2018).

In Kenya, cattle rustling and theft between communities takes an inter-community standpoint and are becoming increasingly intense with the use of automatic weapons as argued by (KHRC, 2012). The term conflict in Kenya takes a different form and meanings among communities; for example in the Pokot language, there is no proportional word for the word 'conflict' instead, '*siala*, *kwindan* or *porsyo*' which represents quarrels and general disagreements while in Turkana community there have a single word that defines conflict and the word is '*arem*', which means confrontation, absence of peace or violence. In Marakwet dialect/ community, there is no word that solely describes the conflict and instead '*Kwindan*' which denotes the arguments, disagreements or lack of agreement, '*poriot*' describes the real fights, battle or violence. *Poriot* denotes the inter-ethnic disagreement that are customarily demonstrated as cattle raids, clashes caused by land disagreement or tribal clashes while '*Siala*' refers to disagreements among people or a group of people. There is no single word in the Turkana community, that can define the term 'conflict' but several terms include: *Arem* connotes

confrontation; *Aremusio* refers to insecurity; *ejie* is the actual fight or combat whereas *egurgur* refers to quarrels and or disagreement (Pkalya, Adan & Masinde, 2015)

1.1.3 Causes of Disputes and Conflicts

There are multiplicities of factors that cause conflicts in Africa and include the arbitrary creation of the boundaries of the African nation-states by the colonial powers, the heterogeneous ethnic composition of African states, inept political leadership, corruption, negative effect of external debt burden and poverty. However, most conflicts intra- and inter-ethnic conflicts arise over the use of natural resources. For instance, the limited or loss of access to water and pasture resources, lack of alternative sources of livelihood, diminishing role of traditional institutions in conflict management, political incitement, non-responsive government policy and inter-tribal animosity (Jordaan,2022). Additionally, conflicts and disputes may originate from the traditional/indigenous ways of life among the pastoralists communities in Kenya, for example, the disputes can be observed as a form of redistribution and lack of balancing of wealth among communities, in which one community may take livestock from one another when they were short of their stock, and vice-versa. In other cases, inter-communal conflicts in Africa could be understood as the unrestrained warrior spirit drawn from the instincts and mentality of the past (Maringira, 2021).

1.1.4 Dispute Resolution Mechanisms

Disputes and conflicts can be resolved using different mechanisms which include: Formal judicial mechanism, alternate dispute resolution mechanism, indigenized alternate dispute resolution (ADR) mechanism and finally indigenous dispute resolution (IDR). The most noticeable form of conflict and dispute resolution mechanism has always been the state intervention through the deployment of security agencies which in most cases do not holistically resolve the conflict (Bang & Balgah, 2023). In many occasions, the applications of formal dispute resolution mechanisms in Africa is diverse in nature and are made up of both formal justice systems and traditional justice systems, which are largely used by the rural population. For example, Ntuli (2018) argues that the indigenous justice structures in South Sudan resolves as much as 90% of civil and criminal disputes. In most states, formal dispute resolution mechanisms are dominant or a blend of both formal and informal systems as exhibited by the Nigerian case (Aiyedun & Ordor, 2016). Thus, there is a need for a holistic approach to resolving these conflicts and research has indicated the need for a broader and longer-term strategy that will reduce the risk of communal conflicts using both preventive and reactive interventions.

1.1.4.1 Formal Judicial Mechanism

The formal judicial system which is based on the western-oriented conflict management systems promotes retributive/punitive justice and protects the dominance and economic interests of the Western world in Africa (Albert, 2015). Conflict resolution faces several impediments which include expensive litigation processes and the use of legal jargon which at times confuses the ordinary people, and the accessibility of the courts. More

importantly, litigation does not conform to the disposition of indigenous people. Hence, a popular Yoruba adage says ‘*A kitikotuboka sore*’ (you do not return from a court of law and remain friends).

1.1.4.2 Alternative Dispute Resolution Mechanism

The Alternative Dispute Resolution mechanisms involve mediation mechanisms that include: Mediation, conciliation, negotiation and arbitration or any process or procedure for resolving a dispute other than a judicial determination by a judge in a standard statutory court (NCIA, 2019). Alternative dispute resolution mechanism especially in African countries is being embraced to address poor access to justice and takes the form of mediation, negotiation and arbitration. This mechanism has been praised as one of the best developments of the contemporary legal system where petitioners can simply take the cheaper, less complicated, more creative, more participative, less cumbersome, and more effective route of dispute resolution mechanism (Ntuli, 2018).

Alternative dispute resolution has overwhelming sustained popularity as one of the best contemporary means of dispute resolution mechanism because of its advantages nature such as it is a fast-track dispute resolution mechanism and the petitioners take the more convenient, inexpensive, creative, less complex, less burdensome, more inclusive, and more effective route of dispute resolution-however it doesn’t lack its own downfalls like the presence of diverse cultures and communities may make it irrelevant, and the lack of an overarching framework to support its application becomes informal (Wig & Kromrey, 2018). Alternative dispute resolution is the most appropriate dispute resolution

mechanism and it differs from nation to nation, culture to culture, and community to community. This remarkable development can be accredited to the heightened awareness of people and individuals of their right to be enjoined and participate in all levels of decision-making, and in their ability to take control of matters affecting important aspects of their lives.

The application of alternative dispute resolution in dispute resolution mechanism has been recognized immensely and transformed the legal landscape of many nations such as Canada, and for the last fifteen years, alternative dispute resolution has become so prevalent and commonly used in the 1970s in the United States, there has been growing enthusiasm and popular interest in alternative dispute resolution systems within the European context. Europe through EU directives introduced alternative dispute resolution mechanism as a formal mechanism and its usage in disputes is mixed, other countries like Italy adopted these mechanisms while others are still lagging (Ntuli, 2018). In Sub-Saharan Africa, alternative dispute resolution mechanism has gained prominence among communities due to deficiencies and delays in the court-centred approach which is regarded as the formal/judicial dispute resolution mechanism, also litigants became drained of facing each other and the judge in court. As people look for a less expensive venue for justice, there has been growing gusto and widespread interest in alternative dispute resolution systems such as mediation, conciliation, negotiation, and arbitration with a clear framework how the dispute will be amicably resolved.

The adoption of alternative dispute resolution mechanisms in Africa have come up as a result of the imposition of foreign laws on the diverse customary laws. For example, the Igbo ethnic group in Nigeria have relatively introduced the English law system into their traditional system; therefore dispute resolution takes a blend of both indigenous and English law systems. As argued by Aiyedun & Ordor, (2016), this merger of received or imposed laws of foreign origin and diverse customary laws creates the fabric of pluralism within which contemporary African States have to function. Accordingly, most African communities had their unique conflict management mechanisms (Muigua, 2015) that included a council of elders, community mediation circles, community sentencing groups, and elders' advisory groups. In the Limpopo area, Zambia, alternative dispute resolution mechanisms have been applied intensely for petty crimes, while serious crimes such as assault, rape, theft of expensive items or murder are prosecuted by the formal courts (Aiyedun & Ordor, 2016).

In Kenya, the application of the alternative dispute resolution mechanism is anchored in many legal and policy frameworks which include the Constitution of Kenya 2010, and the Judiciary of Kenya policy framework among others, including the international and regional human rights instruments and sustainable development goals (NCIA, 2019). The Constitution provides that when exercising judicial authority, the courts are to be guided by key principles which include inter alia, promotion of alternative forms of conflict management including reconciliation, mediation, arbitration and traditional dispute resolution mechanisms (Muigua, 2015). Alternative dispute resolution has been applied in several disputes that include land disputes, marriage, gender violence, and family cases

such as inheritance, clan disputes, cattle rustling, and debt recovery among others (Pkalya, Adan & Masinde, 2015).

1.1.4.3 Indigenized Alternative Dispute Resolution Mechanism

The indigenised alternative dispute resolution mechanism (IADR) takes the application of alternative dispute resolution in an indigenous setting and adapts to indigenous culture, values and interests. According to Maringira, (2021) indigenised alternative dispute resolution mechanism is synonymous with the indigenized western alternative dispute resolution that is often designed outside the formal court system. The indigenised alternative dispute resolution mechanisms became famous due to the status of the alternative dispute resolution mechanism which had taken shape immensely especially in African context. Devine (2016) observed that indigenised alternative dispute resolution take the westernized forms of alternative dispute resolution which seeks to overcome the problems and shortcomings associated with court proceedings and process. The adoption and use of alternative dispute resolution approach is principally anchored on a concept called "co-existential justice" where the government of the day looks for an alternate ways of solving disputes away from the formal mechanism, and this process is largely part of African and Asian traditions where peace-making solutions are often seen as signs for survival. The Westernized alternative dispute resolution includes indigenous processes of healing, intercultural understanding, interconnectedness and discussion on important matters.

A study by Maringira,(2021) shows that most popular forms of indigenized dispute mechanism included the restorative justice programs of New Zealand, the Aboriginal courts and tribunals in North America and the existence of Aboriginal or law firms, indigenous lawyers and judges, as well as the promotion of indigenous interests by groups whose affiliates are non-indigenous. These were seen as very effective platforms for indigenous/traditional justice despite the criticisms that came along with therefore cultural or indigenous justice now included a fusion of western and indigenous theories of law and conflict resolution.

A case study in Africa is Rwanda which takes the indigenized form of alternative dispute resolution through internationally acclaimed *Gacaca* courts. The *Gacaca* Courts was an indigenously - mediated program that promoted truth and reconciliation after the brutal 1994 Rwandan genocide and was motivated by the general scepticism that conventional criminal courts would be unable to bring the genocide perpetrators to justice (Wig & Kromrey, 2018). The *Gacaca* court was based on an Indigenised alternative dispute resolution mechanism that was overseen by *inyangamugayo* or people with integrity and influence (Ntuli, 2018). *Gacaca* draws from the word '*Uracaca*' which means grass in Kinyarwanda, where the elders of the community would sit on the grass and deliberate on the dispute that has emerged. The proceedings in a *Gacaca* court involve plaintiffs, defendants and witnesses. Each party is asked to present his/her case and any member of the community could participate and intervene in the proceedings, either against or in favour of the defendant. The parties are cross-examined and the elders rather than pass

judgment per se, try to reconstruct the broken relationship, this approach emphasizes three dimensions: Dialogue, reconciliation and reparation.

Later on the Government of Rwanda institutionalized the indigenized alternative dispute resolution mechanism by adopting the Abunzi Act of 2006 which provided for a system that utilizes trained local mediators with a clear framework. Abunzi means ‘those who reconcile’ and forms part of the local government structure that is made up of seven members with a third being women. Abunzi takes cognizance of local culture and customs when evaluating and settling disputes (Ntuli, 2018).

1.1.4.4 Indigenous Dispute Resolution Mechanism

The indigenous dispute resolution (IDR) mechanism takes the form of participatory justice and communal enterprise and works within the traditional framework therefore the process makes use of cultural process which capitalizes on the cultural affinity. The use and application of indigenous dispute resolution mechanism was the main methods of dispute resolution in the pre-colonial period and to some extent it resembled alternative dispute resolution, but the uniqueness is truly indigenous and unique to the communities or natural settings. Indigenous dispute resolution processes was seen as an alternative to any of the dispute resolution mechanisms. The use and application of indigenous dispute resolution mechanisms was prevalent in pre-colonial Africa (Muigua, 2017) and had a substantial degree of success in ensuring peaceful coexistence of groups and maintaining order however it lacked a clear framework on how it can be generalized across all communities.

According to Murithi, (2017), the indigenous dispute resolution mechanisms have been accepted widely due to various reasons such as: They appeal to the local cultural norms and leadership framework structures hence the outcomes produced were more likely to be internalized and understood by the concern parties; the indigenous processes are inclusive hence promoting public participation which seek consensus when addressing the root causes of conflicts; there is a value-added element in terms of sustaining peace since the processes are drawn from local cultural assumptions, values, norms, as well as traditional and community-based political dialogue and justice. And lastly, indigenous processes are cost-effective in the sense that they depend on a community's based internal resources rather than the infusion of funds from external actors or government.

The use of indigenous dispute resolution in access to justice and conflict management in Africa is still relevant because it is closer to the people, flexible, expeditious, foster relationships, and is voluntary-based and cost-effective (Muigua, 2017). Large numbers of African ethnic groups currently relate to their customary traditional systems; some have formalized state-like institutions, with legislatures, courts and kings, while others organize in more informal structures. For instance, the Ashanti community in Ghana still makes of use of a king in decision making, council of elders and customary courts to help in solving disputes using the traditional techniques, while the San in Namibia have informal structures that are largely unstructured. In other cases, customary establishments are a system of mixed governance systems as suggested by (Wig & Kromrey, 2018). These customary establishments have a robust local and cultural presence with

recognized manifestations such as customary courts and councils of elders who are critical in terms of dispute resolutions.

Traditional tribunal system has embraced the indigenous dispute resolution mechanism which tends to exercise customary authority and impose social order, and in some cases there is no clear distinction between indigenous dispute resolution mechanisms, civil and criminal matters (Wig & Kromrey, 2018). The motive behind the use and application of indigenous dispute resolution mechanism is to work towards satisfaction or compromise of the warring parties and hence resolving a given dispute amicably (Aiyedun & Ordor, 2016). Other elements which make traditional justice systems the preferred option include their non-bureaucratic structure, non-dependence on professional legal services, and reliance on the services of lay people and common-sense thinking, with emphasis on substantive issues rather than procedural technicalities.

Essentially, the pre-colonial Africans depended on the knowledge and judicial skills of their local leaders or elders to resolve disputes. In case disputes were presented to members of the community, the council of elders or the traditional leader as the head presided over the matter until a conclusion was arrived at amicably. The council of the elders' leader asked questions, sought advice from the audience or members of the community present and then gave conclusive judgment to reunite the disputants after the parties involved in the dispute had given an exhaustive account of the conflict or what transpired. The indigenous justice systems in Africa have survived in various forms

especially in rural communities serving large population, and these institutions have been reshaped or reoriented as time progresses (Aiyedun & Ordor, 2016).

The main actors in indigenous dispute resolution mechanisms entails the person with authority, local actors such as community elders or leaders, family elders and/or the chiefs and kinship who were tasked with managing indigenous knowledge, making decisions and resolving daily disputes based on their wisdom and skills on indigenous matter (Ntuli, 2018). The local elders or traditional mediators use their judgment, experience and position of moral authority to find an acceptable solution where each part gets satisfied. The indigenous dispute resolution mechanism is anchored to its customary ways and its takes cognizance of mediation, reconciliation, negotiation and legal sanctioning as form of social regulation.

Predominantly, the dispute resolution process in African societies provided the disputants with an opportunity to air their grievances, to express themselves fully, without complexity or formality, an element which connotes fairness. Justice in these indigenous processes was for the most part simple, understandable and flexible; and for those reasons, popular, speedy, inexpensive and accessible. Dispute resolution mechanisms also assured the disputants of a knowledgeable and just resolution that would maintain communal relations (Aiyedun & Ordor, 2016). The indigenous dispute resolution mechanism often relies upon their traditional clan elders as 'the repositories of moral authority and catalysts for societal harmony with regards to dispute resolution and the socio-economic distribution of resources' (Murithi, 2018).

Generally, indigenous dispute resolution mechanisms are centred on the values of truth, justice, forgiveness, reconciliation, addressing the affected relationship, voluntary participation, and emphasis on complaint behaviour. Most indigenous conflict resolution mechanisms are accompanied by the ritual symbol of reconciliation (Mekonnen, 2016). The ritual process in conflict resolution is made with the belief to further strengthen the terms of reconciliation and to limit conflict reoccurrence. The ritual performance marks the successful completion of the reconciliation and symbolizes the integration of the wrongdoer with the wronged. The parties consent and mutual agreement takes precedence over imposed outcomes to improve and restore conflict peacefully. IDR mechanisms have pre-existing values and rules, forgiving one another and urging parties to abandon their old feuds and live amicably.

There are several indigenous dispute resolution mechanisms depending on the community and location. The Afar people of Ethiopia utilise the Madáa system of governance which prescribes, among other things, how inter and intra-clan disputes are to be resolved, based on customary laws which are passed down orally through the generations (Alemneh, 2023). The Borana have an indigenous dispute resolution mechanism named the ‘*Gadaa*’ system which is headed by Abba gadaa or the leader of *Gadaa*. The Somali community of Ethiopia have an indigenous dispute resolution mechanism headed by a governing unit the *guurti* (the council of elders) (Mussa, Teka & Aliye, 2017). In Kenya, the Turkana have the tree of men (*Ekitoe Ng’ekeliok’*), the Pokot community have the Kokwo, the Miji Kenda have the *Kayas*, the Meru have the *Njuri Ncheke*, the Kikuyu have the *Kiama* and the Luo have the *Ker* (Muigua, 2017). The

Mbeere have the *mutongoria wa kithaka* (Albert, 2018) while the Kipsigis community have the *Kamasian* (Kariuki, 2015). For fair justice delivery, all these systems need a clear framework on how it can be institutionalized with formal with formal judicial mechanisms.

1.1.5 Indigenous Knowledge Systems

Indigenous knowledge systems are the multifaceted collections of knowledge, know-how, practices and demonstrations that guide human societies in their numerous interactions with the natural environment such as agricultural activities, struggles against disease and injury; conflict resolutions; naming and explaining natural phenomena and tactics for coping with dynamic environments. It is through this fine-grained interchange between society and environment that indigenous knowledge systems have developed varied structures and content; versatility, complexity, pragmatism and unique patterns of interpretation anchored in specific worldviews.

Indigenous knowledge systems recognize that individuals possess implicit understanding of their social and physical surroundings (Liew et al 2021). These knowledge systems evolve under specific conditions. Firstly, they are deeply rooted in the local context, developing through longstanding observations and relationships within ecosystems. Secondly, indigenous knowledge forms through traditional educational practices involving direct observation and interaction with the natural world. Thirdly, this knowledge is dynamic and adaptable, shaped by continuous learning and the construction of knowledge thereby bolstering the resilience of socio-ecological systems through

experiential accumulation and intergenerational transmission and finally, indigenous knowledge becomes institutionalized, serving as a foundation for local decision-making in many rural communities.

All societies and communities hold value systems and institutional mechanisms that are both endogenous and indigenous. Thus, indigenous people have long used indigenous dispute resolution to solve intra- and inter-communal conflict based on their customs and culture. The indigenous dispute resolution mechanisms are bound to the socio-political and economic realities as socio-political institutions linked to economic realities of the African communities. Thus, the indigenous knowledge systems (IKS) are defined as intrinsically encoded social processes of the communities (Holmes & Jampijinpa, 2019) that are distinctly built on methodologies, philosophies, and criteria.

Indigenous dispute resolution mechanisms comprise cultural, economic, social and religious dimensions based on customary traditions and societal worldviews (Döring & Mustasilta, 2024). Indigenous dispute resolution mechanisms are constructed by the people and communities and derive its legitimacy from the consensus and participation as practised over a long period and accepted as a governing principle (Dagne & Bapu, 2016). These customary and formalized traditional institutions are characterized by the level of inclusiveness and the degree of institutionalization (Wig & Kromrey, 2018).

The institutional dimensions take the form of an indigenous knowledge system that tacitly or explicitly held by a specific cultural group and can be generationally transfers

through cultural and social events; it is passed through oral media through art and drawings, experiences, folk tales, real-life stories, rituals, songs and through traditional norms, laws and legends. In Africa, many ethnic groups still organize around traditional political systems, thus, indigenous dispute resolution mechanisms are the dominant justice system at the local level and are prevalent throughout the African countries (Mekonnen, 2016).

Both the endogenous and indigenous conflict resolution processes provide valuable insights that can rebuild social trust and restore communal coexistence. The indigenous dispute resolution mechanisms largely include for resolving disputes and conflicts in marriage, inheritance, family, clan and welfare issues (Muigua, 2017) and its uses of societal religious values is prevalent in indigenous communities, these institutions employ the use of blessing, curses oaths, and many other spiritual mechanisms to validate their acceptance by the conflicting parties. Indigenous dispute resolutions are accompanied by ritual symbols of reconciliation (Mekonnen, 2016).

1.1.6: Contextual Setting

The Maasai people are Nilotic in nature and they are best known for their pastoralist activities; their social order is predominantly organized around livestock-keeping and the kinship networks has an established age-set system where decision makers and leaders are produced, trusted and recognized. Various studies on customary justice in East Africa observes that the social structures of the Maasai community continues to be accepted locally where the elders who are drawn from renowned age-sets remains the only

adjudicatory bodies whose decisions and authorities in dispute resolution remains final, and rests on long-standing social recognition rather than documented law (Multiple Doors to Justice Project, 2023; McConkie, 2024). This arrangement is trusted because of customary forums speed on how conflicts and disagreements are solved, locality settings where disputes are handled and more critically cultural legitimacy characteristics that people in Maasai communities still rely upon as their first point of interaction for land, family and cattle disputes.

Report by NYU Centre on International Cooperation (2023) observes that the Maasai community dispute resolution mechanism is participative in nature and focuses more on consensus building and healing which leans more towards reconciliation rather than punitive sanctions, compensation and the rebuilding of social relationships. Discussions on modern-day policy reviews emphasizes on public ritualized hearings and negotiated settlements that is geared towards repairing social bonds and people living in harmony. There are rituals and spiritual practices that accompany many settlements such as invocation of customary norms, elders' blessings, and community confirmation which underpins compliance and makes the outcome socially binding in ways that formal courts often cannot replicate locally (Multiple Doors to Justice Project, 2023). These restorative features are strengths for access to justice but also require careful alignment with modern human-rights expectations.

However, indigenous dispute resolution systems among Maasai communities face severe external pressures that weaken their functioning and equity. Reports by Amnesty

International, (2023) and Human Rights Watch, (2024) shows that since the year 2022–2024 on large-scale documented conservation projects, tourism and state-led relocations particularly in parts of northern Tanzania have disrupted grazing cycles, weakened elders’ authority, and in many instances led to forced evictions and human-rights violations with unequal harms to women and children. Climate changes and livestock losses have also deepened resource competition in country (Kenya) and amplified the caseloads and complexity of traditional disputes, therefore elongating elders and community leaders capacity to mediate effectively and efficiently (International Crisis Group, 2023). This constant change makes it forthright “institutionalization” uncertain unless the framework explicitly protects the occupancy, participation and susceptible groups.

To integrate the indigenous knowledge systems in dispute resolution among the Maasai community in a right-compatible procedure, empirical literature recommends a hybrid, participatory methodology that takes into consideration the local legitimacy while entrenching precautions and associations to the formal justice system. Experts in policy studies and legal fraternity argue for co-designed mechanisms where elder councils, women’s and youth representation are included, training for traditional leaders in rights-compatible methodology, community paralegal networks, and formal registration channels so that traditional agreements can be known, revised or appealed within the court system (Multiple Doors to Justice Project, 2023; McConkie, 2024). Crucially, reports from human-rights organizations also demand that any institutionalization include strong protections against exclusion, coercive evictions and gender marginalization

meaning monitoring, documentation and remedies must be integral to any framework (Amnesty International, 2023; Human Rights Watch, 2024)

1.2 Statement of the Problem

All communities irrespective of geographic location and socioeconomic status ought to have reasonable and inclusive access to justice. Article 159(2)(c) of the 2010 Kenyan Constitution reinforced by civil procedure Act(Cap 21,laws of Kenya); Arbitration Act,NO.4 of 1995(as amended in 2009); Community Land Act of 2016,all these explicitly acknowledges and encourages the use of alternative dispute resolution mechanism such as mediation, arbitration, negotiation, reconciliation and indigenous dispute resolution mechanisms. The objective of this constitutional clauses and Acts of parliament is to craft a pluralistic justice system where all citizens can access, afford and sustainably receive justice by using indigenous dispute resolution procedures in addition to formal judicial frameworks mechanism. However 62% of rural areas in Sub-Saharan Africa lack court systems therefore access to formal justice is still a major challenge (Ntuli, 2018). Report by NCIA (2019) records that over 90% of Kenyans use alternative dispute resolution mechanism to seek justice although these processes are informal, undocumented and lack explicit institutional policy frameworks (Alemie & Mandefro, 2018). The use of indigenous dispute resolution mechanism is common in Kenyan communities but it is endangered by lack of formality, deficiency in terms of legal recognition and the loss of custodian of indigenous knowledge through natural extinction (Oiye, 2019)

Access to justice particularly in rural areas have been weakened as a consequence of not institutionalizing and strengthening indigenous dispute resolution mechanisms to compliment the formal courts. This circumstance has led to the lack of access to justice which has a negative correlation with development objectives (NCIA, 2019). Since indigenous dispute resolution mechanisms are seen as informal, undocumented, unpredictable; communities which depend on customary laws to solve disputes are seeing a decline in trust in them (Desta & Smithson, 2016) and due to this Kenya's peace architecture is still rather weak therefore threatening social cohesiveness, sustainable development and the administration of fair justice.

Despite the extensive use and application of cultural legitimacy of indigenous dispute resolution mechanisms their integration with the formal Judiciary mechanism remains fairly weak. One of the weightiest breaches concerns the referral of cases between informal and formal systems. Sergon, (2021) observes that referral trails are principally ad hoc with no standardized procedures linking elders' or community leaders with the court systems. Therefore many disputes/conflicts circulate exclusively within the community making even serious cases that should be litigated within the criminal justice system being resolved informally hence undermining the due process that it guarantees. The lack of dependable records also thwarts efforts to build bridges between informal and formal systems as courts have little documentary evidence upon which to base recognition of community outcomes.

Traditional dispute resolution is legally recognized by the 2010 Kenyan Constitution but there are no explicit procedures or policies in place to institutionalize indigenous dispute resolution mechanisms into the official legal framework. Despite being widely used, indigenous dispute resolution has been marginalized due to a lack of documentation, preservation and policy guidelines. Indigenous knowledge runs the risk of being lost in the absence of a formal framework which could result in the loss of reliable and accessible community-based justice systems. This study therefore sought to document the indigenous dispute resolution mechanisms among the Maasai community and develop a framework for institutionalizing and integrating indigenous dispute resolution into the formal justice system among the Maasai community in Kajiado County, Kenya.

1.3 Main Objective of the Study

The main objective of this study was to document the indigenous dispute resolution mechanisms and develop a framework in which indigenous dispute resolution may be integrated into the formal dispute resolution mechanisms among the Maasai community in Kajiado County, Kenya.

1.4 Specific Objectives of the Study

The study sought to:

1. Investigate the existing utilization of indigenous knowledge in dispute resolution mechanisms among the Maasai community in Kajiado County, Kenya.

2. Evaluate the effectiveness of indigenous dispute resolution in relation to formal judicial mechanism in resolving disputes among the Maasai community in Kajiado County, Kenya.
3. Analyse the role of non-state actors in influencing the use of indigenous knowledge in dispute resolution mechanisms among the Maasai community in Kajiado County, Kenya.
4. Develop a framework for institutionalizing indigenous knowledge systems in dispute resolution mechanisms among the Maasai community in Kajiado County, Kenya.
5. Validate the developed framework for institutionalizing indigenous knowledge systems in dispute resolution mechanisms among the Maasai community in Kajiado County, Kenya.

1.5 Research Questions

The study was guided by the following research questions:

1. What is the current status of indigenous knowledge utilization in dispute resolution mechanisms among the Maasai community in Kajiado County, Kenya?
2. How effective is the indigenous dispute resolution in relation to formal judicial mechanisms in resolving disputes among the Maasai community in Kajiado County, Kenya?
3. What is the role of non-state actors in influencing the use of indigenous knowledge in dispute resolution mechanisms among the Maasai community in Kajiado County, Kenya?

4. In which formats, can the study develop a framework that can institutionalize the integration of indigenous knowledge systems in dispute resolution mechanisms among the Maasai community in Kajiado County, Kenya?
5. How effective is the developed framework for institutionalizing indigenous knowledge systems in dispute resolution mechanisms among the Maasai community in Kajiado County, Kenya?

1.6 Assumptions of the Study

The use of the indigenous dispute resolution among selected communities is prevalent and the indigenous mechanism of handling and resolving disputes in intra – and inter-communal conflicts and disputes. The indigenous dispute resolution mechanisms existed long before colonialism and served the communities therefore, it is expected that several communities still hold on to their indigenous ways of living which supports the use of indigenous dispute resolution mechanisms. Furthermore, communities are still wary of the formal dispute resolution mechanisms as they are antagonistic and take longer time and effort.

It was assumed that the probability of a drastic environmental changes either physical (natural calamities) or human (wars and disturbances) that may alter the communal structures will be marginal during the study period. The study hoped that any conflict and disputes in the locality takes a latent format, therefore allowed the researcher to engage in data collection processes successfully. The study assumed that the methodology used to collect data was sufficiently and therefore helped to draw out inferences that supported

the conclusion of the study. In particular, the research instrument expected to draw out the pertinent information relating to the indigenous dispute resolution mechanisms that the distribution of the study participants is normal and was easily accessed.

1.7 Significance of the Study

The use of IDR is widespread in the communities in Kenya, however; there are no clear procedures to institutionalize the use of IDR as a form of dispute resolution mechanisms into the current legal framework based on the stipulates of the constitution of Kenya, 2010.

The research output and findings provides a foundation on which a discourse on indigenous dispute resolution mechanisms can be evaluated. The use of contemporary dispute resolution mechanisms is prevalent among African communities but its evaluation is lacking. There was a legal lacuna in law in the way; indigenous dispute resolution can be institutionalized into the contemporary mechanisms.

The findings were also useful in building a repository of information to which academicians and researchers can define the indigenous dispute resolution mechanisms among the Maasai community in Kajiado County. The study provides a foundation and framework for other studies to draw from.

The findings would also be useful to policymakers, the judicial, and the government of Kenya to advance new policies governing the application of indigenous dispute

resolution mechanisms at the local as well as national levels. The judicial and legal system can adopt the framework to harmonize the indigenous dispute resolution with formal judicial mechanism. The judicial service commission would also benefit for policy guidance on integrating traditional dispute resolutions in line with Article 159(2)(c) of the Kenyan (2010) constitution which gives node to other forms of dispute resolution away from formal judicial mechanisms.

The local government and county institution would also benefit by making by laws and local policies that accommodate indigenous dispute resolution mechanisms in any community disputes. Policy makers and national government such as the office of Attorney general may also benefit by integrating indigenous dispute resolution framework into national policy.

The findings of this study would also be beneficial to national cohesion and integration commission (NCIC) in peace building and conflict management; and more importantly, the maasai elders, clan leaders and traditional councils would also benefit because they are the primary implementers of indigenous dispute resolution practices.

If adopted and implemented by the above mention bodies, the framework would make the whole process of indigenous dispute resolution mechanism legal and formal hence helping the opinion leaders, council of elders who are the custodian of indigenous knowledge to follow the accepted procedures and provide proper and fair judgement to

the offenders and claimants in regards to dispute resolutions in their locality especially in the Maasai community in Kajiado county.

1.8 Scope of the Study

The study was situated in Kajiado County which borders Nairobi and Kiambu Counties to the North, Narok County to the West, and Tanzania to South. Taita – Taveta and Makueni Counties to the East and Machakos county to the North East. The County is split into five Sub-Counties, namely: Isinya, Kajiado Central, Kajiado North, Loitokitok and Mashuuru. The Maasai ethnic community dominate the county even though there are several other ethnic communities. Kajiado County was used in this study because it experiences frequent disputes which emanates from scarcity of resources, land boundaries and other cultural practices that are sensitive to community beliefs and values. The frequency and severity of resource conflicts in the county has significant impacts on the development of the communities therefore, there is a need to devise means of ending this dispute peacefully and permanently.

The study was undertaken in the Maasai communities in Kajiado County because the Maasai community have strong reliance on indigenous dispute resolution which remains deeply rooted in their traditional culture and practice unlike other communities where their culture is gradually eroding due to factors such as globalization, urbanization and civilization. The Maasai community continues to entrust their elders in terms of dispute resolution using traditional method, hence making them the ideal case for this study; and

thereafter the findings will be generalized with other Maasai communities in other counties in Kenya.

The study was conducted between the months of April 2024 to December 2024, during which primary data was collected from community elders through focus group discussions and national government administrative officers by the use of questionnaires, and then complimented by secondary data from relevant literature.

1.9 Limitations of the Study

The study was limited to the data, information, and reports from the accounts of the community elders and sages, national government administrative offices (NGAOs) the church, local opinion leaders, non – governmental organizations and other stakeholders who are the repositories of the indigenous knowledge in Kajiado County, Kenya. The study was limited to the data, information, and reports from the accounts of the elders and sages who are the repositories of indigenous knowledge among the Maasai communities in Kajiado County, Kenya. Elders are considered to be repositories of indigenous knowledge systems which are passed from one generation to the other and therefore they form key resources to the study.

The instruments which were used in the study were a source of limitation. The study limited itself to questionnaires and focus group discussions to collect the relevant data. Questionnaires and focus group discussions yield self-report data which may not establish the truthfulness and veracity of the respondents. This however was remedied

through mixed methods approach where qualitative and quantitative data collections techniques were employed.

The practice of solving dispute using indigenous method is usually deeply rooted in traditional beliefs, norms, values and sacred practices which are not meant for disclosure to outsiders therefore elders may be limited in sharing certain details with the researcher however the researcher used passive and indirect language to win the hearts of the elders to give information freely.

Kajiado County being vast and sparsely populated, most of the roads were impassable towards the remote areas making it difficult for the researcher to traverse all the potential areas to reach the respondent within the period of conducting the study however the researcher used practical and less expensive means like hiring a motorcycle to traverse and reach all the respondents within the county in order to collect the relevant data for the study.

1.10 Dissemination Strategy

The study was disseminated in three main forms: First, the use of an institutional repository such as national and university libraries which had both the electronic and physical record of the document in the institutional library. Second, the reports were catalogued and disseminated during conferences, seminars and forums on indigenous knowledge systems. Lastly, a part or the whole report was published in an electronic or physical format on an external website for universal access.

1.11 Definition of Key Terms

Conflict Resolution:	The settlement of conflicts/seeking solutions
Conflict/ Dispute Resolution Mechanisms:	Ways and means of resolving disputes or conflicts
Conflict:	A reaction and condition arising from differences in opinions, perceptions, values, attitudes and beliefs that takes a physical and destructive format.
Dispute Resolution:	The settlement of disputes/seeking solutions to the disputes
Dispute:	A spontaneous and natural state or condition due to differences in opinions, perceptions, attitudes, values and beliefs that may take both non-physical and physical formats. Disputes may or may not lead to a conflict
Indigeneity:	The natural act of originating from or naturally occurring in a specific location
Indigenous Knowledge System:	A holistic and inclusive form of a collection of cultural traditions of local inhabitants.
Indigenous:	The attribute of people being the earliest or the original known inhabitants of a region
Institutionalize:	Establish a practice or activity as a convention or norm in an organization

1.12 Chapter Summary

This chapter discussed the background of the study. The issues presented were disputes and conflicts, dispute resolutions mechanisms and indigenous knowledge system. It also provided the statement of the problem, main objective of the study, specific objective of the study, research questions and assumption of the study, significance of the study, scope of the study, limitation of the study, dissemination strategy and lastly definition of key terms in the study.

CHAPTER TWO: LITERATURE REVIEW

2.1 Introduction

The sections began with empirical literature on the utilization of indigenous knowledge in dispute resolution mechanism, forms and types of disputes, the nature of the IDR mechanisms, the effectiveness of the IDR mechanisms and the challenges facing the existing dispute resolution mechanisms. These studies reviewed the nature and type of conflicts in various parts of the world, the effectiveness of the IDR mechanism on disputes and conflicts in Africa and lastly, how IDR has been institutionalized in different communities as the contemporary dispute resolution mechanism. Next, the section introduced the underlying theories that supported the study and illustrated how the theories link with disputes, conflicts or dispute resolution mechanisms. Lastly, the reviews were synthesized to generate a study gap and there after developed a conceptual framework for the study.

2.2. Utilization of Indigenous Knowledge in Dispute Resolution Mechanism

The literature in this section examined the current state of indigenous knowledge application in dispute resolution mechanism by distinguishing between the studies on the nature of disputes and conflicts (Döring, & Mustasilta, (2024); Babatunde & Aremu, (2021) among others) and the studies on causes of disputes and conflicts (Le Billon, 2017). The review also distinguished between the studies on the forms of IDR mechanisms (Kariuki, 2015; Mekonnen, 2016; Alemneh, (2023); Mekonnen, 2016a; Muigua, 2017; Mussa et al., 2017 among others) and the nature of the IDR mechanism in different regions from Western Africa(Ntuli, 2018; Danso, 2016); Eastern Africa(Mussa

et al., 2017; Kariuki, 2015); Central Africa (Ntuli, 2018; Aiyedun & Ordor, 2016) and Southern Africa (Kariuki, 2015).

2.2.1 Nature and Causes of Disputes and Conflicts

The nature of disputes and conflicts can be drawn from several authors from empirical literature. For instance, studies by Pkalya, Adan and Masinde, (2015) examined the different IDR mechanisms using an ethnographical perspective among the Pokot, Marakwet, Turkana and Samburu communities residing in Northern part of Kenya. The study showed that the conflicts between these communities living in Northern part of Kenya was focused more on ethnic and inter-communal differences. The conflicts took a criminal and violent nature which involved livestock theft (cattle rustling), territorial disputes, loss of life and destruction of properties. However, the study revealed that there were no clan-based or intra-communal conflicts as their norms and culture did not allow crime and conflict among themselves.

Another study by Babatunde, & Aremu, (2021) using a meta-analysis approach evaluated the impact of arms proliferation and conflict in Sudan with specific focus on a historical perspective. The findings clearly indicated that the violent and conflict in Sudan was due to armed struggle and these conflicts were clustered into three categories: Contestation over resource access; the struggle over political space and struggle over identity. The study further observed that the conflicts and disputes in the state of Sudan have been aggravated by the proliferation of light weapons and it has taken a political viewpoint.

Döring & Mustasilta, (2024) did a study using a qualitative approach to examine the views and insights of traditional players on IDR mechanisms in the Bawku Traditional Area in Ghana. The findings observed that the conflicts in Ghana took an ethno-political angle arising from the ethnic contestations for resources such as land, power, struggle for identity and political infiltrations. The study by Osinde, (2023) evaluated the prevailing conflict among pastoralist's communities using a qualitative approach, complemented with documentary analysis, interviews and focus group discussions. The study observed that violent conflicts were largely due to the long-standing culture of cattle raiding as well as resource scarcity in terms of water and pasture resources. Within the same context, Jordaan, (2022) examined the political connection to the pastoralist conflict using a qualitative approach and supported by focus group discussions and interviews. The study reported that there are long-term, low-intensity pervasive conflicts among the pastoralist areas that take the form of ethnicity, cattle raiding, and revenge attacks in the Horn of Africa.

Alemneh, (2023) observed that conflicts and disputes in Ethiopia arise from societal changes in moral norms and personal demands. The study explored the nature of dispute resolution among the Afar people through an ethnographical perspective and revealed that development is linked to dispute resolution practices. Within the same context, Mussa, Teka and Aliye (2017) reviewed the nature of the dispute resolutions among communities in the rangelands of Ethiopia based on a meta-analytical framework. The study observed that conflict within pastoralist communities are complex and take the

several forms that include ethnic, inter-communal and regional formats hence there is need for clear way of settling such dispute.

The main common theme among these conflicts are largely violent, inter-ethnic (Jordaan, (2022); Döring & Mustasilta, (2024); inter-communal (Alemneh, (2023) and regional perspectives (Babatunde, &Aremu, (2021). These disputes are externally exacerbated by the weak governance structures, proliferation of the light arms, commercialization of cattle rustling, sheer acts of egoism and ethnic jingoism and the weakening of traditional institutions (Mussa, Teka & Aliye, 2017). Most of these studies were largely qualitative or meta-analytical and their findings were geared towards the identification of dispute resolution mechanisms. Only, Pkalya et al., (2015) managed to evaluate the various inter-personal conflicts and disputes and were concerned specifically with the examination of the indigenous dispute resolution mechanisms among communities living in Northern Kenya. These studies have largely focused on ethnic and inter-communal conflict by providing a strong foundation for the analysis of the various categories of intra-ethnic, intra-communal and inter-personal disputes and conflicts in Kenya.

The aforementioned studies on the nature and types of disputes and conflicts have critically analysed and highlighted the diverse causes of disputes and conflicts however Porto (2018) reviewed various studies aiming to clarify the conflicts in Africa. Porto argues that Africa continent has an increased likelihood of disputes and conflicts that emanates from climatic changes. The author further observed, there are other substantial causes of disputes and conflicts in Africa such as: Poor and weak institutionalism,

unbalanced and unrepresentativeness in the political system, inadequate participation in governance structures and political frameworks, corruption, political manipulation of religious leaders, ethnic balkanisation, unequal development and resource sharing, poverty and discriminatory economic systems.

On the same viewpoint, Le Billon (2017) did a study on the impact of oil exploration in Africa with a specific focus on identifying major conflict risk factors for armed conflict using a systematic analysis of the literature. The study observed that oil-producing countries in Africa such as Algeria, Nigeria, Angola and Sudan experienced numerous and lethal intra-state conflicts more than non-oil-producing countries in Africa. The implication of this study is that resource-scarce countries in Africa tend to have spurious and continuous violent intra-state conflicts.

For instance, in a meta-analytical study, Mengistu (2024) observed that Africa is rife with intra- and inter-state conflicts largely caused by several factors such as nation borders, the heterogeneous ethnic composition of, poor governance structures, and poverty. The author also elaborated on the political perspective of the conflicts that have taken a violent and criminal nature and split among communities and nations. Berman et al., (2017) used a geo-referencing technique observed the linkages between mining and conflict in Africa. The study used several analytical techniques such as reverse causation, and endogeneity to examine how mining impacts the conflict at the local level. The baseline results indicate that violent conflicts take a resource dimension and are exacerbated by weak governance and lack of enforcement of property rights.

Conflicts in the Horn of Africa are largely attributed to land tenure systems, population growth, environmental catastrophes such as droughts, weakened indigenous institutions (Mussa et al., 2017), as well as weak governance structures, poverty and weakened livelihood systems.

Mussa et al., (2017) on the hand examined the inadequacies of the dispute resolution mechanisms to inform the causes of the disputes and conflicts in Ethiopia. The study extensively associated the causes of conflicts and disputes to external influences such as environmental misfortunes like droughts, government policies and frameworks on resettlement. The internal factors included population growth which competes with scarce resources and dwindling of traditional institutions for dispute resolutions. The author also observed that inter-ethnic conflicts and dispute occur over natural resource usage where there is clash over land use by pastoralist and farming communities.

Other studies like Osinde, (2023) and Jordaan, (2022) have deeply looked into the pastoralist conflict in Northern Kenya among others. These studies have critically analysed the disputes among different pastoralist communities and they have further examined the nature and extent of these disputes and conflicts among these communities living in Northern Kenya based on qualitative approach. The findings extensively appraised the influence of loss of livelihoods ascending from the changes in climate which have devastated pastoralism as a source of living; basically, the indigenous way of living is endangered by the scarcity of land and pasture, loss of grazing land and tribal animosity. The second main cause of disputes is the diminished role of indigenous

conflict resolution institutions, intertribal animosity, political incitement and non-responsive government's structures.

The aforementioned studies have attributed conflicts in Africa to resources (Berman et al., 2017; Le Billon, 2017), loss of livelihood systems due to climatic changes (Jordaan, 2022), weak governance structures (Osinde, 2023), resource – scarcity, population growth, and the weakening of the traditional institutions (Mussa et al., 2017). These studies have highlighted the several external and internal causes of inter-ethnic and inter-communal conflict within several contexts. The Scientific study by Berman et al., (2017) which embraced available data to draw inferences categorised causes of conflict into primary external causes such as climatic changes, scarcity of resource; primary internal causes like indigenous ways of livelihoods, population growth and expansion, and secondary external causes for example poverty and weak governance structures among other causes. Most of these studies done were qualitative in nature and their emphasis was largely the description of the causes of disputes and conflicts and they acted as the best ground to provide direction on researching the inter-personal, intra-ethnic and intra-communal disputes.

2.2.2 Forms of Indigenous Dispute Resolution Mechanism

Some researchers have been able to find ways in which IDR mechanisms are used by people both in Africa and outside the continent. These have a structure ranging from a family head to the traditional head of the community (Kariuki, 2015; Mekonnen, 2016; Alemneh, 2023) and some are termed as positional (Muigua, 2017; Kariuki, 2015). Also, some have been described as collegial (Mussa et al., 2017; Mekonnen, 2016a; Muigua,

2017; Kariuki, 2015; Alemneh, 2023) while others have been described under the title of chief (Kariuki, 2015) or a combination of chief and collegial. Still, the degree of openness in the decision making systems is a notable concern involving the collegial leadership form where some specified participants are appointed to these traditional bodies (Wig & Kromrey, 2018).

The studies that look at the IDR mechanisms in Africa from the collegial perspective include Omeje, (2018) which underscored the general conflict resolution strategies employed in African societies. It was observed that IDR mechanisms were collegial and built around the indigenous structures like the elders' council which formed the dispute resolving body and dealt with the disputes using consensus-building plus mediated and arbitrated open space, village square or under tree approach. According to Wig and Kromrey (2018), there are numerous levels of formal customary institutions (FCI) that are essential to maintaining political order, including kings, paramount chiefs, houses of chiefs and elders, legislatures, and courts. These levels exhibit a high degree of institutionalization. The study tested the role of indigenous and customary institutions in conflict involvement and resolution using datasets from communal conflicts and modern African customary institutions.

Pkalya et al. (2015) found that the Marakwet, Pokot, Samburu, and Turkana communities in North Rift Kenya employed a variety of indigenous conflict resolution techniques. The study noted that the Turkana community used the tree of men (Ekitoe Ng'ekeliok), the Pokot and Marakwet communities used the council (Kokwo), and the Nabo court was

used among the Samburu community. The emphasis was put on pseudo-formal customary institutions which is considered as a critical governance institutions to embrace IDR frameworks that are firmly bound together with the economic and socio-political realities of these communities. In addition Kariuki (2015) did a study using a meta-analytical approach on the pseudo-customary institutions from several African communities and their impact on conflict resolution. The study findings supported the hierarchical and collegial forms of IDR mechanism among communities living in Africa; some studies particularly mentioned several IDR mechanisms that included the council (*Akiriket*) in Karamojong or (*Arriget*) in Teso communities in Uganda which was key in dispute resolution mechanism.

2.2.3 Nature of Indigenous Dispute Resolution Mechanism

This section reviewed literature and arguments concerning the nature of indigenous dispute resolution mechanisms in Central Africa, West Africa, East Africa and South Africa respectively.

2.2.3.1 Indigenous Dispute Resolution Mechanisms in Western Africa

Various IDR systems are operational in several West African countries. For instance the IDR system of Tiv in Nigeria is collegial in nature and it entails assembling of a council of elders (*jiror*) who sits in a communal square and the session involves the leaders/elders seated in a semi-circle manner with the audience making the circle full, the disputants is allowed to sits at the centre for him or her to be heard by all members present at that particular sitting while in Gambia and Senegal communities, the non-hierarchical IDR

mechanism is called cousinage (*Sanankuya*) (Davidheiser, 2016). The *Sanankuya* is drawn from banter famously known as *dangkuto* or *sanawuya* which gives a free interaction among parties, irrespective of pecking order; this exceptional form of IDR mechanism uses humour to persuade the parties in dispute to settle their differences and reconcile among themselves rather than facilitating dispute resolution. Throughout the *Sanankuya* process, the arbitrator uses banter to evoke relationship between the disputants and her/him and if the disagreeing parties responds positively to the banter, a bond that is formed or created enables the mediator or arbitrator to reconcile the parties involved. If the disputants counter the banter, the mediator points out to the disputant that they are behaving like one of his/her associates, thereby forming a joking kinship; this form of mediation insisted on reconciliation rather than reconstruction of the facts of the dispute (Ntuli, 2018).

The Kpelle IDR mechanisms in Liberia makes use of a collegial approach whereby a moot forum (*a berei mu menisaa*) which is made up of an ad hoc group comprising of neighbours and kinsmen who settles any dispute between the two worrying parties (Albert, 2008). In this case, the dispute is open to anyone for deliberation, and the guilty party is given an opportunity to apologize to the distressed party, and presents a gift to him/her, after that, both disputing parties share a drink to symbolically end the dispute completely. Ntuli, (2018) also observed a collegial IDR mechanism referred to as the “*palava* hut” which involved elders sitting in a round hut and resolving disputes while acknowledging the presence of ancestral spirits. In other instances, communities applied a collegial IDR system which involved the sharing of the Kola Nut. Within the same

context, Chereji and Wratto (2018) examined an IDR mechanism by the name, 'Sassywood' which was collegial and based on the belief in ancestral spirits in resolving disputes. These IDR mechanisms shared a similar collegial approach with some distinct differences being the belief in ancient spirits in resolving disputes.

In the case of the *Sassywood* (trial by Ordeal), Chereji and Wratto (2018) noted that this IDR mechanisms were reserved for serious crimes such as theft, murder, rape and witchcraft and was demonstrated through a bitter drink or a hot machete. In circumstances where they are deaths, theft or witchcrafts, the suspect is forced to drink a mixture of bitter drink from indigenous plants and if the lawbreaker regurgitates the drink, he/she is innocent but the opposite indicates guiltiness. In case a hot machete is used, the red – hot machete is placed on the lawbreaker's leg and if the suspect moved the leg or is burnt, then he /she is considered guilty but if nothing happens, the accused is considered innocent (Chereji & Wratto, 2018).

The '*palava* hut' is another IDR mechanism which comprises the gathering that is run by a cherished elder or a panel of elders within the community (Danso, 2016). The '*palava* hut' mechanism is applied to all categories of disputes with the main aim being reconciliation and ending disputes between parties; the main concern was the admission of guilt from the offender, an apology, and more critically the forgiveness from the victim. Once the apology was given and accepted, the offender was forced to compensate the victim's family, in the form of a chicken, cane juice, palm oil, rice or a goat. After the process of compensation is completed, the offender and the victim share a plate of food

as a sign of reconciliation. Cane juice is poured out to invoke the ancestral spirits and cement the agreement so that the parties are likely to be true to their word and respect the resolution reached; the offender is often advised by the elders/leaders to prevent a recurrence of the offence, while the victim is often commended for accepting the apology (Ntuli, 2018).

Where 'Kola nut' is being used, Ntuli (2018) argued that, the whole process involved the elders' arbitrating disputes between disagreeing parties then establishing the case where a verdict is rendered, and if the accused is found guilty, he/she is demanded to ask for forgiveness from the victim and make amends through compensation. However, before compensation is made, the offender gives a kola nut to the victim and if the victim takes the nut and puts it aside, it shows that the victim is not willing or ready to forgive but if the victim takes the nut, bites it and offers the other half to the offender, it is a sign of forgiveness and reconciliation. Compensation, in the form of a goat, cane juice or a chicken, was made after the kola nut had been shared.

These studies from Western Africa highlight the use of collegial forms of IDR mechanisms (Chereji & Wratto, 2018; Danso, 2016; Ntuli, 2018). The mechanisms are laced with symbolism such as the joking cousinage (*sanawuya*) (Davidheiser, 2016); the sharing of the Kola nut (Ntuli, 2018), *Sassywood* and the acknowledgement of the ancient spirits in the dispute resolution process (Chereji & Wratto, 2018). These studies therefore inform and provide better understanding on the importance of the symbols and beliefs of the specific communities in dispute resolution mechanisms.

2.2.3.2 Indigenous Dispute Resolution Mechanisms in Central Africa

In central Africa, Ntuli (2018) carried out a comparative analysis of the dispute resolution mechanism in Africa. The author examined the contemporary dispute mechanism in Africa and highlighted several examples. Specifically, a group of Burundian communities have collaborative IDR systems known as the Bashingantahe, or men of integrity, which are largely in charge of resolving conflicts between individuals and within communities at all levels (Ntuli, 2018). Mediation, carried out by an umishingantahe (singular), is always considered the first course of action when a dispute arises. The matter is referred to Bashingantahe's counsel in order to reach a compromise if mediation fails to produce a resolution. Instead of offering compensation, the Bashingantahe counsel the parties and suggest reconciliation and forgiveness as a means of resolving the conflict. This procedure is regarded as a necessary step in all conflicts, along with mediation. The Bashingantahe take on the role of arbiter when the process drags on for a long time and gives out judgment where their decision is binding on both parties however if the party is dissatisfied with the finding of the Bashingantahe, they may appeal the matter in a formal court.

In Zimbabwe, the Shona community uses the IDR mechanism which is focused on the chieftaincy headed by a headman or a leader of the tribe who handles less serious crimes like matters of verbal abuse, minor theft cases, land matters, desertion, un-repaid loans and issues of neglect (Aiyedun & Ordor, 2016). An ordinary sitting is done among the Shona community and it takes place out of doors and the traditional elders presides over it, and they are supported by assessors, who understands the law and offers advice

to the court on jurisdictional matters, to the councillors and court administrative officers. The prospective litigants were obligated to pay the court fee as a sign that they were willing and ready to submit to its authority. After the litigation was heard and concluded, the amount paid was usually reclaimed by the successful party to a suit, but for unsuccessful party, the sum was retained by the tribunal (Aiyedun & Ordor, 2016).

The IDR mechanism takes the form of a cluster collegial format of a court dominated by fully-grown males led by the village headman among the Vaheras or the Shona-speaking indigenous group. The disputants and their witness present their case in front of the committee, with the complainant speaking first followed by the defendant, witnesses and the community members (Aiyedun & Ordor, 2016). The hearing commenced with the complainant stating his or her case by pronouncing a saying in Vahera that means "*the one who has eaten the most is the one that first opens the door*". Thereafter, the defendant would repeat the sentence and present their grievances and defences. The court then questions witnesses and opens up a discussion of the facts of the case. The hearing was concluded by a restatement of the merits of the case and the pronouncement of judgment. Once the dispute was settled, the offender was expected to provide a goat or fowl for the community members to share. This encouraged reconciliation of the parties because having eaten together they were considered to have buried the hatchet. Finally, the tribunal attempted to reconcile parties by sharing food or "a piece of each other's snuff" to and repair their previous relationship(s) (Aiyedun & Ordor, 2016).

2.2.3.3 Indigenous Dispute Resolution Mechanisms in South Africa

In the Southern African region, the IDR mechanisms are collegial, chieftaincy or a mix of both. For instance, the most recognized IDR mechanism in the Xhosa Community in Botswana is the *Kgotla* which is a mix of chieftaincy; collegial and hierarchical system made up of elected chiefs called *Kgosi* or *Kgosana* and assisted by a council of advisers. *Kgotla* serves as a forum for policy formulations, and decision-making including political and economic development activities and the judiciary on litigations. This traditional conflict resolution system is hierarchical in nature and starts with the family head who is the chief conflict manager within his immediate family. Only the cases that cannot be successfully handled by the family heads get referred to the ward *Kgotla* or the neighbourhood court. Cases that cannot be successfully settled at *Kgotla* are taken to the main *Kgotla*, presided over by the chief. Among the Tswana community of Botswana, the IDR mechanism is a mix of chieftaincy and collegial and is hierarchical from the lower family unit level (*batsadibalolwapa*), the *batshereganyi* (headmen of records), *dikgosana* (headmen), *moemelakgosi-kgolo* (the chief's representative) and finally the *kgosi-kgolo* (paramount chief) working either at individual or collegiate level (Kariuki, 2015).

2.2.3.4 Indigenous Dispute Resolution Mechanisms in Eastern Africa

Empirical studies on IDR mechanism are largely collegial like the *Mada'a* systems of the Afar and Borana communities, the *Gadaa* system of the Oromo community, *guurti* and *shir* of the Somali community (Mussa et al., 2017), the *Kamasian* of the Kipsigis Community and *Kambi* of the Miji Kenda Community (Kariuki, 2015) among others. For example, *Araaraa* is a collegial IDR mechanism that is associated with the *Gadaa* system

and called *Jaarsummaa* in some localities. The IDR mechanisms are collegial in nature and are structured around indigenous institutions like *Ogaz, Abba Gadda and Kedo Abba* respectively and handle both intra-ethnic group disputes and inter-ethnic group disputes (Mussa et al., 2017).

Among the communities in Ethiopia, Mekonnen (2016) observed that IDR mechanisms are widespread and dependent upon the cultures and beliefs of these communities. The collegial IDR mechanisms among the different ethnic communities in Ethiopia vary but share certain similarities. The Borana IDR mechanism is referred to as the '*Gadaa*' system and is headed by a leader (*Abba gadaa*), who is also the figurehead or president of the Oromo community. The Mad'aa IDR mechanism is hierarchical with each level being headed by a designated leader (*bura abba, Dalla abba, gulub abba and kedo abba*) who is tasked with managing cohesion with the group and resolve any dispute or conflict (Alemneh, 2023). The council always refers any case or dispute to the Abba Gadaa whenever a decision cannot be solved at a *araddaa* council.

Among the Oromo society, *Abba Gadaa* assumes several responsibilities relating to the economic, political and military but their influence is waning due to changes in the political regimes in Ethiopia. In accordance with *Abba Gadaa*, the *Luba* grade (individuals aged between 40-48) are considered to be elders and settle both inter-personal and intra-communal disputes including crimes such as property destruction, theft and others. Once the elders (*Luba*) grade retires they become *Yuba* grade who hold

an advisory but their decisions are no longer final (Mussa, Teka & Aliye, 2017). This *Gadaa* system is successive after every eight years.

The Afar community have a collegial and hierarchical '*Mada'a* IDR system mechanism that manages both inter-personal, intra-communal and inter-communal conflicts based on reconciliation and compensation. The *mada'a* system is based on a clan – system, hierarchical (from the *kedo abba* to *Makaban* to *Sultan*) and is a quasi-judicial system headed by traditional judges (*Makaban*). The *Ma'ada* identifies five different types of crimes; *Eido* (killings), *Aymissiya* (injury), *Rado* (theft, destruction of property), *Samo* (adultery) and *Dafu* (insults, affronts) (Sansculotte-Greenidge & Fantaye, 2012). However, the application of the *Mad'aa* varies slightly from clan to clan and resolves disputes using either mediation (*Mablo*) or arbitration (*Maro*). The *Mablo* resolves inter-personal disputes such as light physical injury, theft and insults using the mediation process managed by the elders (Mu'uz, 2013). The *Maro* is reserved for all serious violations that include serious crimes and inter-clan offences (such as inter-clan murder), often using neutral mediators (*Isi*) and judges (*Mekabon*) who are known and respected people, from a clan neutral to the dispute (Sansculotte-Greenidge & Fantaye, 2012).

Among Libido-Mareko ethnic groups in Ethiopia, the IDR mechanism (*Raaga-Maaga*) is a hierarchical system of local governance which administers different societal affairs that include disputes and conflicts. This IDR institution has two stages: *Maaga* and *Raaga* (Mekonnen, 2016a). *Maaga* is the first stage of indigenous conflict resolution institution, it has five different structures namely: Family congregation (*Minan woran Jaana*), sub-

clan (*nihuss-gossa*), clan structure (*Giichchoten hafa*), intra-and inter-village level (*Heegeegen Jenna*) and the assembly of Mareko (*Meexe hafa or libidan dummichco*). Each structure of Maaga has its authority and process of conflict resolution. The use of each structure is dependent on different factors like the scale and types of the conflict, actors in the conflict, the relationship of conflicting parties the nature of particular conflict and so on (Mekonnen, 2016a).

The Maaga system is hierarchical and begins with family congregation (*Minan woran Jaana*) is the lowest conflict resolution structure that solves minor criminal-related matters such as physical injury and civil matters within the family. Any inter-personal such as iddir and eqqube issues, property destruction, theft and land-related conflict are directly appealed to *geffecha*, or cases referred by the lower Maaga structures while intra-communal conflicts are predominantly addressed by the members of a village (*Heegeegan Janna*) structure whose authority is limited under village jurisdiction and barred from homicide (Mekonnen, 2016a).

According to Mussa et al., (2017), the Somali community in Somalia and Ethiopia, the application of IDR mechanisms takes a collegial structure built on the council of elders (*guurti*) who act as an adjudicator and jury. Additionally, Murithi (2017) did a study on the key IDR mechanism in Somaliland grounded upon the ideologies of consensus, kinship and inclusion among the council elders by the name (*shir and guurti*). The *Shir* is council of clan elders that are collegial in nature and they play a critical role in arbitrating inter-personal and intra-clan disputes that emanates from various issues such as

disagreement over grazing land, water and political influence. Jointly, the *shir* council forms an inter-clan council which is collegial in nature and operate as an open assembly (*guurti*). Murithi (2017) adds that the *guurti* resolves the inter-communal and inter-clan differences following the *Xeer* mechanisms which gives much emphasis on the inclusiveness and interdependence which forms the basis for social covenants, rights, obligations and collective responsibilities among lineage groups

The practice in Uganda is a bit different in that the IDR mechanism makes use of a mixture of collegial (Shared) and chieftaincy (sole leadership) for instance, the Acholi of Uganda make use of inclusive and expansive IDR mechanism where the *Mato Oput* act of reconciliation takes a collegial (shared) format and always includes the disputants, victims, offenders and their representatives (Murithi, 2017). The Karamojong community takes the collegiate form in the IDR mechanisms among the council of elders known as '*Akiriket*'. Kariuki (2015) points out that, these mechanisms are founded on the age sets with the highest age set involved in resolving disputes in a system known as *ameto* (*the ameto is effected though age groups where eldest age set resolves disputes*)

The IDR mechanisms among the Kipsigis community take a collegiate form of council of elders known as *Kamasian* who deal with land, matrimonial disputes in addition to manslaughter (Kariuki, 2015). The IDR mechanism among the Giriama community in Kenya took two main institutions, that is the oracles and the council of elders. The collegiate form includes the two forms of the Council of Elders. The first set, *Kambi* is drawn from the senior age set and deals with normal disputes while the second set, *Vaya*,

is the revered set of the council of elders and consists of select elders who operate as a secret society. The *Vaya* governed the whole of the Giriama community *and* presided over trials by ordeals as oracles (Kariuki, 2015).

Among the Pokot Community, the collegial IDR takes the name '*Kokwo*' the apex socio-political institution made up of respected, elderly men knowledgeable in community affairs and involved in the disputes resolution. Furthermore, these traditional authorities are mainly composed of elders at the local level at every other village or clan and form the first stage as the mediators (Pkalya et al., 2015). Among the Turkana community, the IDR mechanisms are a mix of hierarchical and collegial and are clustered into individual, family unit level, age – set and clan levels. The supreme IDR mechanism is the collegiate council known as '*Ekitoe Ng'ekeliok*' simply translated as “the Tree of Men”. This council comprise the representatives of the different clans and '*adakar*' who are respected leaders in their neighbourhood. The council is largely an ad hoc formal assembly that tackles a range of issues ranging from communal conflicts, and family to inter-personal disputes. Its pronouncements are highly respected and place more emphasis on societal harmony and group solidarity than individual interests.

The reviews on the forms of the IDR mechanisms in East Africa indicate the dominance of the hierarchical and collegial forms of the IDR (Murithi, 2017; Kariuki, 2015; Mussa et al., 2017). The IDR structures are hierarchical as they arise from the lowest level to the highest levels of the community and take other responsibilities like community leadership (Pkalya et al., 2015; Murithi, 2017), guardians of tradition and customs (Mekonnen,

2016a) and quasi-judicial functions. These studies provide a critical overview of the various IDR mechanisms and aid in describing the distinctiveness of the IDR mechanisms.

The researchers agreed with other scholars that utilization of indigenous knowledge in dispute resolution mechanism provides cherished comprehension and approaches engrained in cultural traditions and community values. By assimilating traditional practice, fostering community participation and promoting restorative justice, these approaches leads to equitable and sustainable dispute resolution hence the need for a clear framework. Adopting indigenous perspective enriches the variety of approaches to peace building and reconciliation universally, promoting cultural resilience and social harmony.

2.3 Effectiveness of Indigenous Dispute Resolution Mechanisms

The effectiveness of the IDR mechanisms has been examined by various studies Wig and Kromrey, 2018; Pkalya et al., 2015;; Danso, 2016) among others. The IDR mechanism has elaborate procedures for dispensing fines, penalties and compensation according to the gravity of the offences from misdemeanours such as transgressions against persons to serious violent crimes like manslaughter or murder.

2.3.1 Effectiveness of Indigenous Dispute Resolution Mechanisms

Wig and Kromrey (2018) noted that formal institutions were characterized by explicit and known rules, but not necessarily written rules as illustrated by concrete entities such as tribal courts, councils of elders, or customary legislatures. The findings as modelled by simulated indicated that the likelihood of experiencing at least one communal conflict reduces with an increase in the levels of the formal customary institution (FCI). In essence, an increase in the FCI from the lowest levels of elders to the highest levels of kingship tends to reduce the risk of experiencing at least one communal conflict over the 1989–2013 periods from 42% to roughly 10% (Vhumbunu, 2017).

Alo & Debele, (2024) examined the *Mada'a* system of the Afar community in Ethiopia. The study revealed that the IDR practices of the Afar people classified the offences into five types, namely: 1) Crime against life; 2) Crime against the body; 3) Crime against property, 4) Crime related to adultery and 5) Crime of insult (Alo & Debele, 2024). Further, the *Mada'a* system advocates for numerous types of punitive actions with diverge compensation levels that depend on the magnitude of the dispute, penalties for offences committed and retribution in rare cases when a person who commits a murder disappears and the case is heard in his absence.

Mekonnen (2016) has made an extensive study on the IDR systems of the Libido-Mareko people in Ethiopia. The study indicated that a council (meexe hafa) is offered a special issue or special discussion at a particular place (abba Deshelee warka) or the historical place of libidan dummichcha. The study further pointed out that observations and

information are exchanged at the libidan dummichcha structure before the deliberation process starts. The Maaga council is the one that performs two major functions; firstly, members of libidan dummichcha Maaga are the ones who exchange the information before the resolution process led by the chair Maaga is passed and the elders exchange the information. After the conflicting parties agree to be judged by Maaga, the elders are the ones who ask them to call wasse (guarantor) in order to be sure for their availability on appointment day when their cases are handled and they will adhere to the rule of Maaga and Raaga if any.

In Afar community, the IDR mechanisms sessions are done under a tree called 'Maro' which picks its name from a circle ;the Maro involves a clan leader (*makaban*), the judge ,community elders, the disputants, witnesses and observers who sits in a circle to listen and dispense the case from disagreeing parties. The process starts when makaban requests the disputant to avail guarantors of good deeds and who are ready to accept the outcome by the disputant. This process takes a quasi-formal court where the plaintiff may personally or select a representative (usually a chief of his clan) to prosecute his/her case. If the offender admits not guilty, the defendant or his representative is given an opportunity to argue his case and defend himself. After the process is complete and both parties have been heard, the *makaban* gives all the parties a chance to rebut and if necessary witnesses are summoned to appear and give their account of the case; thereafter the speaker delivers his opinion on the allegation ((Alo & Debele, 2024).

After following the above procedures strictly, the clan leader (*makaban*) discusses the case and comes to a conclusion paying attention on how the crime or rather the offence was committed intentional, unintentional or through negligent. Finally, the clan leader (*makaban*) pronounces the decision reached in public and the maro is then declared closed through elders' blessings. If the dispute is between two clans, makaban may seek assistance from other makabans of different (neutral) clans and select elders who will help in resolving the disagreement submitted to him. The Makabans of disputant clans represent their clans and explain their version of the disputed issue to the makabans of the neutral clan and thereafter, the dispute goes through the normal procedures employed to resolve intra-clan disputes. In instances of inter-clan murder, if the matter remains unresolved, members of the deceased's clan are compelled to kill any individual from the offender's clan, even an innocent person, in retaliation ((Alo & Debele, 2024).

The number of makaban may range from one to ten, depending on the severity of the case; additionally, the makaban can choose respected elders from the community to help him. The Maro institution oversees all conflicts except for those concerning marriage, divorce, and inheritance, which are handled by the Shari'a court, primarily in urban locations. The Afar utilize this entity to settle criminal matters that vary from insults to murder and all civil disputes, irrespective of the monetary value at stake ((Alo & Debele, 2024)).

The Afar designates the law addressing disputes among the Afar as 'Afare,' whereas the law governing conflicts between Afar and external parties is known as 'Adanle.' The

Mada'a systems exhibit considerable diversity depending on the ethnic group and involve intricate regulations, with particular lineages being well-regarded for their expertise in these practices of resolving disputes ((Alo & Debele, 2024).). If the lower tiers of the mada'a system fail to resolve a conflict, an appeal is directed to the father of the law known as 'Mada'a abba,' who is mainly a subclan chief (kedo abba) selected and supported by the elders. In intricate situations, when kedo abba cannot make a ruling, he convenes a group, the malla, serving as a legal entity to issue a fresh judgment, which is subsequently included in the Mada'a ((Alo & Debele, 2024).

Pkalya et al. (2015) thoroughly explored the IDR mechanism concerning the four communities in Northern Kenya: the Pokot, Samburu, Turkana, and Marakwet. The research confirmed that the IDR mechanisms were bolstered by the harsh and prohibitive penalties, fines, and compensations enforced by customary courts (Kokwo), and in many instances, the compensations spanned the community from individual, family, and clan levels and received cultural endorsement. For example the Kokwo is a council that deals with resolving disputes within the Pokot community, where by the methodology used entails summoning both the disgruntled parties and their witnesses. The evidence is then presented and the judgment is made. After the judgment has been rendered, the punishment is assigned depending on the serious nature of the crime. Typically, the IDR process is overseen by the Kokwo court, although the methods vary based on the offense. The Kokwo mechanism comprised rituals supported by cultural beliefs, taboos, norms, and superstitions, while the IDR mechanism within the Turkana community imposed

retributive actions that encompassed penalties and fines serving as deterrents; in extreme instances, ng'ilam, 'casting spells/curse,' was employed (Pkalya et al., 2015).

In regards to crimes such as robbery or theft, the *Kokwo* makes it public the loss of the property which is then followed by the investigation; the oracles cast scandals made of animal skin to determine the direction with which the stolen properties are and the descriptive attributes of the suspect. If in any case the suspect shows up and admits guilty, the suspect is penalized accordingly but if not, the *Kokwo* is convened and dispels a curse (onyot) to the unknown wrongdoers where it is understood that the curse would afflict not only the culprit but also the immediate family (Pkalya et al., 2015).

Kokwo deals with several types of disputes that range from inter-personal, intra-communal and inter-communal disputes. The *Kokwo* observes the rule of natural justice and allows both the accused and the accuser to narrate their story before the panel and its verdict is final. Both the accused and the accuser are represented by eloquent members of the community who can speak on their behalf. In all cases, the *Kokwo* is the ultimate court for the Pokot community and nobody can appeal against its ruling. However, based on new or emerging evidence, the *Kokwo* can reconvene to deliberate on the matter.

For minor disputes, such as light physical injury, theft and insults, the Afar people utilise the mediation process, "Mablo", which is informal and managed by the elders, to provide quick and efficient resolution to disputes (Mu'uz, 2013). While the *Mada'a* system make use of goat kids as typical measures of reparation, which to some instances may be

exchangeable to cash/money or other livestock. The elders have the fully authority to state the standard used to measure the amount of compensation in terms of goat kids or livestock. The maximum standard of compensation includes hundreds (100) camels for the intentional murder of a man; if this murdered person is a woman or of female gender, fifty (50) camels are awarded as a standard of compensation. The bottommost compensation is a cow for the offences associated with insult and all this compensation in most cases is convertible to money.

In the last instance, the Kokwo carries out a ritual for casting out a spell 'onyot' on the suspect. The ritual involves the hot spearing of the heart of a white steer and traditional beer *-pkeiis*, (all provided by the complainant). Once, the spear has pierced the chest, it is withdrawn and pointed towards the sun while the elders murmur words condemning the crime(onyot) and the thief (including family members and sometimes clan) to death. The meat from the steer is roasted and eaten and its remains (bones and skin) are burnt to ashes, buried or thrown into a river. Anybody who interferes with the steer's remains is also cursed to death. This ritual acts as a deterrent as it is believed that the thief and his/her family members will be wiped out if the curse is not reversed (Pkalya et al. 2015).

The cases of fornication or adultery are dealt with first by the families. In the case of fornication, the accused person pays significant amounts of livestock (more than the dowry itself) to compensate the family of the girl. However, cases of adultery take different turns. If the two parties were caught in the act or admitted to doing it, then the accused man is fined heavily and pays cattle more than the bride price (*amaa*).

Additionally, the perpetrator must sanitize the family of the impacted individual through *the mwata, ighaa* ceremony. Excitingly, the answerable woman is not penalized but is struck by her husband. The *mwata ighaa* purification ceremony involves using goat intestine contents combined with honey and milk (Pkalya et al., 2015).

If the perpetrator denies the allegations and pleads not guilty, the Kokwo is summoned and both the disgruntled individuals argue their case in front of them or makes request to the elders to represent them in the whole process. After the evidence has been adduced and the case has been established, the Kokwo performs a ritual (*kikeemat*). The ritual process starts with the Kokwo demanding the individuals involved in the disagreement to remove their clothes (skin and hides) which are then washed and mixed with some unnamed concoctions and then drained into a container. The two parties are then asked to drink the resultant concoction, however if one party admits guilt, he/she is saved from the trouble of drinking the concoction. If the ritual (*kikeemat*) is done till completion and the accused party is guilty and refuses to accept, it is alleged that misfortunes will befall his family and if the situation is not reversed then it is believed that the man will die, and after the death of the suspected man, his family will convene a *Kokwo*, pay adultery fine and cleanse the family of the aggrieved man (Pkalya et al., 2015).

In Turkana community, the parties involved in the cases of adultery, the accused are flogged severely before the *Ekitoe Ng'ekeliok* and in extreme cases branded with a hot iron, after which the accused are publicly humiliated by being stripped naked and forced to carry cow intestines around the *adakar* whispering the words *toyon, toyon* (calm,

calm). As a punishment, the man is penalized '*akirem/amudarejuron*' and the distressed man takes the assets (livestock) of the perpetrator. Thereafter, the cleansing '*akidakaboi*' ritual is performed and this entails smearing the contents of the goat's intestines onto the bodies of the couple with the intestinal fat being tied on the hands and the necks of the couple (Pkalya et al., 2015). In issues pertaining rape, the perpetrator is taken before *Ekitoe Ng'ekeliok* and flogged harshly before being ordered to slaughter one of his bulls that is to be eaten accompanied by a white sheep or goat which is also slaughtered and the perpetrators is told to smear the rape victim with the intestinal fluids. In case of pregnancy, the suspect pays an '*ekichulis*' fine which amounts to 10 cows (Pkalya et al., 2015).

The Pokot community considered the murder or manslaughter case as a case of high profile that required severe punishment however, murders towards other tribes or communities were considered epic and celebrated with special tattoos on the hero to signify honour, respect, recognition and respect. On the converse, homicidal cases were regarded as serious crimes and the offenders were considered outcasts and they were only allowed to intermingle with the community once a cleansing ritual rite was performed and completed in totality. If the offender refutes the murder or claim, the *Kokwo* convenes and the case is heard and argued while circumstantial evidence is presented by the accused perpetrator. After the evidence is adduced and argued out, the decision is arrived where a '*lapay*' ritual is performed followed by the seizure of the killer's property including that of his family/clan; but if the *Kokwo* fails to find or establish the suspect, the *muma ritual* is delivered as the last recourse (Pkalya et al., 2015).

Claiming life was considered a high crime among the the Ab`ala of the Afar ethnic group in Ethiopia, therefore in cases of homicide the ritual was performed where the slayer together with the family were reconciled with family and relatives of the bereaved and thereafter unified with the community/society. According to Mekonnen (2016), the face-to-face meeting of the two disagreeing entities involved a ritual rite that began with the slaughtering of a black goat, '*heemecha*' and the bowel was taken out of the goat and put under the toe of the slayer and the deceased's close family and relatives as a sign of cleansing the accused while in the Oromo community, in case of murder or manslaughter, the ritual of '*Gumma*' process of reconciliation is performed to forestall grievances and revenge killings.

Homicide cases among the Turkana community are simply solved if the perpetrator accepts the crime and the heavy fines of livestock is given out depending on the gender and the marital status of the casualty. Thirty animals which includes cows or camels for a man, for unmarried woman it is sixty animals and forty animals for a married woman. But in cases where the offender is unable to reimburse the distressed party, he or she was to be murdered by the grieving family to counterbalance the crime committed and after the compensation has been done the *AkibelAkoit* 'cleansing' ritual is performed to weep out the crime completely. The ritual done involves all the entities breaking the femur bone (*areten*) of a white goat which is provided by the guilty party while chanting the words "let it end here";once they break, the parties draw out and swallow the bone marrow (Pkalya, Adan & Masinde, 2015).

The Pokot community considers the casting of spells to be the most severe punishment for individuals who do not admit to their wrongdoings. For example, the ritual known as 'Mumaat' specifically targets thieves, in contrast to 'onyot', which can be applied to various other offenses within society, such as adultery and disputes over property. Mumaat is reserved for serious crimes, such as manslaughter and murder, where the accused has not confessed to the crime. The ritual involves the kokwo court casting spells on the accused individual and their entire family. Initially a white steer is slaughtered, then roasted, consumed, and the remains (bones and skin) are burned to ashes. Some of the meat is blended with soil and a mixture before the elders cast a spell on the wrongdoer, after which the pot is buried in a secret place. It is believed that the wrongdoer will admit to the offense before the pot's contents decay and will meet their end after some time (Pkalya et al., 2015). Finally, Muma takes place following the initial steps of mutaata. Only certain elders carry out the 'muma' ritual. Currently, approval to conduct the ritual is requested from the government (chiefs), which serves to validate and legitimize the practice. Similar to mutaata, muma targets the malevolent individual and is performed during daylight in front of the entire community.

In the Afar community in Ethiopia, murder, homicide or manslaughter is a serious crime; the process has a mourning period for the affected party to reduce anger. Once the perpetrator is known, the Isi and Mekabon call a meeting with the clansmen. In this meeting a sacrifice (a cow or camel) is performed to show commitment of the parties involved. The purpose of the meeting and the sacrifice is to contain the conflict and not to let it escalate into violence, the warring clans swear not to revenge during the 40 days

mourning period until the Mablo process is completed (Sansculotte-Greenidge & Fantaye, 2012). The process is the gathering of *Mekabon* (judges) an elder with a good reputation, the disputing parties, witnesses and a duplicator, all of them sitting in a circle under the tree. During the interment, an animal is slaughtered and the blood is poured on the victim's grave to ensure the ancestors accept the victim's spirit (Danso, 2016). The inter-clan negotiations begin and an open meeting is held for the verdict and the guarantor provides the food and drinks for the ceremony. The accused also has a guarantor who undertakes to ensure the accused accepts the outcome. Often the victim's family is asked if they want capital punishment for the crime which is largely a symbolic gesture. When a family chooses to go ahead with revenge despite the elder's begging, this leads to loss of clan membership and ostracizing for up to seven generation.

The offender is punished and the victim's family almost always chooses compensation which is predetermined by the Madaá for every offence and the offender must compensate and participate in the cleansing process (Ntuli, 2018). When a family chooses to go ahead with the revenge despite the elder's begging, this results in loss of clan membership and ostracism for up to seven generations. If the clan forgives, an animal is slaughtered along the road to show to the community at large the lesson of forgiveness and reconciliation. After the ceremony, the parties and their families eat together and are full to complete the cleansing process. Once the cleansing is done, the offender apologizes publicly and gives the victim's family a white plate which is a symbol of remorse and atonement. The victim's family accepts the plate and the offender is sent

away from the community for several years. The length of the banishment depends on the nature of the crime whether manslaughter or murder (Danso, 2016)

Among the Acholi, the IDR process of *Mato Oput* involves not just the parties but also the members of the public to express freely their views (Murithi, 2017). It involves the appearance of disputants before a council of elders (*Lotido-Apoka*). *Kacoke Madit* is a public assembly that supervises the reconciliation process and normally comprises the *Lotido-Apoka*. After lengthy deliberation, the root cause of the problem is established, guilt is established and voluntarily admitted, and settlement terms are agreed upon. Wherever arms were involved in the conflict, a ceremony known as 'bending of spears' is performed, in which the disputants exchange spears and the tips of the spears are bent; this is followed by an oath not to harm each other any longer.

The ceremony of *Mato Oput* involves the drinking of a bitter-tasting herb derived from the *Oput* tree (Gabagambi, 2018). The bitter drink *Oput* symbolizes the psychological bitterness that prevailed in the minds of the parties during the conflict situation. The act of drinking is an indication that an effort was made to transcend the bitterness and restore harmony while rebuilding trust. Depending on the level of the offence the *Mato Oput* reconciliation act is followed by two other ceremonies. In all dispute situations, the community leaders or Council of Elders of both genders – the male leaders are referred to as *Rwodi Moo* and the female leaders are known as the *Rwodi Mon* – give a final verbal blessing to mark the end of the conflict. In the case of a murder or a warring situation,

there is the 'bending of the spears' ceremony undertaken by the two parties to symbolize the end to the conflict and the disposal of the instruments of its execution (Murithi, 2017).

Serious crimes such as murder involve rituals where the suspect undergoes a cleansing ceremony before re-integration (Kariuki, 2015). Conflicting parties do a mock trial of fighting, thereafter, they are separated. Each of the conflicting parties brings a goat and a sheep; the animals are cut into halves followed by a mixing of that animal's blood with pout and local beer. The mixture is drunk by the conflicting parties as a sign that the bitterness that existed between them should not recur and the remaining meat is cooked and eaten. Thereafter, restoration of the broken relationships is done (Gabagambi, 2018).

The indigenous conflict resolution mechanisms in Ghana have been illustrated by the Ashanti community which always settles conflicts through arbitration. A pacification or conciliation (*mpata*) was claimed from the offender for the injured man. The pacification was small: A fowl or a few eggs for the injured man to 'wash his soul' (*adware ne kra*) so that his feelings might be assuaged. In more serious offences, gold dust of a certain value was paid as pacification. The IDR mechanism is based on the family where a pacification or conciliation process called *mpata* where the victim was expected to accept it if they belonged to the same lineage. The pacification was small: A fowl or a few eggs for the injured man to 'wash his soul' (*adware ne kra*) to assuage his feelings. In more serious offences gold dust to the value of 7 shillings or at most 10 shillings was paid as pacification however, the IDR mechanism for the inter-ethnic or inter-clan calls for a respected head.

The settlement becomes more challenging when the disputants do not belong to the same lineage or ethnic group. In the latter case, the aggrieved person submits the matter to a respected member of the community for arbitration. The latter would involve an elder from the offender's lineage or group participating in the arbitration process. Other elders might be invited to join the arbitration panel. The elders would determine who was wrong or right and arrive at terms for compensating the injured person. The matter could also be referred to the community leader for arbitration if it could not be settled at that lower level.

The Tiv approach to conflict resolution had five key elements including i) A commitment to maintaining order and ensuring the peaceful coexistence of groups; ii) A desire to ensure that the community remained a cohesive unit; iii) The fact that the leadership was not there to decide a particular issue, but to encourage the disputing parties to reconcile between themselves; iv) The fact that the whole process was consensual and every member of the community was free to participate and contribute to the settlement process; and finally v) The emphasis that was placed on all sides gaining from the process based on the belief that a settlement or resolution could not follow unless the dispute mediation session had been satisfactorily concluded (Murithi, 2017).

In my view, Indigenous dispute resolution mechanism provides valuable insight and methodologies that align with cultural values and community needs as argued widely by other scholars. Their efficacy lies in the ability to restore relationship through reconciliation and preserve cultural identity. However, their integration into broader legal

framework requires support, recognition, and adaptation to ensure inclusivity, gender equity and sustainability. Embracing indigenous perspective enriches the diversity of approaches to dispute resolution and contributes to more inclusive and impartial societies universally.

2.3.2 Challenges Facing Indigenous Dispute Resolution Mechanisms

In a meta-analytical review, Kariuki (2015) examined the several challenges facing the IDR mechanisms among African communities. The author noted the first key challenge arising from several perspectives, the attitudinal, informality, legality and contextual nature of the IDR mechanisms. The key challenge relates to the attitudes of the present day – citizens of Africa in accepting the form of the traditional justice system. Most of the present-day – citizens of Africa hold a negative attitude towards the IDR mechanism and see it as paganism or traditionalism based on their religious Africans. For instance, the Ethiopian Christians and Muslims alike have criticized the Borana-Oromo-Gadda ritual system as paganism. Secondly, Desta and Smithson (2016) evaluated the nature of the IKS systems and noted that the apparent informal nature of IDR does not sit comfortably with the Western scientific tradition. The studies showed that the IDR mechanisms are in danger of losing out to the formal dispute resolution mechanisms due to their informality that is the lack of documentation and preservation.

Aiyedun and Ordor (2016) examined the dispute resolution mechanism in Nigeria and noted that the ADR mechanisms have arisen because of the imposition of foreign laws on the diverse customary laws. The authors cited the dominance of the customary laws in

most parts of the country but the legal system is blind to the contribution of the IDR mechanism to peace and tranquillity in most African states. This brings a case where indigenous and foreign legal systems (Roman-Dutch law) operate within the same jurisdiction. For example, justice within the Igbo ethnic group of Nigeria is based partly on the traditional system and partly on the imported English law system (Aiyedun & Ordor, 2016).

Further, the acceptance of the Western knowledge forms by the forefathers meant that the indigenous institutions were regarded as inferior to the institutions of the colonialists (Aiyedun & Ordor, 2016). The weakness of the process is seen through the suppression of African traditional laws, which entails a normative framework and procedures that stipulates the values, beliefs and norms that underlie indigenous dispute resolution. The idea of backwardness to justice brought by colonialists to bind the application and use of African traditional law is still struck in most African countries even in this era of post-independence. Kariuki, (2015) argues that, this subjugation is a feature that is habitually mutual to almost all African countries; and it acts as a yoke to their effective utilization in propelling justice among Africans. Other African countries such as Ethiopia and South Africa reported that there are laws advocating for traditional African practices despite their complementary role in dispute resolution (Adefisoye & Bamidele, 2018). These indigenous practices such as cleansing, rituals, and trial by ordeals are essential to resolving disputes/conflicts and are forbidden by the bylaws of the state and traditions of informality in everyday affairs.

The colonialists viewed African traditional ways of living including indigenous dispute resolution mechanism as barbaric and therefore condemned it. Ntuli, (2018) argued that throughout colonial period, the jurisdictional functions of the king famously known as centralized governance or council of elders (decentralized governance) were often interrogated by European colonialists and considered inadequate and therefore the traditional African laws were considered uncivilized to be used or recognized. In other settings, the legal formations of the IDR mechanism was considered to be inexact and less enforceable than the English law. Pkalya et al, (2015) also acknowledged that among the Turkana, the Samburu, Pokot, and Marakwet communities, it was challenging to administer the verdict of elders unless all the entities agree with the decision. But in the cases of the formal justice systems, sanctions are used by the courts to enforce compliance by the disputants easily. In South Africa, Sections 12 and 20 of the Black Administration Act limit the use of traditional dispute resolution in civil and criminal cases respectively (Kariuki, 2015).

Many African countries inherited their legal systems at independence and these inherited legal systems, comprising of common law, civil law, religious law or hybrid systems, are far removed from the customary IDR systems that were in place in many African countries before colonialism (Ntuli, 2018). Thus, IDR mechanisms are considered customary law and do not constitute the core of the corpus juris of African legal systems. Because of these reasons, most African countries lack clear policies and laws on traditional dispute resolution mainly due to the plurality of their legal systems. However, the exceptional case is Kenya where, Kariuki (2015) explicitly affirms that Article 159(3)

of the Constitution of Kenya 2010, supports the use of traditional dispute resolution mechanisms subject to some limitations. Even in countries such as South Africa where there is a legal framework for the application of traditional dispute resolution, there are still challenges and limitations in their usage.

Lastly, modernity has had its fair share of negative impacts on African justice systems. In the pre-colonial period, the most important family system was the extended family and elders were respected individuals enabling them to be independent during dispute resolution processes (Aiyedun & Ordor, 2016). However, in modern societies, young people have accumulated wealth consider themselves to be civilized and have left the old customary and traditional ways. Due to modernity and westernization, communal social capital and bonds have broken down. Currently, the nuclear family is important hence the community is increasingly individualistic thus breaking down the communal or extended family system and thereby reducing the influence of elders. In addition, the superiority of the Westernized judicial and legal system has further reduced the influence elders have in the resolution of disputes (Ani, 2017).

Oiye (2019) examined the IDR mechanisms of the Karamoja cluster communities and noted that the effective application of the IDR mechanism requires the generational transfers of the indigenous knowledge systems that hold these IDR mechanisms. The author also observed that in a particular context, these IDRs that are largely custodial and customary in the form of the council of elders or chieftaincy are facing significant erosion arising from the diminution in the customary ways of living. With the senior members

passing on, the generational gaps created tend to lower the effectiveness of the IDR mechanisms as there is the disregard of the socio-cultural practices, tribal political systems and ethnic leadership (Oiye, 2019). Furthermore, Alemie and Mandefro (2018) observed that the main limit to the IDR mechanism is the absence of clear policy direction in the application of indigenous conflict resolution mechanisms. The mainstreaming of the IDR mechanism is hindered by the lack of confidence in traditional dispute resolution mechanisms means that justice is delayed and the courts may become clogged up with unnecessary minor criminal cases (McQuoid-Mason, 2021). There is still a certain degree of scepticism by the legal profession and the judiciary when attempts are made to integrate them into the formal justice system (McQuoid-Mason, 2018).

2.4 The Role of Non-state Actors on Dispute Resolution

Empirical studies have documented the involvement of non-state actors in local conflict resolution in Africa. However, there is a large variation in such actors' power, legitimacy, and ultimately their ability to contribute to conflict resolution. Evidence suggests that locally anchored peace processes, led by non-state actors with an in-depth understanding of the context and with less reliance on material power, are more successful in promoting peace at the local level than state-led peace processes (Elfverson, 2016). Religious leaders' functions of monitoring and direction in conflict resolution can maintain religious moderation and avert disputes in Indonesia's multicultural society (Novebri & Pratiwi, 2021).

Elfverson (2016) examined the role of non-state actors in resolving disputes in Elgeyo-Marakwet County by addressing a long-standing conflict in Kerio Valley. The study observed that a range of non-state actors perform governance functions: Customary institutions have been given partially formalized roles, and numerous civil society organizations (CSOs) and non-governmental organizations (NGOs) are involved in service delivery and conflict management at different levels. As the conflict escalated, faith-based organizations (FBOs) played a notable role in trying to mediate between the communities. Activities took the form of barazas, support to local development committees, workshops and seminars. Similar activities (peace workshops, local dialogue etc.) were organized by other FBOs while several NGOs conducted development projects in the area, and included some peace-building activities in their work.

There are two significant approaches to management conflict; the subjective approach and the objective approach. The objective conflict views the source of the conflict from where it started and objectives are appropriate in contrast, the subjective approach of conflict emphasizes perceived conflict and may come through personal grudges. Moreover, conflict whether objective or subjective, the violent starts when conflicting parties try to achieve their objectives by asserting force, harming the opponent, try to influence and sabotage the rival party's interests (Islam & Khan, 2019). Conflict management views the neutral party involved in managing conflict as a mediator or manager of the conflict to help and support either conflicting parties or at least one of the conflicting sides. The resolution of conflict views that an acceptable solution should be found out which can satisfy all conflicting sides.

Literature on conflict management whether conventional or religious emphasizes acquiring skills related to conflict resolution, self-awareness about conflict modes, conflict communication skills and establishing a structure for the management of conflict in the social environment. Furthermore, empirical evaluation of peace agreement implementation has often focused on the duration of peace, the relationship between biased versus neutral mediators and the degree of agreement implementation (Sollenberg, 2017). Religious leaders' involvement in a multicultural society plays a vital role in conveying information about religious moderation. The contextual and dynamic factors at local and national levels, and in particular the relationship between non-state and state actors and institutions, affect local conflict resolution (Elfverson, 2016).

Luttrell, Di Marco and Hirst (2022) evaluated the dispute resolution mechanisms that can be applied by non-state actors concerning seabed mining activities. The study observed that dispute resolution mechanisms within the context of non-state actors require an institutional setting that will provide a platform for the dispute resolution mechanism to take place. In Indonesia, Saefudin (2019) evaluated the religious conflict between the Islamic and Christian groups. The study focused on the activities of the non-state actors such as the civil society organization in seeking to resolve the conflict. Based on the qualitative approach the study observed that four multicultural collaborative initiatives that included economic empowerment for women and leaders and religious approaches such as social inclusivity

Lehman (2015) investigated the status of environmental governance within the increased participation of non-state actors at international, domestic, regional, and local levels of decision-making, often without the participation of governments or formal international organizations; the researcher revealed that there is need for a new institutional context to be established in order to integrate the involvement of non-state actors both as plaintiffs and defendants. Studies by Novebri and Pratiwi (2021) using a qualitative study, analysed the influence of religious leaders on conflict resolution mechanisms in multicultural society in Indonesia and the results showed that religious organizations utilized numerous platforms in settling disputes which were not limited to intermediating the conflict through new media channels such social media to disseminate information in order to minimize conflict, and also develop collaborative mechanisms with the state actors to minimize or prevent disputes.

Mukhametzaripov (2022) evaluated the history of Christian Conciliation in the United States in spreading the system of alternative dispute resolution. The study focused on the procedure of religious conciliation, mediation and arbitration, as well as educational activities for the training of Christian peacekeepers and their certification. The findings indicated that religious institutions provide a platform for conciliation and for improving social relations and that the secularized system can influence society at large. Mukhametzaripov (2022) examined the mechanism for dispute resolution among scientologist in the USA using a qualitative approach. The study observed that dispute resolution works within the competencies of religious tribunals but mediation functions are more typical for the courts of chaplains (auditors). This conflict resolution mechanism

can be seen as a manifestation of corporate culture where religious philosophy is combined with a business model based on mandatory performance of assigned tasks by employees and strict internal rules.

Yusof and Majid (2019) evaluated the implementation of inter-religious dialogue in Malaysia with a focus on conflict resolution. The study explored the various designs of inter-religious dialogues that included several mechanisms such as interfaith dialogues and other institutional dialogue models. These dialogue models are distinguished from conflict resolution types of dialogue which aim at identifying issues and generating action plans for conflicts or disputes. Afolabi and Avasiloae (2016) assessed the formal and informal mechanisms used to address disputes and conflicts in Nigeria during the 2015 general elections. The study observed that several mechanisms were used to address disputes including collaborative initiatives that focused on peace messaging, conflict management, and dialogue facilitation processes among others. These dispute-resolution mechanisms were supported by several platforms such as the National Peace Committee and the Council of the Wise; faith-based initiatives civil society organizations and religious leaders.

In the view of the researcher, non-state actors play a significant role in dispute resolution by leveraging their local knowledge, cultural sensitivity and community trust. The effect extends beyond mediation and facilitation to include advocacy, capacity building and monitoring however the effectiveness depends on overcoming challenges related to legitimacy, coordination, resources and security. Distinguishing and supporting the input

of non-state actors is crucial for fostering sustainable peace and stability in dissimilar societies.

Most evidence is drawn from Elgeyo-Marakwet (Kerio Valley) in Kenya (Elfverson, 2016), Indonesia (Novebri & Pratiwi, 2021; Saefudin, 2019), Nigeria (Afolabi & Avasiloae, 2016), Malaysia (Yusof & Majid, 2019) and sectorial or international arenas (Luttrell, Di Marco & Hirst, 2022). None engages the pastoral, clan-based Maasai context in Kajiado where conflict drivers (grazing corridors, water points, land adjudication, livestock theft) and customary authority structures differ markedly. This leaves a contextualization gap where there is lack of indigenous knowledge system which is grounded locally and anchored model for Maasai community.

Studies reviewed acknowledges the role of non-state actors and customary forums but stop short of specifying how indigenous mechanisms are to be formally institutionalized, for instances the rules of recognition, referral, and review between elders' forums and government bodies; documentation standards; ethical safeguards for sacred knowledge and accountability lines (Elfverson, 2016). This forms the core institutional design gap this study targets to fill.

There is emphasis on skills and communication, and on agreement duration/mediator bias in peace accords (Sollenberg, 2017) but little on local-level indicators for indigenous processes: Timeliness, compliance, fairness perceptions, inclusion, restitution

arrangements, and re-offending rates. There is also lack of monitoring architectures that can be embedded within indigenous knowledge system without undermining it.

2.5 Integration of the Indigenous Knowledge in Dispute Resolution Mechanisms

The empirical studies that have brought the IDR mechanism as a contemporary dispute resolution mechanism have primarily formalized the several formal IDR institutions that include tribal courts, councils of elders, or customary legislatures (Wig & Kromrey, 2018). For instance, in Canada, the Metis Settlement Appeal Tribunal (MSAT) is indigenous to the First Nations of Canada to interpret and enforce Metis settlement legislation and laws. It is composed, in large part, of Metis settlement members and has to comply with a code of ethics and other matters pertinent to administrative tribunals. In Uganda, the Acholi IDR mechanism has modest inroads made in terms of its impact by promoting the legal acceptance of endogenous approaches. These mechanisms have been used in reconciling warring communities after the internal strife in Northern Uganda brought about by the Lord's Resistance Army (LRA) (Gabagambi, 2018).

In Ethiopia, most communities hold on to their unique IDR mechanisms such as the Maaga system used by the Libido-Mareka to solve any criminal and civil matters (Mekonnen, 2016a). Further, the *Mada'a* system is applied in the Afar community to resolve criminal cases that range from insult to homicide and every civil case, without taking into account the amount of money involved in specific the Un (Alo & Debele, 2024)). For instance, the Mablo resolves inter-personal disputes such as light physical injury, theft and insults while the *Maro* is reserved for all serious violations that include

serious crimes and inter-clan offences (such as inter-clan murder) (Mu'uz, 2013). Sansculotte-Greenidge and Fantaye (2012) observed that the federal system in the Afar region, Ethiopia has co-opted and co-operated with traditional institutions and this has resulted in a situation where the traditional institutions and mechanisms of conflict resolution play an invaluable role in conflict management, resolution and reconciliation at multiple levels. Pankhurst and Assefa (2016) observed that cases of divorce, marriage and inheritance among the Afar community are resolved through the application of Sharia Law. Further, the UN Office for Coordination of Humanitarian Affairs recognizes the Boran Gadaa system as a formal dispute resolution mechanism for the Boran community because of the relative isolation of the community. The collegial system has a praesidium consisting of nine members called '*Saglan Yaa'ii Boran.*'

Ntuli, (2018) observed that the Rwandese government has institutionalized the ADR mechanism through the Abunzi Act of 2006. These ADR mechanisms draw their overarching framework from the indigenized form of ADR, called the Gacaca courts which were overseen by *inyangamugayo* or people with integrity and influence. In terms of mainstreaming the IDR mechanism, the *Gacaca* courts tried 1,958,634 genocide cases and retried at least 178,741 cases at appeals level indicating the ready acceptance of this form of contemporary IDR mechanisms. This has been validated by the positive responses from genocide perpetrators to the local *Gacaca* rulings (Issifu & Asante, 2016).

In Kenya, the *miss* the Pokot IDR mechanisms for inter-tribal disputes have been formally accepted as a peace pact between the Pokot community and its neighbours. The

miss begins with lengthy inter-community dialogue and is geared towards a mutual gain for both communities. Once, concluded, the *miss* is followed by a ritual where steers are slaughtered and consumed while the weapons ranging from arrows, bows to spears are destroyed and buried in a pit with a mixture of traditional beer, milk, intestinal fluids and honey. The elders from the two communities curse and casting spells on whoever flouts the just-brokered pact (Pkalya et al., 2015).

The Kolowa declaration is a consensual peace agreement between the Pokot and the Marakwet and has served as a preventive measure against future conflicts. The Turkana community also undertake '*ekisil*' peace pacts with other communities where rituals that involve weapons are bent and/or bent and buried with milk, honey, traditional beer and other charms. In South Africa, the justice in rural regions is predominantly administered by traditional courts because they are more accessible to people (Aiyedun & Ordor, 2016).

Mainstreaming of the IDR is supported by an overarching constitutional framework. In particular, the Constitution of Kenya, 2010 and the Constitution of South Africa, 1996 of South Africa progressively endorses and provides for the use of IDR processes in dispute resolution (McQuoid-Mason, 2021). Further, legal support for the IDR mechanism envisages the simultaneity of the formal and IDR mechanisms where the formal justice system co-exists with the IDR mechanisms. This forms the checks and balances to curtail any lapses and abuse of power, and give the citizens the opportunity to make informed judicial choices (Salihu, 2020).

The indigenous/traditional African customary law when critically observed, it shows both sides of the coin whereby it had both punitive and compensatory sides, for example the Yoruba community of southern Nigeria and Baganda of Uganda had a clear difference between manslaughter crime and murder while indigenous dispute resolution mechanisms rightly enforced death for murder crimes and compensation for manslaughter cases ;this shows that both the formal dispute resolution mechanism and IDR mechanisms have some common resemblance as supported by (Aiyedun & Ordor, 2016). This argument is also supported by McQuoid-Mason (2021) who studied the position of the African IDR mechanisms using a meta-analytical review of the literature and the study concluded that IDR practices are used in solving both civil and criminal. For example, the administrative justice in the Igbo ethnic group of Nigeria partly borrows from the indigenous system and partly imports English law.

According to Aiyedun & Order (2016) the application of IDR mechanisms by most African countries are viewed as integrated contemporary dualistic dispute mechanisms because of numerous legal systems. Therefore, the application and use of the IDR mechanism within the African context is chiefly nurtured by either the affordability/accessibility of the legal services or the scarcity of the representation forcing the majority of the rural inhabitants in many sub-Saharan African countries resorting to indigenous formats of resolving disputes.

Several studies have also recommended the application and use of the IDR mechanism as a contemporary dispute resolution mechanism, for instance Alemie and Mandefro

(2018) did a study on various IDR mechanisms among the different communities in Ethiopia using qualitative approach where interviews were done and data collected was analysed thematically. The findings from the study observed that IDR mechanisms are more flexible and involved consensus-building. Gabagambi, (2018) further reviewed existing literature on IDR mechanisms and compared the IDR mechanisms of six (6) African countries and the findings indicated that the paradigm of restorative justice was used in pre-colonial Africa and therefore supports the revival of the IDR process.

In the determination of a dispute in the IDR mechanisms, formal acceptable rules and regulations are not the only determining factor. The process considers the social setting including the existing relationship and the positional status in the community. Restitutive and rehabilitation measures are important elements of an effective legal system and provide an integration discourse that is recognized by both western and African justice ideals. Traditional leadership allows for active participation by community members, who not only act as listeners but also as moderators, thus dispute resolution is a community-driven process that is reflected in social relationships (Aiyedun & Ordor, 2016).

In regard to the researchers view, integrating indigenous knowledge in dispute resolution mechanism offers valuable understanding and approach that promote community cohesion, cultural resilience and sustainable peace. The whole process requires collaboration, respect of diversity, and learning from traditional wisdom while addressing contemporary challenges. Embracing indigenous perception enriches the diversity of

approaches to dispute resolution and contribute to inclusive and just societies hence the need for a framework to guide the whole process.

On the validation of the framework, Brown and Miller (2021) notes that framework validation can be done through seeking feedback and validation from subject matter experts to ensure the framework coherence and relevance. Jones et al (2022) adds that, framework validation can be done through empirical evidence such as data analysis, case studies or experiments. Davis and Johnson (2023) on the other hand, argues that the framework validation can be done through peer reviewed journals or conferences to receive feedback and validation from the academic community.

In this present study, the researcher validated the framework through stakeholders feedback; this is where the researcher sought feedback from stakeholders involved directly in indigenous dispute resolution mechanism process, including elders and opinion leaders . The researcher believed their perspectives on the framework, utility and cultural appropriateness provided a valuable validation. The researcher prepared a structured interview schedule with key components from the framework in regards to indigenous dispute resolution mechanism and sought response from the expatriate in the Maasai community, and the response given provided a valuable validation.

2.6 Research Gaps

Table 2.1: Summary of Literature and Research Gaps

Author(s) & Year	Title of the Study	Major Findings	Limitations	Gap Identified
Babatunde & Aremu, (2021).	To evaluate the impact of arms proliferation and conflict in Sudan from a historical perspective	Conflicts in Sudan have been exacerbated by the proliferation of light weapons	A meta-analysis of past studies and literature	Focuses only on conflict situation without providing resolution mechanisms
Döring & Mustasilta, (2024).	To examine the views of traditional actors on IDR mechanisms in Ghana	Conflicts take an ethno-political perspective arising from ethnic contestations, resource scarcity, and struggle for identity	A meta-analytical review of past studies and literature	Does not provide dispute resolution mechanisms
Osinde (2023)	To evaluate the prevailing conflict among pastoralist communities in Northern Kenya	Highlights origins, principles, and practices of the peace caravan and its potential to foster peace	Qualitative study based on documentary reviews	Informs the need for a dispute resolution mechanism
Mussa, Teka, & Aliye (2017)	Review of the nature of dispute resolution among communities in rangelands of Ethiopia	Conflicts occur at several levels, including ethnic groups, inter-communal and regional	A meta-analysis of past studies and literature	Informs the need for a dispute resolution mechanism
Wig & Kromrey (2018)	To investigate features of customary political institutions	Formalized customary institutions mediate communal conflict	A meta-analytical review of past studies and literature	Illustrates the need for formal integration of IDR mechanisms

Author(s) & Year	Title of the Study	Major Findings	Limitations	Gap Identified
Pkalya, Adan, & Masinde (2015)	Conflict in Northern Kenya among Pokot, Turkana, Marakwet, and Samburu communities	Communities have communal IDR mechanisms used to solve different disputes	Systematic qualitative study using in-depth interviews	Proposes formal acceptance of IDR mechanisms
Ntuli (2018)	To evaluate the effectiveness of ADR mechanisms within the African context	ADR is effective in improving accessibility to justice contingent on environmental conditions	A comparative meta-analytical approach	Highlights challenges posed by ADR mechanisms
Chereji & Wratto (2019)	A comparative study of IDR mechanisms in Liberia and Ghana	Identified IDR mechanisms such as Sassywood, Kola Nut sharing, and Palava Hut Agreement	Qualitative study on selected individuals	Falls short on steps to mainstream IDR mechanisms
Aiyedun & Ordor (2016)	To examine integration of IDR mechanisms in contemporary dispute resolution	Integration of African IDR with contemporary methods is feasible under some conditions	A meta-analytical review of past studies and literature	Illustrates the need for formal integration of IDR mechanisms
Mekonnen (2016)	To explore characteristics of IDR institutions in Ethiopia	IDR mechanisms are accompanied by ritual symbols of reconciliation	Explorative study using observations and in-depth interviews	Falls short on steps to institutionalize IDR mechanisms
Gebre-Egziabher (2014)	To evaluate IDR mechanisms and their contribution to development in Afar region, Ethiopia	Afar IDR mechanisms significantly contribute to development	Meta-analytical review of past studies	Falls short on steps to institutionalize IDR mechanisms
Sansculotte-Greenidge & Fantaye (2016)	Comparative analysis of indigenous political systems among Afar community in Ethiopia	IDR plays important role in conflict management and resolution at multiple levels	Synthesis of past empirical studies of the Afar community	Falls short on steps to institutionalize IDR mechanisms

Author(s) & Year	Title of the Study	Major Findings	Limitations	Gap Identified
McQuoid-Mason (2021)	Assessment of IDR mechanisms in developing countries of Africa	IDR mechanisms in rural areas help reduce formal court litigations	Synthesis of past empirical studies on benefits of IDR	Falls short on steps to institutionalize IDR mechanisms
Gabagambi (2018)	Comparative analysis of restorative justice practices in Africa	IDR mechanisms effective in restorative justice and rebuilding trust	Synthesis of publicly available information on IDR mechanisms	Illustrates the need for formal integration of IDR mechanisms

2.7 Theoretical Review

A theory is a means of ordering and explaining complex phenomena providing future direction. A theoretical framework is broad set of assumptions that details the basic elements of a theory without comprehensively exhausting nuances of a theory (Varpio, Uijtdehaage & Young, 2020). The study was underscored by the following theories: Worldview theory; Frustration–aggression theory and Instrumentality theory.

2.7.1 Worldview Theory

The Worldview theory as proposed by Kilbourn (1984) as an alternative to scientific thought which takes a non-rational approach based on emotion, behaviour and thought. Worldview assumes that the world is real and this understanding is both important and valid. It includes basic beliefs about people, their feelings, behavior and social structures as well as the philosophies and symbols that accompany them. Worldviews act as emotional, cognitive and perceptual maps that help communities understand social dynamics and achieve their goals. These perspectives are widespread and develop through social interaction and socialization over a person’s lifetime (Hart, 2010). Indigenous communities have preserved their unique worldviews and knowledge systems, even during significant changes caused by social upheavals beyond their control.

While the science curriculum often separates learners from other areas of knowledge by trying to control the learning environment, the concept of worldview goes beyond science (Keane, 2018). Worldview addresses the metaphysical aspects of how we view natural

phenomena. It consists of non-rational beliefs that support our understanding of reality, indigenous knowledge represents a worldview that contrasts with Western knowledge. Indigenous knowledge systems (IKS) refer to the long-held stories, traditions and practices of indigenous people or communities. It can also mean the specific local understanding of the world held by a society or community guided by the rules and regulations that shape knowledge processes. IKS has various meanings such as native science, traditional wisdom, traditional knowledge, traditional knowledge systems (TKS) or even indigenous technical knowledge (ITK).

Indigenous Knowledge Systems bundle the stories, customs and daily practices that local people have woven together over generations. They grow from hands-on contact with fields, rivers, animals-even the weather-and the social bonds that spring up around those elements. Because of that rootedness, IKS help shape cultural identities and the small institutions that echo them. They pair the material with the spiritual, and the communities constantly trade, adapt, and pass on what they've learned to keep the system alive.

The IDR mechanism draws from the indigenous knowledge system (IKS) which is a resource that was suppressed by cultural imperialism (Akinwale, 2022). The IDR mechanism therefore supports decision-making processes through indigenous institutions usually drawn from years of experience and communicated orally through generations.

The application of the IDR mechanisms in Africa is supported by the manifestation of formalized customary institutions that represent traditional political systems in the pre-colonial political structures that provide a clear locus of political authority. These

institutions are attested by the customary chieftaincies, courts and legislatures that structure ethnic politics in Africa that complement, compete or integrate into the institutional complex of the state (Wig & Kromrey, 2018).

All IDR mechanisms incorporate consensus-building based on information exchanges and discussions and are guided by customary institutions (Pkalya et al., 2015). The IDR mechanisms emphasize reparation and the restoration of former relationships between disputants. These formal customary institutions are also considered cooperative agents of the state and may serve as important governance roles in the absence of the state (Wig & Kromrey, 2018). The IDR mechanisms are highly dependent on norms, customs, spirituality and consent between disputants for its implementation and the processes include the following mechanisms; the council of elders, dialogue, traditional rituals and arrangements.

The Worldview Theory by Kilbourn (1984) offers a solid basis for understanding indigenous dispute resolution because it points out on the shared philosophies, symbols and practices that profiles how communities perceive and resolve conflicts/disputes. The main shortcoming with this theory is its weighty reliance on cultural doctrine and non-rational enlightenments. By focusing on metaphysical and spiritual aspects, it may underestimate the structural issues such as political interference, power relations and economic disparities that also shape disputes and conflicts. Subsequently also, worldviews differ across traditions and cultures, its comprehensions may not be easily applied universally beyond the Maasai community in this context.

2.7.2 Frustration–Aggression Theory

The theory as proposed by Dollard (1939) posits that aggression and aggressive behaviour is presupposed by the existence of frustration and, on the converse, the existence of frustration will result in some form of aggression. The theory presumes that aggression is a consequence of frustration (Breuer & Elson, 2017). The frustration–aggression theory was first known as the frustration–aggression hypothesis which posited that in a situation where an individual is directly or indirectly denied legitimate desires as a consequence of societal structuration, the disappointment may lead that individual to express anger through violence (Babatunde & Aremu, 2021).

The frustration–aggression hypothesis has been applied in several disciplines including psychology, sociology, criminology, and medical research and employed in explanatory models. At an individual level, the repeated exposure to frustrations can lead to an outburst of aggression and violence. The frustration–aggression theory has been used to explain aggression within societies. At the societal level, frustrations can be characterized by resource scarcity, systematic and/or institutionalized discrimination, severe economic recessions that have the most intense and far-reaching consequences (Breuer & Elson, 2017).

The main proposition of the frustration–aggression hypothesis was that there was universal causality between frustration and aggression (Breuer & Elson, 2017). Forms of aggression can be recognized instantly ranging from phantasies of 'getting even' with rivals, calculated forays, physical acts of violence and generalized destructive acts like lynching, and strikes among others. Frustration produces instigations to several different

types of response, one of which is an instigation of some form of aggression (Berkowitz, 1989). Aggressive responses to frustration do not necessarily injurious to goal attainment but the acts of aggression with a more recent understanding of frustration as an internal process (Breuer & Elson, 2017).

Aggression has so many facets: At an individual level, an individual may have difficulty in controlling temper while others unwitting struggle with their hostilities. Mobs or groups with bleakness and malice may cause harm to individuals because of the indeterminate uncertainties. Minority communities may end up being mistreated because of their exceptionality and lastly, tribesmen as a group collectively fight one another, and other communities as depicted by Babatunde & Aremu, (2021) that intra – stare conflict occur in the pursuit of incompatible goals or interests by different nations.

The theory provides a psychological description of conflict and disputes by associating frustration to aggression and violence. The theory limitation is that it inclines towards emphasizing causality, therefore assuming that frustrations all the time leads to aggression, which to some extent it is not true because groups and individuals may respond with avoidance, resilience or negotiation. In addition, this theory does not fully put into consideration the role of social institutions, culture, or indigenous values in moderating aggression. In regards to the Maasai context in this study, while frustration over scarce resources such as land and water may trigger conflict, the theory does not give a clear discussion how indigenous institutions like councils of elders may minimize such tensions into peaceful resolutions.

2.7.3 Instrumentality Theory

The instrumentality theory offers a guiding principle for finding information based on what people need and what's relevant to them. This theory suggests that people look for information to achieve a goal, not just for the sake of it (Sundin & Johannisson, 2005). In today's society, information is seen as something entities need to solve problems and for individuals to make rational choices (Talja, 1997). As users at different levels change what information they find relevant, it shows how they understand the problem (Saracevic, 1975). Information plays a key role in creating knowledge, which shows up in the made knowledge representations in information services (Backlund, 2005).

Knowledge has an influence on our understanding of reality, and as a result, it must lessen the uncertainty in reality (Dervin 1991). This means facts about a phenomenon need to be definite and manageable even though different versions of reality keep changing (Talja, 1997). A person becomes a "knowledge seeker" in a specific context subject area, or field of study (Talja, 1997). The desire to learn is often seen as the reason behind information-seeking behavior (Itoga 1992). The process of looking for information is driven by the user's expression of what they want to know, which includes both their stated wishes and unspoken needs. The idea of need points to the user's mental reasons for looking up information and their liking for certain sources. This mental setup also tackles the question of what's relevant (Sundin & Johannisson, 2005).

For certain information needs to exist specific conditions must be met. The main factor is whether the search for information is valid and if the info in question helps achieve the

goals of information (Savolainen, 2012). Information need arise when an individual is in a problem situation where the present information can longer serve the its purpose (Talja, 1997). Information search process then becomes an important way of learn rather than just a means for fulfilling information requirements (Kuhlthau, 1991). Research deals with the capability of information to support rational decision-making and problem-solving (Talja, 1997).

The information needs of a research may be labeled situational of action, task performance or dialogue (Savolainen, 2012). Approaches to information needs in the situation context emphasize the formative role of temporal and spatial factors. (Savolainen, 2012). Information need is conceptualized as a construct understanding of the requirements of information to make sense of the issue at hand (Savolainen, 2012). Information is often treated as something that represents external reality and it is the transfer of facts or opinions from information systems to individuals (Sundin & Johannisson, 2005). Research takes a structured approach that highlights how important information-seeking is at the social level but social relationships play a key role. This approach suggests that social structures push people to act in certain ways (Cobern, 1996).

Information systems or LIS professionals can help individuals with their information-seeking processes mainly by assisting with their information needs. Research makes big contributions to understanding how people seek information and make sense of it. People always carry out their information-seeking practices against a backdrop of different

knowledge claims which they negotiate in various communities of justification. To understand users' information needs and how they judge relevance, we must first understand the justification. This also involves the realist idea that we can assess both information needs and relevance in a more or less objective way. Social structures alone shape the formation of objectives, which means individual agency doesn't control this process.

The instrumentality theory offers a guiding principle on information-seeking behaviour, stressing how people or users look for pertinent information to offer solutions to problems. This is critical especially when understanding how the offenders, elders, disputants or community members rely on indigenous knowledge in resolving disputes or conflicts. However its main shortcoming is that it visions information-seeking process in cogent manner and goal-oriented terms which overlooks the symbolic, spiritual or ritualistic aspects that are significant to indigenous knowledge systems. Additionally, it puts emphasis on individual agency in information seeking, while indigenous dispute resolution habitually depends on shared wisdom and communal decision-making rather than individual/ personal information needs.

2.7.4 Justification for the Theories

The justification for application of the above three theories is that each complement one another in meaningful ways. Worldview theory positions indigenous dispute resolution mechanisms within the cultural context of the Maasai community, showing why indigenous practices are legitimate and expressive forms of dispute and conflict

resolution. Frustration–Aggression Theory on the other hand helps to put forward clearly the principal triggers of conflicts such as resource competition, territorial boundaries and social inequalities among others that make indigenous dispute resolution mechanisms indispensable. Instrumentality theory then adds a practical dimension by offering an explanation how indigenous communities can mobilize, access and share information, traditions, beliefs, norms, values and knowledge to address these conflicts/disputes positively. Together the theories provide a holistic framework: Worldview grounds indigenous dispute resolution in culture, frustration–aggression explains the conflict dynamics, and instrumentality clarifies the role of information and knowledge exchange. This integration supports the general objective of the study by offering both cultural and structural insights into how indigenous dispute resolution can be documented and meaningfully integrated with formal dispute resolution systems.

2.8 Conceptual Framework

A conceptual framework details the research problem, provides an approach to be employed based on multiple conventions and designs; it serves as a guide to research, operating as an integrating ecosystem that brings all aspects of a study together through a process that explicates their connections and the context which shapes a research setting (Ravitch & Riggan, 2016) It is a total, logical orientation and associations of anything and everything that forms the underlying thinking, structures, plans and practices and implementation of the entire research project. The following conceptual framework guided the study:

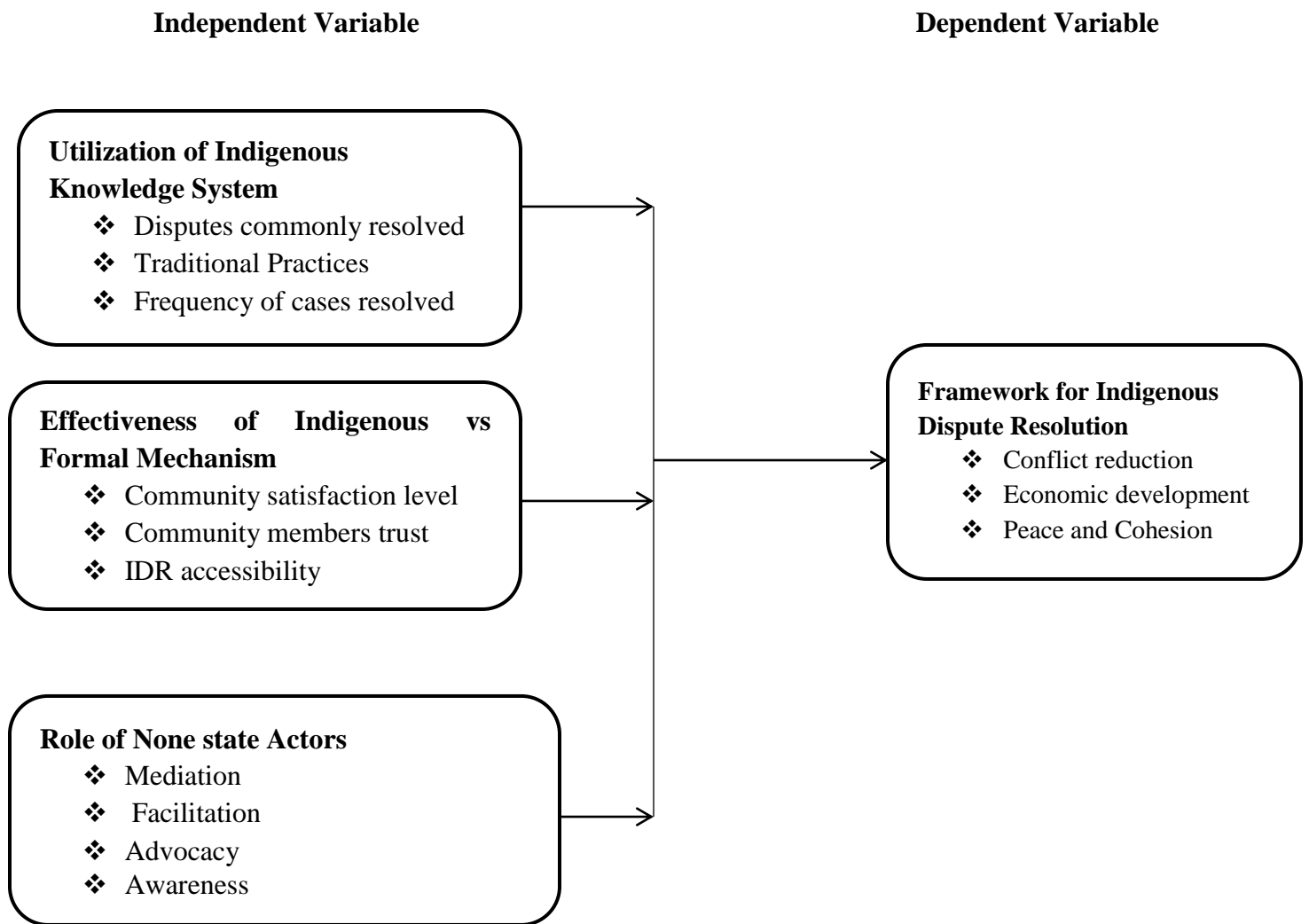


Figure 2.1: Conceptual Framework

Source: Author (2025)

There are an ever-present disputes and conflicts in a particular societal context. However local actors such as community, elders, chiefs and kinship are asked to resolve disputes. Due to hanging environmental situation several dimensions of conflict range from communal/ethnic differences to political agitations emanate. The indigenous dispute resolution mechanisms are part of the customary institutions that predominated, the dispute resolution process in African societies. Justice in these indigenous processes was

simple, popular, speedy, affordable and accessible. Dispute resolution mechanisms assured the disputants of a just resolution that would maintain communal relations.

In this study, the independent variable construct was measured by utilization of indigenous knowledge, effectiveness of formal judicial mechanism in relation to indigenous method and the role of non-state actors in influencing dispute resolution. The key constructs for utilization of indigenous knowledge, constituted the type of dispute resolved, roles of elders and community acceptance of the resolution reached while the indicators were: Frequency of cases resolved, dispute commonly resolved and traditional practices adopted. The effectiveness of indigenous in relation to formal mechanism made use of components such community satisfaction level, community members trust and indigenous dispute accessibility while non-state actions entail various components such as: Mediation, facilitation, advocacy and awareness. On state actors such as non-governmental organizations, religious leaders often serve as mediators or facilitation in resolving disputes. They bring local knowledge, cultural understanding and trust to the process; making them more acceptable and effective in resolving disputes. Community and indigenous based non state actors uphold customary and traditional practices that have historically resolved disputes within their communities. These practices are often deeply rooted in local norms, values and rituals which can provide culturally appropriate solutions.

Under advocacy and awareness, civil society's organization and advocacy groups' advocated for peaceful dispute resolution strategies, raising awareness about rights and

responsibilities, and promoting dialogue among conflicting parties. Their efforts contributed to creating a conducive environment for resolving disputes peacefully. Some non-state actors monitor the implementation of dispute resolution agreements and hold parties accountable for their commitments. This oversight helps maintain the integrity and effectiveness of agreements reached through mediation and negotiation.

The dependent variable constructs is a framework of indigenous dispute resolution mechanism measured against the outcome whose attributes were: Conflict reduction, economic development, peace and cohesion.

2.9 Chapter Summary

The literature reviewed different forms of indigenous dispute resolution mechanisms and began with the utilization of indigenous knowledge in dispute resolution mechanism, nature and causes of disputes and/or conflicts, the different forms of IDR mechanisms and how the IDR mechanism is shaped in different parts of Africa and the world. The chapter also evaluated the effectiveness and challenges of IDR mechanisms and introduced the institutionalized dispute resolution mechanism by non-state actors. Later the studies highlighted the specific instances in which IDR mechanisms have been integrated into formal dispute resolution mechanisms in several contexts. The chapter then supported the empirical literature with a theoretical framework comprising three theories, (worldview theory, Frustration – Aggression Theory and Instrumentality theory). The research gaps were then presented followed by the conceptual framework to inform the study constructs.

CHAPTER THREE: METHODOLOGY

3.1 Introduction

The chapter details the methodology employed by the study and included the research philosophy, the research approach, the target population, sample size, instrumentation and its validation, the data collection, data analysis procedures and ethical considerations.

3.2 Research Approach

The study applied the inductive research approach in that the study sought to gain an understanding of the meaning's humans attached to communal IDR subjects while seeking a close understanding of the contextual IDR events and occurrences. Further the use of qualitative data in research and flexibility with the need to generalize the findings also informed the use of an inductive research approach. Inductive research is concerned more on theory building to explain a phenomenon and provide a better understanding of the problem situation. Researches that are based on inductive approach are particularly concerned with the context in which such events occur (Saunders et al., 2018).

3.3 Philosophical Stance

Research philosophy underscored the assumption of how the research was undertaken and provides a background from which specific methodological decisions in research are employed (Saunders, Lewis & Thornhill, 2016). Paradigms are crucial in research as they guide the focus and trajectory of a study. Choosing a paradigm is essential because it establishes the foundation for decisions regarding methodology and the literature review that follows. Paradigms are characterized by how they define the nature of reality

(ontology), how knowledge about this reality is acquired (epistemology) and the methods employed to investigate it (methodology).

Romm and Ngulube (2015) identified three paradigms that influence research in social sciences which include: Positivist (including post-positivist), interpretivist and pragmatic paradigms. The positivist paradigm asserts that social phenomena and relationships within social settings are governed by consistent cause-and-effect relationships. Positivists adhere to the belief in objective truth. Therefore positivist research methods conduct investigations with a preconceived theoretical framework to prove or disprove such connections in social realities. The interpretivist paradigm or constructivist (Creswell & Creswell, 2023) is different from the positivist method in that it does not begin with a preconceived theory. Interpretivists state that people strive to make sense of the world around them and therefore build subjective meaning from their experience. Such meanings are multilateral and nuanced, influenced by the richness of people's interpretations. In interpretivist studies, researchers seek to understand participants' views and develop theories or meaning patterns from these interpretations.

The pragmatic paradigm confronts these views presented by both the positivist and interpretivist paradigms. It suggests that combining the methodologies inherent in these paradigms quantitative for positivism and qualitative for interpretivism can provide a more extensive, valid, and reliable method of understanding phenomena. This integration enables researchers to borrow the strengths of both paradigms while counteracting their respective weaknesses (Romm & Ngulube, 2015). The pragmatic paradigm forms the

theoretical framework upon which mixed methods research performs a confluence of qualitative and quantitative techniques in order to yield more insightful research.

Coupled with the discussions above, the current study was anchored on the pragmatic paradigm because in mixed methods research, researchers depend on both qualitative and quantitative approaches as a means of maximizing a comprehensive understanding of the research problem that, as such, understands how the members of the community apply indigenous knowledge in solving disputes within a given context. Therefore, it is pragmatism that gave this mixed method research the scope and methodological integration necessary for the proper combination of qualitative and quantitative approaches as it aspired to develop sound and action-oriented findings.

3.4 Research Design

Research design is defined as the whole process of conducting research from the conceptualizing a problem to writing research questions on to the data collection, analysis, interpretation and report writing (Creswell & Creswell, 2018). The author emphasizes that, the integration of quantitative data offers breadth and generalizable patterns with qualitative data giving out depth, context and meaning. Also mixed methods enhance validity through triangulation where multiple data sources helps in verifying findings, reducing bias and increasing credibility. The study adopted a mixed-method research design since it involved the use of more than one approach in data collection enabling the researcher to capture statistical prevalence through structured data from

questionnaires and the cultural meaning and mechanism through focus group discussion which yields a rigorous and holistic understanding of the study.

Mixed methods research combines the use of qualitative and quantitative data collection techniques from simple, concurrent forms to more complex and sequential forms. A mixed methods research design may use a deductive or inductive approach to theory development which provides a richer and more comprehensive response to the research question in comparison to the use of a mono-method design (Creswell & Creswell, 2018).

Mixed Method research design is used when there is need to conglomerate both qualitative and quantitative technique to get rich data (Romm & Ngulube 2015). Mixed method research design was used to eradicate partiality of using either quantitative or qualitative to help obtain a much more comprehensive and accurate picture as possible. Researches that have used mixed method research design generally employ a combination of different types of data collection methods where both qualitative and quantitative data is needed to provide a comprehensive and broad-based research (Ngulube, 2015). The purpose of this study was to develop a framework for institutionalizing indigenous knowledge systems in dispute resolution mechanism. In doing this, there was need to gain a deeper, detailed understanding of the problem out which a sound framework could be developed; therefore, need to triangulate the data collections techniques to yield both qualitative and quantitative data which compliments each other hence deepening and clarifying findings for the study.

3.5 Study Area

Kajiado County is adjacent to the Capital City of Kenya, Nairobi. Kajiado County consists of several administrative districts; Kajiado Central, Isinya, Loitokitok, Magadi, Mashuru, Namanga and Ngong. Kajiado's County neighbours include counties of Machakos, Makueni, Narok, Taita Taveta and Kiambu counties. Here are a few towns found in the county – Ngong, Kitengela, Ongata Rongai, Kiserian, Kajiado, Loitokitok, Namanga, Isinya, Sultan Hamud and Ilbisil. Kajiado County has a total population of 1,117,840, where the female population accounted for 50.1 per cent while the male population was 49.8 respectively (The Kenya Population and Housing Census of 2019).

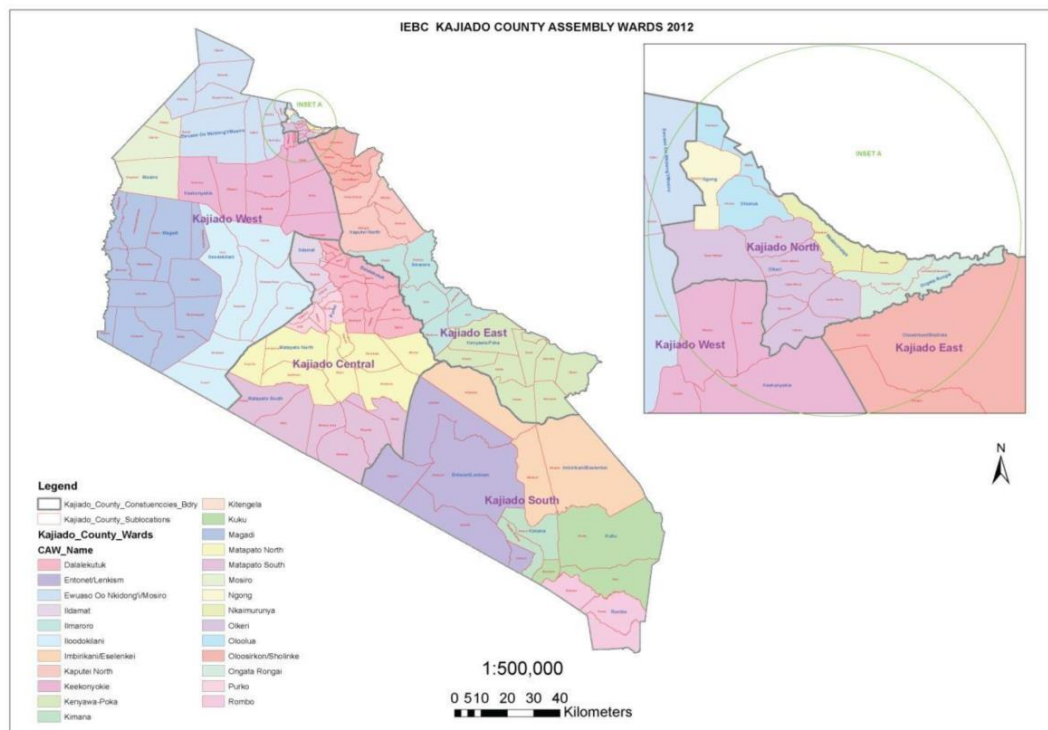


Figure 3.1: Map of Kajiado County Showing Sub-counties (Constituencies).

3.6 Target Population

The population comprised of 5,202 individuals who are 75 years and above (including 55 locational chiefs, and 116 deputy chiefs) (KNBS, 2020). These members were over 75 years born before the 1950s had institutional knowledge of indigenous practises and are more likely to have applied the IDR mechanism regularly in their lives and have attended such IDR mechanism and thus hold the institutionalized communal knowledge on IDR and can be said to be custodians of the said IDR mechanisms. The target population was illustrated in table 3.1 below

Table 3.1: Target Population Distribution based on Age

Age group	Isinya (M)	Isinya (F)	Kajiado West (M)	Kajiado West (F)	Loitokitok (M)	Loitokitok (F)	Mashuuru (M)	Mashuuru (F)	Sub-total
75-79	133	152	336	381	416	466	132	111	2,127
80-84	65	91	198	287	265	339	79	93	1,417
85-89	26	57	116	144	161	197	47	50	798
90-94	10	23	58	88	59	103	29	24	394
95-99	6	22	37	57	46	70	15	24	277
100+	4	9	21	62	22	33	16	22	189
Total	244	354	766	1019	969	1208	318	324	5,202

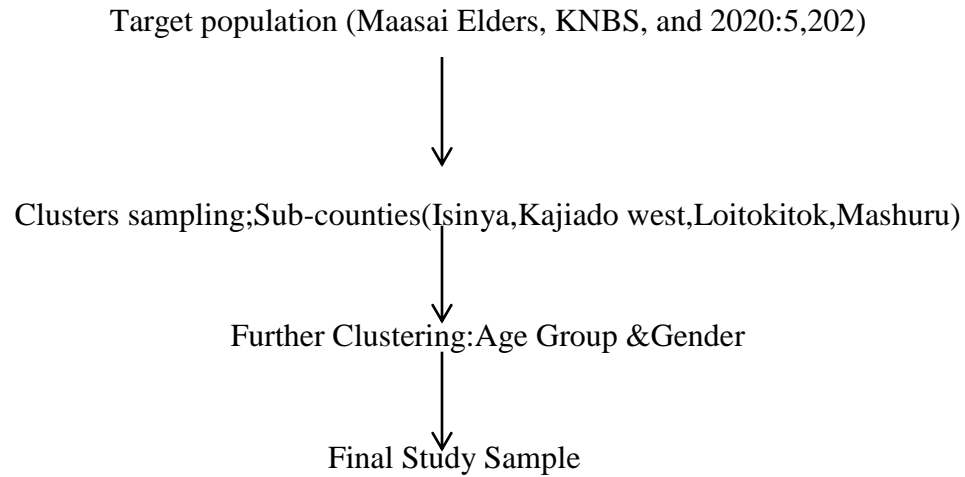
Source: Kenya National Bureau of Statistics [KNBS] ,(2022)

3.7 Sampling Technique

A multistage approach was applied; incorporating purposive and clustered techniques to obtain the study population. Multistage sampling is a sampling approach where the population is divided into groups or clusters for one to carry out the research. During this sampling method, significant clusters of the selected people are divided at various stages to make it easier for primary data collection. The population under study was categorized into clusters in form of sub counties and then further into age groups and gender. The research utilized a purposive sampling method where the selection of people or items is consciously carried out on the basis of pre-established criteria for the acquisition of indigenous knowledge. The people selected may reasonably have been expected to be aware of the IDR mechanism by having passed through the experiences and processes themselves, and may even be able to offer outstanding data to the researcher.

Purposive sampling entails selection of subjects who are most advantageously placed or in the best position to provide the information required; it is used to the situation where a researcher already have information about a specific population (Creswell, 2018). Purpose sampling allows a researcher to zero in on individual whom the researcher believes have good ground of information hence critical to the research. The researcher applied judgment to draw a sample. In this case, the research aimed at determining the IDR mechanisms in the community and therefore only individuals above 75 years are capable of providing firsthand information on IDR mechanism since they understand traditional modes of living.

The sampling flowchart is illustrated as follows:



3.8 Sampling Size

Lakens (2022) states that, the logic of using a sample of subjects is to make inferences about a larger population from a smaller sample. In this study, the sample size was derived through the use of the formula below (Yamane, 1967).

$$n = \frac{N}{1 + N(e^2)}$$

Where n is the desired sample size, N is the entire population and e is the margin of error (which is 0.05).

$$n = \frac{5,202}{1 + (5,202)(0.05^2)} = 371$$

In this case, the resulting sample size, n , which is 371 individuals, was sampled based on a multi-stage sampling technique.

The choice of the formula was informed by Miles et al (2019) arguments that, Yamane formula remains valuable alongside more modern approaches; and it allows researchers to quickly estimate sample size without the need to complex calculations, which can be especially beneficial in time sensitive research project. Garg (2020) further adds that, the formula provides the correct representative sample size particularly in studies with large population where other methods might results in unnecessarily large sample size; therefore, the formula takes into account the size of the population to ensure that the sample size is sufficient for making reasonable statistical inferences.

Because qualitative research is guided by the saturation point during their data collection; saturation poses a significant challenge when selecting a sample size in qualitative research. According to Mason (2020), saturation is the point at which the data collection process becomes redundant as there is no longer new information that can collect. Based on the suggestions by Dworkin (2012), the study sampled a minimum of 25 individuals and a maximum of 100 individuals. Saturation depends on many factors such as heterogeneity or homogeneity of the population, the selection criteria, and key population stratifies. Because of saturation, the sample size of > 100 elements leads to redundancy, the study included the National Government Administrative Officers (NGAO) (Chiefs and Deputy Chiefs) as administrators/moderators of the community IDR mechanisms who are involved in the execution of the IDR mechanism in their locality and thus provided a deeper understanding of the application of IDR processes in the ground.

3.8 Data Collection Instruments

The study used the triangulation technique which involves several research instruments which included; focus group discussion, questionnaires and documentary analysis through literature reviews. Triangulation is a multi-method which uses qualitative data to help explain relationships between quantitative variables. The use of more than one method in data collection helps in complementarity which unites the strategies that allow for the merging of different aspects of an investigation (Saunders et al., 2016).

3.8.1 Focus Group Discussion

This was the main method for collecting data for the study and involved discussions in social units with more than one individual or a cohort of individuals sharing similar diagnostic conditions. The focus group discussion was used in the study to explore the topic, and their collective experience with issues touching on communal IDR and was administered to 200 elders and community leaders in different localities. The FGD was only administered to community and opinion leaders in the administrative locations in the targeted sub-counties.

3.8.2 Questionnaire

This method involved discussions in social units with more than one individual or a cohort of individuals sharing similar diagnostic conditions. The questionnaire was administered by research assistants to the 171 deputy chiefs and chiefs in Kajiado County to avoid apathy associated with self-administration. The instrument was slatted into four sections touching on the utilization of indigenous knowledge in dispute resolution, the

effectiveness of the IDR mechanisms, the influence of mechanisms of non-state actors and the integration of IDR mechanisms. Both the open ended and closed-ended questionnaire was administered to the deputy chief and chiefs of respective administrative locations in the targeted sub-counties.

3.9 Validity and Reliability of the Instruments

Prior to collecting data for this study, the research instruments were tested to ensure the validity and reliability of the tools used.

3.9.1 Validity of the Research Instruments

Validity refers to how accurately an instrument measures what it is intended to measure, ensuring that it poses questions that are precise and relevant. Content validity ensures that an instrument adequately covers the dimensions of the constructs being assessed (Saunders et al., 2016). In this study, Content validity was established through a thorough review of literature and consultations with expert supervisors in the field of Information Science. As content validity (face validity) is subjective, experts from the school assisted in refining the study's focus, determining the items to be included in the instrument, and selecting appropriate scales. Thus, this study employed content validity to assess how well data collected with a specific instrument represented the relevant indicators or content of particular concepts.

3.9.2 Reliability of the Research Instruments

The reliability of an instrument refers to its ability to produce consistent results or data across repeated trials. The concept is therefore actualized through numerous trials to test

the reliability of a research instrument and help determine whether the results can be replicated. Once a measure is repeated more than once on the same subject at a later date, stability reliability, which is the agreement of measuring instruments over time is established, without the capacity to use research tools and process that yield constant measurements, the study will find it hard to draw conclusions or make claims about the generalization of their research. When adequately actualized as a process in research undertakings, reliability assists in the determination of internal consistency, data interpretation and prediction of the value of scores.

In order to determine reliability of research instruments, the study used the retest method as proposed by (Cresswell & Miller 2000). The process was undertaken through pilot survey. This was a process in which a study was conducted on the same individuals and the results subsequently evaluated. During piloting, reliability of the test items in the instruments was checked by finding Cronbach's alpha. The purpose of piloting was served before the main research started; its primary role was to establish the reliability of the data obtained as accurate results. In short, the pilot study was used to validate and confirm the research instruments' reliability. Hennink, Hutter and Bailey (2012) argue in favor of a pilot study because it is difficult to anticipate how the interviewees will interpret the questions in the interview guide or respond to the questionnaires. The study thus conducted a pilot survey for this study. Moreover, the pilot study process assisted the researcher to: Check if the questions met the overall requirement of the study; improved the design of the research by availing the opportunity to apply the principles of reliability

and validity of the research instruments and lastly evaluated the potential outcomes of the research

The Pilot study was conducted in the same region where the questionnaires was administered to 20 opinion leaders who did not participate in the main research process and a focus group discussion was carried out on 10 members aged 60-70 years who takes part in the active leadership position in Maasai community in Kajiando county, and in one way or another they have been involved in solving disputes using indigenous methods. Thirty (37) respondents were utilized in piloting, the choice of 37 representative participants were informed by 10% rule which is widely acknowledged guideline for determining pilot sample sizes, first suggested by Treece and Treece (1982) and later reinforced by Connelly (2008). This approach suggests that the sample size for a pilot should constitute approximately ten percent of the intended sample for the full study where such a proportion is commonly considered sufficient to detect potential problems in data collection, evaluate the clarity of instruments, and identify logistical challenges without unnecessarily depleting resources intended for the main investigation. Menon et al. (2021) and Alhejaili et al. (2022) relied on the 10% principle in their health and social science studies and concluded that it effectively highlighted flaws in their survey instruments and participant recruitment methods. Lawal (2022) corroborated this finding in management and social science work, reaffirming the 10% benchmark as a practical guideline whenever pilot studies are oriented toward confirming the reliability and validity of measuring tools. Together the three studies underscore that the 10% standard continues to be both a manageable and intuitively accepted criterion across a range of

academic disciplines. Therefore the sample size of this study was 371 respondents of which 10% resulted to 37 representative participants who were then used in the piloting process.

After piloting, results of both questionnaires and focus group discussion were cross-checked with field experts or supervisors. Pilot study data were utilized to compute Cronbach's coefficient alpha to verify the instrument reliability. This was computed using reliability command in SPSS to derive reliability statistics. The finding indicated a coefficient of reliability as 0.712. Cooper & Schindler, (2014) indicate that for an instrument to qualify as reliable, it must be above 0.70; from the results therefore, the tool was reliable hence it was adopted for use in the study.

Table 3.2: Cronbach's Alpha Coefficients for Study Variables

Variable	Number of Items	Cronbach's Alpha
Utilization of Indigenous Knowledge in Dispute Resolution	6	.701
Effectiveness of Indigenous Dispute Resolution Mechanisms	7	.709
Role of Non-State Actors in Indigenous Dispute Resolution	5	.716
Framework for Institutionalizing Indigenous Knowledge Systems	6	.722
Validation of Developed Framework	4	.714
Overall Reliability Coefficient	28	.712

3.10 Data Collection Procedures

The data collection procedure was predominantly primary and was principally through the use of focus group discussion and questionnaires. The data was collected procedurally in several phases. In the first phase, the researcher conducted a reconnaissance visit of the study area to familiarize oneself with the research area and to acquire some institutional-level data that would be used to refine the research project. The second phase entailed formal engagement with the communities and acquiring a research permit from the appropriate authorities, National Commission for Science, Technology and Innovation (NACOSTI) and Kajiado County commission office.

The third stage entailed the definite data collection procedure. In this phase, the researcher himself secured the services of two researcher assistants who were part of the process. The researcher then trained the research assistants on the formalities, ethical considerations and procedures of the data collection procedures before formally commencing the data collection.

3.11 Data Presentation and Analysis

3.11.1 Qualitative Analysis

Focus group discussion yielded qualitative data from audio-visual recording and shorthand. Data transcription mechanisms were adopted to translate the unstructured data into expressive information. The process involved several steps which include: The researcher employed translators during the data collection process to decrypt and provide meanings of the terms used by the respondents and thereafter translate them into either

English/Swahili language which could be easily adopted. In this instance, the researcher used one educated local as a research aide and a research assistant to record and documents the proceedings of the focus group discussions. Once, the process was completed the researcher employed a typist to transcribe the report of the focus group discussions. There was no standardized technique for analysing qualitative data but the study used summarizing (condensation); categorization (grouping) and structuring (ordering) of meanings using narrative and thematic analysis. In this instance, narrative analysis was used to describe in verbatim the existing indigenous dispute resolution mechanisms among Maasai communities in Kajiado County.

3.11.2 Quantitative Analysis

Descriptive statistics and simple regression analysis were employed to calculate data and make general observations regarding data on the correlation between indigenous dispute resolution and formal judicial mechanism. The descriptive techniques employed were frequency distribution, mean and standard deviations. To describe the rate of respondents, the study used the frequencies in the form of percentages while the presentation of the descriptive analysis of the study variables utilized mean and standard deviations (measures of central tendency) .The output from the analysis was presented in tabular and pictorial formats.

3.12 Ethical Consideration

Ethics is the art of conforming to the concept of right; with highly ethical behavior characterized as right, just and acceptable. Ethical values are highly susceptible to an

individual's moral standards and are further based on the social or cultural acceptability of behavior. Sound research is a moral and ethical pursuit that focuses on the protection of a participant's welfare from possible harm during the process of research. Ethical concerns surrounding research relationships, data usage, and interpretive and analytical methodologies continued to gain importance as research methodologies evolve. Creswell (2013) emphasized that researchers need to anticipate and plan for ethical issues that may arise during the planning and design phases of research studies.

According to Creswell (2017), it is advised to evaluate ethical concerns throughout different stages of the research process: Before commencing the study, at its initiation, during data gathering, throughout data analysis, and when publishing research outcomes. Creswell (2017) argued that, before initiating a study, it is recommended to secure necessary permissions for conducting research. Additionally, researchers should review relevant professional standards and regulatory requirements that could affect the study. For this study, authorization for research was obtained from the National Commission for Science, Technology, and Innovation, which is responsible for approving research conducted in Kenya (NACOSTI). At the start of data collection, the researchers communicated the research objectives, Creswell (2013) emphasizes that disclosing the study's purpose is crucial for ensuring voluntary participation and preventing undue stress on participants. In this study, participants were engaged by initially outlining the research objectives and then scheduling data collection interviews either through face-to-face meetings or phone calls.

It is recommended that participants should not be misled during the actual data collection process; therefore, the researchers obtained informed consent from participants in order to minimize disruptions to their daily routines. In this study, the researcher ensured minimal interference with the schedules of participants by scheduling interviews in advance. At the beginning of each interview session, the researcher clarified the study's objectives and the type of information being sought. When analyzing and presenting research findings, the researcher avoided disclosing information that could harm participants or lead to plagiarism, and the privacy of respondents was maintained and respected. In this study, confidentiality of participant identities was strictly maintained, and efforts were made to uphold their privacy. The research report was screened through anti-plagiarism software, DrillBit to check the similarity index.

3.13 Test of Assumptions

To ensure the stability and robustness of the study results when developing a framework for institutionalizing indigenous knowledge systems in dispute resolution among the Maasai community in Kajiado County, Kenya, several key assumptions were tested:

1. **Cultural Suitability:** It was essential to verify if the framework respected and aligned with Maasai cultural norms, values, and traditions. This was accomplished by consulting with community elders, leaders and members to confirm that the proposed methods for integrating indigenous knowledge into dispute resolution is culturally appropriate and accepted.
2. **Efficacy in Resolving Disputes:** The effectiveness of the framework in resolving disputes within the Maasai community was tested. This entailed conducting pilot

studies or simulated scenarios where the framework was applied to actual or hypothetical disputes. This testing was to assess how well the framework facilitated resolution, consensus building, and the restoration of harmony among involved parties.

3. **Sustainability and Long-term Impact:** Assumptions concerning the sustainability of the framework and its lasting impact on community cohesion and conflict resolution practices needed verification. This involved longitudinal studies or ongoing evaluations over an extended period to determine whether the framework induced enduring changes in dispute resolution practices and enhances community resilience

By empirically testing these assumptions were engaged deeply with the Maasai community in Kajiado County, the study aimed to ensure that the framework is not only theoretically robust but also practical, culturally sensitive, and capable of delivering meaningful and sustainable improvements in indigenous dispute resolution mechanisms.

CHAPTER FOUR: RESULTS AND DISCUSSION

4.0 Introduction

This chapter delved into the outcomes of the research on institutionalizing indigenous knowledge system in dispute resolution mechanisms within the Maasai community of Kajiado County, Kenya. The data used for analysis was collected using focus group discussion (200 local elders) and 55 locational chiefs and 116 locational sub chiefs. The focus group discussion was based from open ended questions and the questionnaires were semi structured; both the questions had prepared and tested (Appendix II and III).

The research findings offered a nuanced understanding of how indigenous systems are utilized, their effectiveness relative to formal mechanisms, the role of non-state actors, and the potential for institutionalizing these systems within formal frameworks. Indigenous knowledge systems serve as culturally rooted practices that address societal challenges. This research bridged the gap between traditional and modern dispute resolution, shedding light on the integration of culturally significant practices with formal judicial systems. Moreover, it explored the practical aspects, including strengths, limitations, and community perceptions, to develop actionable frameworks for policy and implementation. Key highlights of the discussion included the depth of community engagement in indigenous practices, comparative analysis of outcomes between traditional and formal systems and the role of non-state actors. The chapter concluded by presenting a validated framework that underscores the importance of preserving cultural heritage while modernizing practices for broader application. This chapter not only

contextualized the research outcomes but also provided a roadmap for the sustainable integration of indigenous practices into Kenya's legal landscape.

4.1 General Information

The following section focused on the details of the respondents including their distribution across four sub counties, their age and gender. The section also endeavored to ensure that the study attained the required measure of validity and reliability that would qualify it for replication in other research.

4.1.1 Respondent Distribution

The study intended to do an interview inform of focus group discussion with 200 elders who were purposively drawn from Iikaputiel Sub clan (Red cow) from Isinya Sub County accounting for 70 (19%) of the total number of the respondents. Orak Kiteng' (Black cow) from Kajiado West Sub County accounting for 60 (16%) of the total respondents and Odomong'i clan (Red cow) from Loitokitok Sub County accounting for 70 (19%) from the total respondents. The remaining 46% of the total respondent were distributed among the NGAO community in the following manner: Isinya Sub County had (9 location and 21 Sub- location) representing a total of 30 chiefs and sub chiefs accounting for 8% of the total respondents; Kajiando West had (16 locations and 36 Sub locations) representing a total of 52 chiefs and Sub chiefs accounting for 14% of the total respondents; Loitokitok Sub County had (19 locations and 39 Sub locations) representing a total of 58 chiefs and Sub chiefs accounting for 16% while Mashurru Sub County had (11 locations and 20 Sub-locations) representing a total of 31 chiefs and

sub chiefs accounting for 8 % of total respondents. The representation of the distribution of the respondent is shown in table 4.1 and 4.2 below

Table 4.1: Respondent Distribution by local Elders (n=200)

Clan	Frequency	Percent (%)
Iikaputiel Sub clan(Red cow)	70	35
Orak Kiteng'(Black cow)	60	30
Odomong'i clan (Red cow)	70	35
Total	200	100

Source: Field Data, (2024)

Table 4.2: Respondent Distribution by NGAO Leaders (n=171)

Sub County	Location	Sub location	Frequency	Percent (%)
Isinya	9	21	30	17.5
Kajiando West	16	36	52	30.4
Loitokitok	19	39	58	34
Mashuruu	11	20	31	18.1
Total	55	116	171	100

Source: Field Data, (2024)

In distribution among the respondents by gender was in two categories. Category one consisted of 312 (84.1%) of the respondents who were male while the other category consisted of 59 (15.9%) who were female. From this information, it was clear that male were mostly involved when it came to dispute resolution process as shown in table 4.3 below:

Table 4.3: Respondent Distribution by Gender (n-371)

Gender	Frequency	Percent (%)
Male	312	84.1
Female	59	15.9
Total	371	100

Source: Field Data, (2024)

4.1.2 Response Rate

The study was conducted in Kajiado County, Kenya; a region predominantly inhabited by the Maasai community and targeted 371 respondents using Yamane's (1967) and multi-stage sampling criteria. The response rate from the administered questionnaires from the NGAO community (Chiefs and Sub Chiefs) was 129 respondents which accounted for 75% of the total respondents. The representation of the distribution was as follows: Isinya Sub County accounted for 21(16%) of the total number of respondents; Kajiando West Sub County accounted for 43(33%); Loitokitok Sub County, the response rate was 48(37%) while Mashurui Sub County accounted for 18(14%) of the total number of the respondents.

The above response rate was complimented by five focus group discussion of 13 members each, accounting for (65) running across three main clans i.e Ikeputiel sub clan (Red Cow); Orak Kiteng' sub clan (Black cow) and Odomong'i sub clan (Red cow). The Researcher chose five focus group discussions because qualitative research is guided by the saturation point during their data collection. According to Mason (2020),

saturation is the point at which the data collection process becomes redundant as there is no longer new information that can collect.

The 129 respondents who participated in filling the questionnaires from the NGAO community were joined by feedback from focus group discussion (65). Exact data collection from these respondents created a complete diagnostic view of dispute resolution customs in Maasai Community.

From the distribution among the respondents by gender among the NGAO community, the study engaged 100 (78%) male and 29(22%) female participants, all of whom demonstrated a cooperative attitude throughout the research process. Respondents were actively involved in community affairs, with all serving as chiefs and assistant chiefs, or members of the National Government Administration Officers (NGAO). Their willingness to share experiences and perspectives provided valuable insights into the effectiveness and sustainability of traditional dispute resolution methods. While in Focus group discussion, the gender was one (Male dominant species) due to their rich culture and beliefs that men are positioned in making decisions unlike women hence they comprised the council of elders. Furthermore older men occupy leadership roles when acting as arbitrators but women and younger people receive advisory or consultative responsibilities. Several community members, such as elders and local leaders, together with National officers (NGAO), occupied leadership positions and connected traditional legal systems with formal institution. The participant's substantial conflict resolution

roles ensured the research presented genuine insights about indigenous dispute resolution systems success rates and operational difficulties.

4.2 Utilization of Indigenous Knowledge System in Dispute Resolution Mechanisms

The study sought to understand if there was utilization of indigenous knowledge system in dispute resolution among the Maasai community of Kajiando County, Kenya. This was realized through interrogating various aspects such as: Disputes commonly resolved using indigenous methods; traditional practices or rituals involved in dispute resolutions; key individuals involved in resolving disputes through indigenous mechanisms and how often are disputes resolved through indigenous dispute resolution mechanisms

Indigenous knowledge systems (IKS) are deeply rooted in the traditions, customs, and socio-cultural practices of communities. They offer a wealth of methodologies for resolving disputes, many of which are designed to maintain harmony and uphold societal values. These systems have evolved over centuries, addressing diverse conflicts within communities. The types of disputes resolved using indigenous methods include land boundary disputes, family conflicts, human-wildlife conflicts, gender-based violence, irrigation disputes, petty theft and cultural offenses. The resolution mechanisms typically involve elders, local leaders, and community groups who employ traditional practices and rituals such as fines, spiritual cleansing, peace meetings and communal meals.

In many African communities, indigenous dispute resolution mechanisms (IDRs) operate as grassroots systems that prioritize restoration, reconciliation and communal well-being

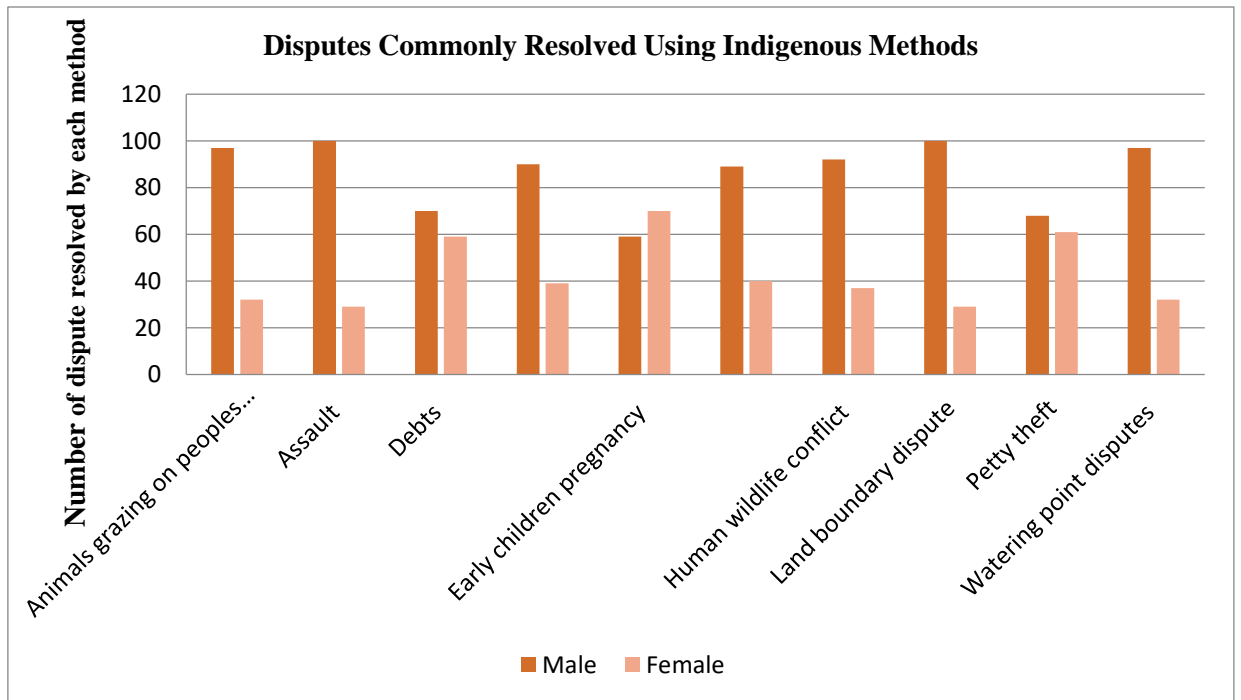
over punitive measures. These mechanisms are particularly prevalent in rural and marginalized areas where formal judicial systems are inaccessible or unaffordable. This section explores utilization of indigenous knowledge system in dispute resolution through the types of disputes addressed by IDRs, the individuals involved in the processes, and the cultural practices that sustain these systems.

4.2.1 Disputes Commonly Resolved using Indigenous Methods

Field data on the utilization of indigenous knowledge in dispute resolution provided valuable insights into the effectiveness and resilience of traditional mechanisms in maintaining social harmony. The researcher used focus group discussion with key community members who are elders and local leaders directly involved in resolving disputes using indigenous methods for both male and female residents of Kajiando County and the response was summarised in the table 4.4 and figure 4.1 below:

Table 4.4: Disputes Commonly Resolved Using Indigenous Methods

Type of dispute	Male	Female
Animals grazing on peoples crops	97	32
Assault	100	29
Debts	70	59
Disputes in the irrigation schemes over water	90	39
Early children pregnancy	59	70
Family disputes in form of Gender Based Violence	89	40
Human wildlife conflict	92	37
Land boundary dispute	100	29
Petty theft	68	61
Watering point disputes	97	32



Source: Field Data, (2024)

Figure 4.1: Disputes Commonly Resolved Using Indigenous Methods

Out of Five focus groups conducted, four of them unanimously agreed that indigenous dispute resolution mechanisms not only provide effective and culturally resonant solutions but also reinforced community bonds through their participatory nature. Some of the response recorded included:

“When we resolve conflicts through our traditional ways, we are not just fixing a problem between two people—we are healing the community's soul. The ceremonies, the shared meals, the blessings—these are not empty gestures but sacred acts that restore harmony not just between people but between us and our ancestors who watch over us.” [Respondent 1]

"Our ways are being forgotten!" exclaimed [Respondent 2], pounding his walking stick on the ground. "When the young people run to courts with papers written in languages our ancestors never spoke, they tear at the fabric that has held us together for generations. These courts do not understand our land, our cattle, and our families. They give judgments, yes, but not justice—not peace."

One of the groups also recounted a recent land boundary dispute between two families that had persisted for years, leading to heightened tensions and hostility. Through the intervention of community elders, a resolution was reached by revisiting historical agreements, consulting lineage records, and engaging both families in a traditional peace ceremony. The process culminated in a communal meal where both parties symbolically shared food signifying the restoration of harmony. The participants emphasized that such practices deeply embedded in Maasai traditions offers a sense of closure and social accountability that formal legal systems often lack. This collective endorsement of indigenous mechanisms highlights their ability to not only resolve conflicts but also preserve cultural heritage and reinforce social cohesion in a way that modern judicial systems struggle to replicate.

The responses as shown in table 4.4 and Figure 4.1 highlighted the extensive reliance on indigenous knowledge to resolve a variety of disputes, including land boundary disagreements (100 male, 29 female), family conflicts involving gender-based violence (89 male, 40 female), and human-wildlife conflicts (92 male, 37 female). Additionally, disputes over animals grazing on crops (97 male, 32 female) and irrigation scheme

conflicts (90 male, 39 female) were also commonly resolved through indigenous methods. Cases of early childhood pregnancy (59 male, 70 female) and petty theft (68 male, 61 female) further illustrate the breadth of conflicts addressed through these mechanisms.

From the findings, it is evident that disputes arising from livestock grazing on crops are common in agrarian and pastoral communities where land serves as a vital resource for both agriculture and animal husbandry. To resolve this disagreement, the application of indigenous method becomes phenomenal which involves resolving conflicts through the mediation by local elders or leaders, this statement was supported by Bernues (2017) who posited that, in such a scenario the procedure commonly starts with the affected farmer presenting their side claiming that they have suffered damage to their crops, to which the livestock owner is afterwards given a chance to defend themselves. The elders ensure that they are using the appropriate community rules alongside historical settlements to come up with the resolution that is fair. It is usually within the community norms that elders bless or share meals with the disputants symbolizing restoration of harmony after issuing compensation which is most customary in livestock, produce or monetized form, as cited by (Genet, 2023). This model, according to Roshis Krishna Shrestha et al. (2024), helps to solve the underlying problem while enhancing communal responsibility and respect among community members. Resolving the problem on the spot permits the use of indigenous techniques which stem the aggravation of conflicts and foster lasting relations between farmers and nomadic herders.

The research findings also showed that the cases of physical assault were addressed through indigenous mechanisms that emphasized restoration and reconciliation rather than punishment. Elders or respected community members mediated these disputes by bringing together the victim and the perpetrator to discuss the incident in a neutral and respectful setting. The process begins with an acknowledgment of wrongdoing by the perpetrator, followed by an opportunity for the victim to express the impact of the assault. Resolutions often involve public apologies, restitution in the form of labor or monetary compensation and symbolic acts such as blessings or communal meals to restore trust. The above findings were in agreement with Roshis Krishna Shrestha et al., (2024) who argued that the involvement of the broader community ensures accountability and reinforced the importance of non-violence as a shared value which focuses on healing and restoring relationships. Indigenous mechanisms provide a culturally sensitive alternative to formal legal systems which may impose punitive measures without addressing the underlying causes of conflict.

Regarding disputes connected to debts, the disputes were settled through community approaches which are restorative and based on consensus. Local guides or leaders talk to the creditor and debtor and allow them to converse freely in the matter, and so the mediator holds discussions. The investigation looked into the circumstances surrounding the debt specifically the unavoidably hard situations that the debtor might have faced. Solutions usually comprise some sort of arranged payment negotiations, repayment through cancellation of debt, or monetary compensation through services in lieu of payment. Forgiveness or meals shared between the parties signify the restoration of peace

and resolution, reinforcing cordial relations in the aftermath of the dispute while marking reconciliation. These findings were in agreement with United Nations Development Programme (2024) which argues that, settling disputes involving debt in this manner fosters trust and cooperation within the settlement systems of the community with the help of voluntary cooperation which serves as a preventive measure encouraging responsible lending and borrowing practices.

The associated conflicts involving water allocation in irrigation systems were reasonably solved through indigenous approaches based on shared responsibility and equal access to resources. Community leaders or elders solved these issues by conducting meetings where all the parties were given an opportunity to speak. Solutions usually came from the formation of community consensus in the drawing of water quota penalties list and water rationing in the designated time table. Some performed ceremonial acts or communal feasting which also helped to reinforce the settlement hence promoting unity. These approaches did not deal with the immediate problem alone but they also nurtured calm sustainable conflict resolutions and cooperation. In agreement with Mirzaei & Zibaei (2021), these findings show how traditional practices blended with practical resource management frameworks strengthens indigenous systems in solving water challenges from sociocultural perspective.

With regard to the disputes pertaining early adolescent pregnancy, the study findings showed that the dispute was solved using community structures with the processes emphasizing on accountability, support and restoration. The community leaders or elders

mediated this dispute by pulling together the families of the people in question into the argument in order to reach a consensus. This argument was supported by Keddell et al., (2021) who argued that the resolution structures to arrive at the solution of resolving disputes arising from early adolescent pregnancy always entailed discussions about responsibilities, such as caregiving arrangements or financial support which was accompanied by rituals to signify reconciliation and acceptance. The author further noted that community-based interventions were also based on offering support to the affected persons especially the young mothers to ensure their well-being and re-integration into the society. By ensuring these disputes are addressed in a culturally sensitive way; indigenous mechanisms promoted accountability while fostering understanding and compassion.

As far as violence against women in the family context is concerned, the study findings observed that it was solved through community initiatives which emphasized protection and reconciliation. Respected community members or elders mediated these disputes by easing discussions among the victim and the offender and in most cases the family members must be in attendance. The process entailed accepting the harm caused and the measures to avert the recurrence of the same and also providing support to the affected person. The key resolutions from the mediated process included making apology in public, compensation, or the imposition of fines which were accompanied by symbolic acts such a communal meals to restore harmony and institute blessings. Naime, (2024) and, Rabaan and Dombrowski (2023) defended the above contention by noting that when dealing with the root causes of violence and promoting restorative justice, indigenous

dispute resolution mechanisms provides a culturally sensitive substitute to punitive legal systems.

Conflicts that arose from humans being and wildlife due to crop destruction or livestock predation were determined through indigenous dispute resolution mechanisms which put more emphasis on sustainability and coexistence. The elders or community leaders were given responsibility to mediate these disputes by enabling cordial discussions between the disgruntled parties and in some cases the wildlife management authorities were involved. In most cases the resolutions reached often included compensation or payment for damages, agreed-upon preventive measures which was also accompanied by ritual to promote and cement harmony between human being and nature; symbolic acts, such as blessings or offerings were done to acknowledge the shared space between humans and wildlife. These findings were in agreement with Donatti et al. (2025) and Hemson et al (2025) who argued that by addressing these conflicts in a culturally relevant and sensitive manner, indigenous structures enhance cooperation and long-term strategies for peaceful coexistence.

Concerning land border disputes which stem from land's economic value, the research pointed out how indigenous mechanisms sought resolution through mediated processes conducted by elders, who had historical knowledge of land use and communal treaties. These resolutions often resulted in the marking of borders which all parties consented to testify as agreeing witnesses. Symbolic acts such as sharing communal meals reinforced the agreement and restored harmony among the contested parties. This assertion was

supported by Teman and abebe (2022) who argued that by providing culturally relevant and lasting solutions these mechanisms prevented disputes from escalating and promoted sustainable land management practices.

In regard to Petty theft disputes, the solution was offered through restorative justice practices that put more emphasis on accountability and compensation. The community elders mediated these cases by ensuring cordial discussions between the wrongdoer and the disgruntled party. The resolutions reached often entailed compensation for stolen items, offering public apologies which were accompanied by the symbolic acts such as blessings or sharing meals to signify forgiveness and reconciliation. The community members involved ensured that the wrongdoer is held responsible while also promoting reintegration and trust. Fulham (2023) agreed with this assertion by indicating that, focusing on restoration rather than punishment, indigenous mechanisms promote social cohesion and deter future offenses on petty theft disputes.

Both the NGAO community and Local leaders emphasized the restorative nature of indigenous dispute resolution mechanisms which prioritize reconciliation over punitive measures. Their insights revealed the role of community elders and respected leaders in mediating conflicts through traditional rituals such as peace meetings, fines, communal meals, and spiritual ceremonies. A key strength observed among the respondents was their nuanced understanding of cultural norms and historical agreements which serve as the foundation for fair and sustainable resolutions. These findings were in agreement with Omotayo, (2021) assertion that the ability of the elders to mediate disputes while

ensuring communal cohesion underscores the effectiveness of indigenous approaches in maintaining peace. These findings affirmed the relevance of indigenous dispute resolution mechanisms in contemporary society, particularly in rural and marginalized communities where formal judicial systems remain inaccessible or impractical.

4.2.2 Traditional Practices or Rituals involved in Dispute Resolutions

The study sought to understand the practices or rituals involved in dispute resolutions among the Maasai community in Kajiando County where by traditional dispute resolution practices are deeply embedded in indigenous communities serving as vital mechanisms for maintaining social harmony. The research examined the various methods utilized in dispute resolution revealing a spectrum of practices ranging from punitive measures to reconciliatory rituals. Data collected from the focus group discussions highlighted the prevalence and effectiveness of these methods in addressing conflicts. From the research findings, exile method of punishment accounted for 8.87% of the responses and 8.87% of cases. This method is often imposed in severe cases where an individual's actions are deemed highly disruptive to communal harmony. While exile effectively removes the immediate source of discord, it carries potential risks of alienation and long-term social fragmentation. Spiritual cleansing and taboos, represented (16.13% of responses and 16.13% of cases) which played a significant role in the reconciliation process. For instance, some of the response recorded included:

“Spiritual cleansing rituals serve as a bridge between the physical conflict and the spiritual restoration needed for true peace.” [Respondent 3]

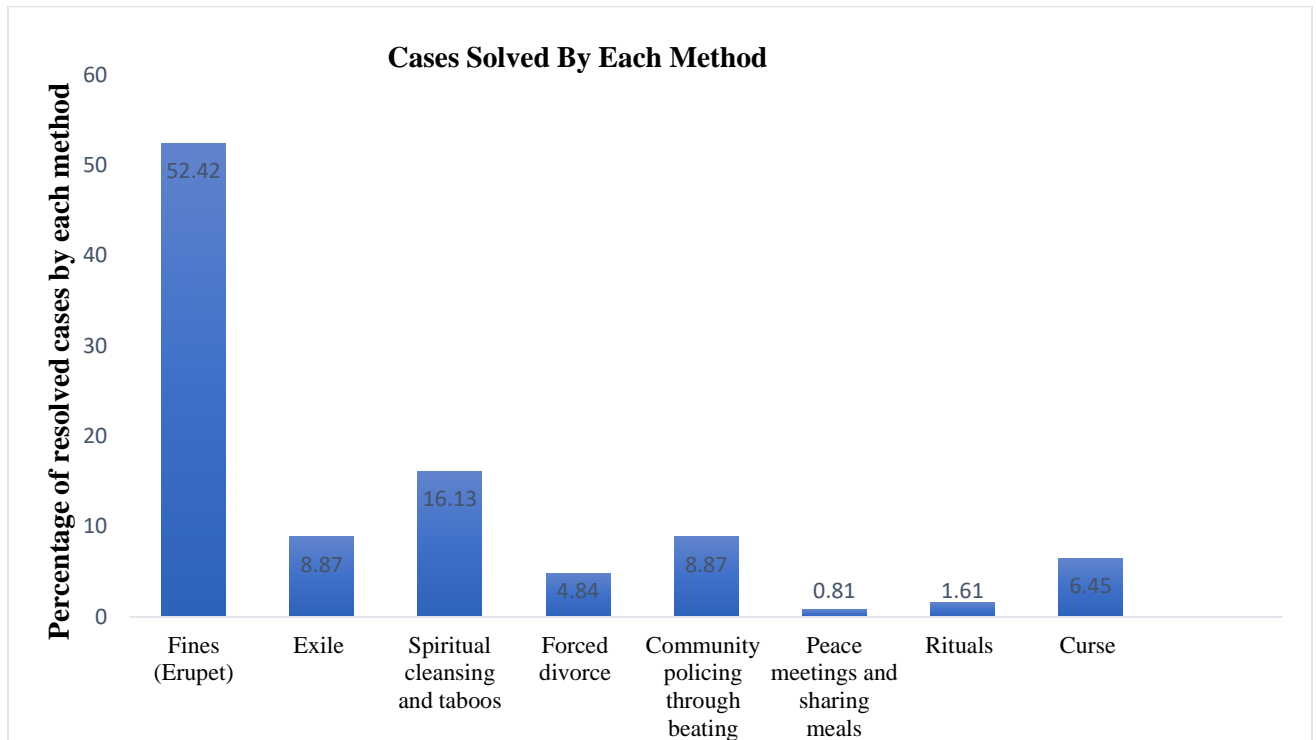
Elders and spiritual leaders facilitated these rituals which often involved prayers, blessings and symbolic acts to restore balance and heal relationships. Similarly, fines (52.42% of responses, 52.43% of cases) served as a form of restitution ensuring accountability while fostering reconciliation. Other notable practices included community policing through public admonishment or physical punishment (8.87% of responses, 8.87% of cases), forced divorce in cases of irreparable marital conflicts (4.84% of responses, 4.84% of cases) and the invocation of curses (6.45% of responses, 6.45% of cases) as a deterrent to harmful behaviour. Although less common, peace meetings and shared meals (0.81% of responses, 0.81% of cases) provide a platform for dialogue and collective healing.

The findings highlighted the cultural significance and effectiveness of indigenous dispute resolution mechanisms particularly in rural and marginalized communities where formal judicial systems remain inaccessible. For instance, some of the respondent alluded that:

*"The world our grandchildren live in is not the same one we were born into. If our ways cannot bend, they will break. We must find the wisdom to preserve what gives life to our community while leaving behind what no longer serves it."***[Respondent 4]**

While fines dominated the landscape, the role of spiritual and symbolic practices underscores the holistic nature of traditional justice systems. However, some practices, such as community policing through beating and the use of curses raised ethical concerns suggesting potential areas for integration with modern legal frameworks to ensure justice

and human rights compliance. This research underscored the continued relevance of traditional dispute resolution methods while highlighting the need for adaptation to contemporary societal values. The research findings are summarized in figure 4.2 below



Source: Field Data, (2024)

Figure 4.2: Traditional Practices or Rituals involved in Dispute Resolutions

From the findings as summarized from figure 4.2 above, monetary fines are a widely accepted method (52.42% of responses, 52.42% of cases) used to compensate aggrieved parties. This practice emphasized accountability while providing restitution ensuring that offenders acknowledge their wrongdoings and restore balance. As Diab et al. (2022) noted these fines are often determined through communal discussions, ensuring fairness and proportionality to the offense. Symbolic acts such as public acknowledgments or

blessings accompany the payment of fines reinforcing reconciliation and communal harmony. Additionally the communal nature of these discussions ensures transparency and strengthens social ties as they serve as a collective validation of justice. The symbolic nature of restitution further instills accountability and a sense of closure for both parties.

Exile, accounted for (8.87% of responses and 8.87% of cases), this method was applied in severe cases where an individual's actions are third highly disruptive. Exile served as both a deterrent and a means of restoring balance without confrontation (Yazew, (2023). While exile can effectively remove the immediate source of discord, it carries the risk of alienating the individual, often exacerbating underlying conflicts if not addressed through rehabilitation measures although this practice gives the community an avenue to regroup and reinstate peaceful coexistence. However, Mégret, (2024) disagreed with the above findings, arguing that, exile to some extent does not resolve the main root causes of disputes among the affected parties which might include deep-rooted grievances or social inequalities; the effectiveness of these process centers on the community's capacity to uphold equilibrium and avert further conflict from arising due to the absence of the exiled party.

Spiritual cleansing is fundamental to the Maasai's dispute resolution process with (16.13% of responses and 16.13%) of cases. Spiritual leaders or elders have been given the responsibility to conduct rituals which involves prayers, blessings, accompanied by symbolic items such as sacred herbs and water to cleanse the acrimony or animosity and to sanctify the resolution process. The presence of these rituals is to instill spiritual

harmony and reaffirm the community's collective obligation to peace by guaranteeing that resolutions made are respected, adhered to, and upheld. This assertion was supported by Murithi (2017) who argues that these practices done during indigenous dispute resolution mechanisms symbolizes the community's intent to leave behind animosities and reinforce social bond, furthermore the symbolic items used in the rituals characterized a spiritual pact among disputants by solidifying their commitment to renewed relationships and reconciliation.

Though less common, forced divorce often occurred in cases of abuse or violence in an intimate relationship, which came to 4.84% of responses and cases from the research findings, this practice put forth the well-being of the aggrieved party while restoring family peace. The elders performed rituals such as returning dowries or performing blessings which accompanied the divorce showing signifying closure and promoting healing for all entities involved. These acts not only symbolized the end of a union but also the restoration of human dignity and communal balance. Forced divorce only happened as a last-resort measuring the gravity of the wrongdoing and the community's determination to advocate for justice and protect vulnerable members.

On matters associated with minors such as defilement, punitive and stringent actions like public admonishment/rebuke, beatings were done to uphold communal norms and values. This method accounted for 8.87% of responses and 8.87% of cases from the research findings; these measures were taken to prevent repeated offenses and emphasized joint accountability and social order. Being supported and enhanced by the vigilance of

community members, this process ensured that disputes do not heighten into larger conflicts while strengthening respect for communal norms and values. Public admonishments was not only serving as punishment to the offenders but also works towards preventive measures by reminding others of the dire consequences of going contrary from the accepted norms and values of the societies. Although controversial, these actions signified the society proactive role in maintaining harmony, peace and social discipline.

In regards to peace meetings and shared meals, the research findings showed that (0.81% of responses, 0.81% of cases) were handled through such a method signifying it was symbolic but infrequent practice. The act of sharing meals signified the reconciliation and restoration of relationships between the disgruntled parties hence showing mutual respect and fostering of communal bonds. Murithi (2017) supported this assertion by arguing that such rituals provided a room for open dialogue demonstrating the parties' commitment to honoring resolutions and rebuilding trust. Additionally the coming together of the community members promoted inclusivity and transparency by involving the larger community members in the resolution process therefore enhancing the legitimacy and acceptance of the outcomes.

Spiritual practices and curses accounted for (6.45% of responses and 6.45% of cases) as seen from the research findings, the use of these practices highlighted the spiritual connotation and symbolic acts involved in dispute resolution using indigenous techniques. Rituals practices such as offering of blessings and communal oaths was used

to propel trust and initiate collective accountability and more significantly leading to binding agreements and emphasizing the cultural importance of resolutions. On the other hand curses were rooted in the belief of spiritual justice, invoked by elders or respected community leaders to prevent harmful behavior and compel accountability. As observed by Tseng (2021), curses serve as a powerful deterrent though it remained controversial and it was typically reserved for severe cases. The use of spiritual practices and curses shows the interplay between spiritual and social dimensions in indigenous dispute resolution mechanisms emphasizing both deterrence and the moral weight of justice.

From the above results and findings, it is evident that the Maasai community is committed to restorative justice, spiritual harmony, and social order through diverse dispute resolution practices and mechanisms. Although fines, spiritual cleansing and taboos dominated, the significance of rituals and symbolic acts highlighted the integration of cultural and spiritual elements in dispute resolution using indigenous techniques. However, the controversial nature of practices like curses and community policing suggests areas that may require adaptation or integration of a framework into formal systems for broader acceptance. These practices showcase the Maasai community's reliance on traditional systems to maintain peace while highlighting opportunities to modernize and institutionalize indigenous mechanisms

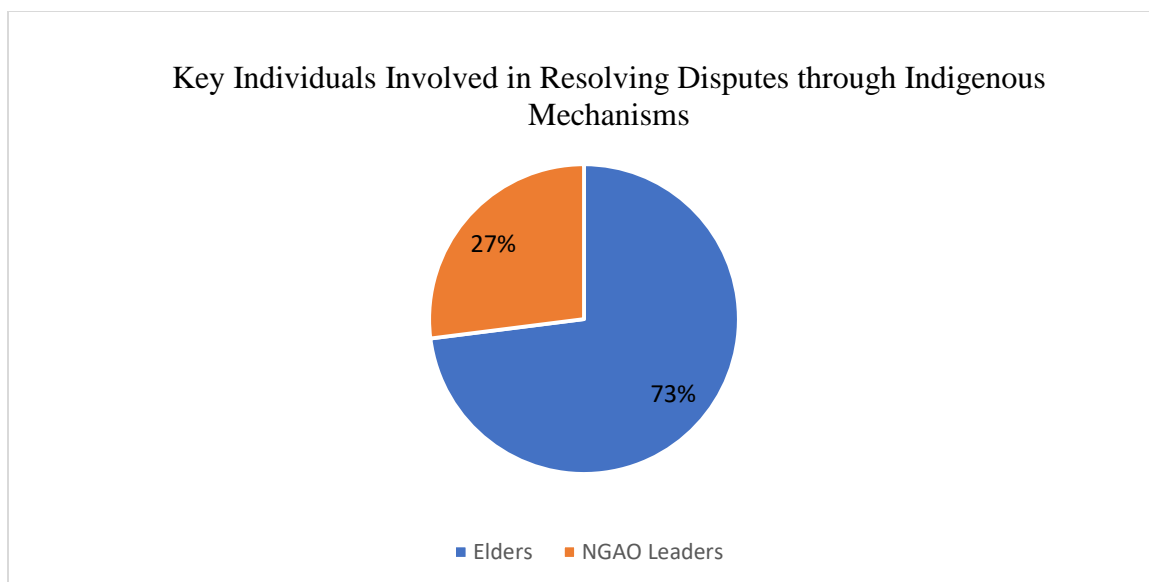
4.2.3 Key Individuals Involved in IDR Mechanisms

Indigenous dispute resolution mechanisms rely on the wisdom and authority of key community figures to mediate conflicts and restore social harmony. From the study findings, it was observed that the central responsibilities taken up by the elders and local leaders in these whole processes revealed the essence and importance of traditional /indigenous authorities in dispute and conflict resolutions. Community elders appeared to be principal figures in matters regarding dispute resolution, accounting for 73% of cases. Their deep understanding and being well vast with cultural traditions, customary laws and historical knowledge makes them to be trusted as mediators who are capable of delivering fair, justifiable and unbiased resolutions. Community elders make use of their experience, knowledge, wisdom and moral authority to facilitate dialogue, execute appropriate remedies and guarantee the restoration of social balance. From the focus group discussion, one of the elders recounted a dispute where they were involved in trying to provide a solution on a marital violence; this was actually to signify the role of elders in dispute resolution of any kind and nature and below is the recording:

‘When I was being beaten by my husband, I sought refuge from the community elders. In the formal judicial courts systems, they would have jailed him or taken him away from me completely, leaving me alone to struggle and meet the needs of our children. Instead, the elders solved the dispute amicably by subjecting him to the disappointment of the community’. He was fined seven goats that would be mine alone as my security. The cleansing rituals were performed and he was made to pledge before members present that he will never raise his hand again on me. This happened five years ago and he has

actually kept his word and agreement, not necessarily because he fears to be jailed but rather he would lose his moral standing in the community and society at large. The shame before his peers was stronger than any cell walls could be." [Respondent 5]

The findings also indicated that local leaders including community representatives and village chiefs played a significant role in 27% of cases mentioned in the study. They played a key role in mediating between disagreeing parties and their sole responsibility was to facilitate accessibility and fairness in the resolution process. The elders plays a critical role especially in cases where administrative coordination is needed like land disputes and community-wide conflicts. The study finding emphasizes the integral role of indigenous or traditional leadership in resolving conflicts in a culturally relevant manner while maintaining social order. As elders remain the foundation of dispute resolution, their contributions provides an indispensable bridge between traditional practices and contemporary governance structures. As communities navigate through the evolving social dynamics environments, the collaboration between elders and local leaders will continue being instrumental in preserving the efficacy of indigenous justice systems. The research findings are summarized in figure 4.3 below:



Source: Field Data, (2024)

Figure 4.3: Key Individuals Involved in IDR Mechanisms

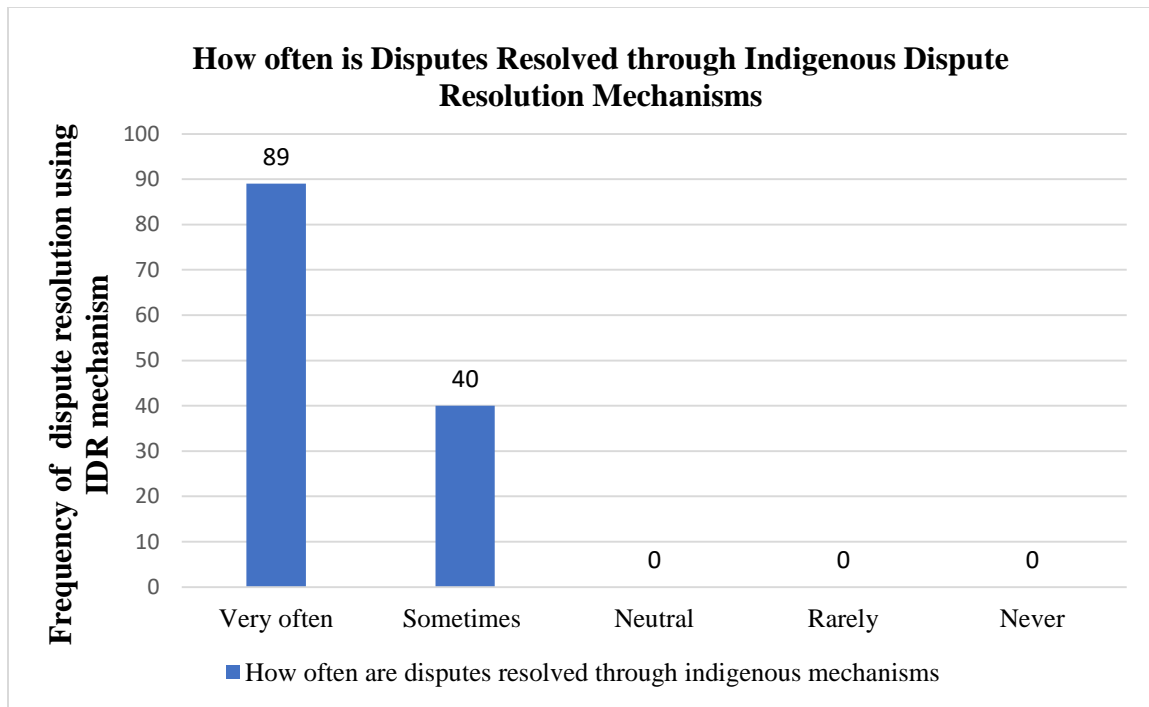
By representing 73% of dispute resolution cases, elders hold a central role in indigenous mechanisms. Their moral authority, cultural knowledge, and impartiality make them trusted mediators. Their role extends beyond mediation; they also serve as custodians of cultural heritage using their wisdom to maintain social order and harmony. Their involvement lends legitimacy to the resolution process, making the outcomes binding and widely respected, these statements were in agreement with Abudho, (2024) and Schetter, (2022) who emphasized that elders were critical components in community dispute resolutions while 27% of local leaders guide the resolution process by drawing on their deep understanding of communal values and formal method of resolution process.

Chiefs, council members and other local leaders provide logistical and organizational support during dispute resolutions. They act as intermediaries ensuring that the processes

are conducted efficiently and that the resolutions are implemented effectively. Their involvement lends additional credibility to the outcomes and bridges the gap between traditional and formal systems. Local leaders also facilitate communication among disputants and mobilize community resources to support the resolution process ensuring that outcomes are practical and sustainable as argued by (Saha, 2024). Additionally, broader community participation is integral to IDRs. By involving multiple stakeholders these mechanisms ensure inclusivity and collective ownership of resolutions. This participatory approach enhances the legitimacy and acceptance of the outcomes fostering a sense of communal unity and accountability. Community members contribute by providing testimony, offering insights into disputes and supporting the implementation of resolutions. Their involvement ensures that resolutions reflect the collective values and interests of the community, reinforcing social cohesion and trust.

4.2.4 How often are Disputes Resolved through IDR Mechanisms

The researcher wanted to understand the frequency with which disputes are resolved through indigenous dispute resolution mechanisms in the surveyed community. An overwhelming majority of respondents 89 (69 %) indicated that disputes were resolved through these mechanisms "very often." Additionally, 40(31%) of the respondents stated that disputes were resolved through indigenous means "sometimes." Notably, there were no responses indicating neutrality, rarity, or absence of the practice. The summary of the findings are shown in figure 4.4 below:



Source: Field Data, (2024)

Figure 4.4: How often is Disputes Resolved through IDR Mechanism

As shown from figure 4.4 above, it is evident that indigenous dispute resolution mechanisms remain highly relevant in modern societies for several reasons. First, they are deeply embedded in cultural contexts making them accessible and acceptable to the communities they serve unlike formal judicial systems which can be costly and time-consuming. IDRs provide cost-effective, timely, and culturally sensitive resolutions. They also focus on reconciliation and restoration rather than punishment which is particularly valuable in close-knit communities where maintaining harmony is crucial as supported by (Ali et al., 2021). Furthermore, the inclusiveness of IDRs is another significant advantage. By involving elders, local leaders and community members, this mechanism ensures that all voices are heard and fostering collective ownership of decisions. This contrasts with formal systems which often alienate disputants through

complex procedures and legal jargon. Furthermore the participatory nature of indigenous dispute resolution enhances their credibility and trustworthiness as resolutions are perceived as fair and unbiased.

Moyo and Chambati (2024) observe that indigenous dispute resolutions are more accessible to rural and marginalized populations where formal judicial systems are often absent or under-resourced. Community members trust these mechanisms because they align with local customs and values, for instance, 89% of respondents in the study reported that disputes are resolved very often through indigenous mechanisms, reflecting their widespread acceptance. However, Muigua, (2024) argues that indigenous dispute resolutions are not without limitations: Their reliance on oral traditions and informal processes can lead to inconsistencies and a lack of documentation. This poses challenges for scaling and integrating these mechanisms into formal legal frameworks. Additionally the absence of standardized procedures may result in variations in outcomes, potentially undermining their effectiveness.

Indigenous dispute resolution mechanisms play a vital role in fostering social harmony and addressing conflicts in culturally relevant ways as argued by (Castro, 2023). They prioritize reconciliation, inclusivity and communal well-being making them invaluable in contexts where formal judicial systems are inaccessible or inadequate. However these systems face challenges in adapting to modern socio-economic changes including urbanization, cultural erosion and the proliferation of formal legal systems. To ensure their sustainability, it is essential to document and formalize these mechanisms without

undermining their cultural significance. Integrating IDRs into formal systems can enhance their effectiveness and broaden access to justice, provided this integration respects and preserves indigenous traditions. As societies evolve the enduring relevance of IDRs lies in their ability to adapt while remaining rooted in the cultural values that define them.

These findings underscore the prevalence and cultural reliance on indigenous dispute resolution systems within the community. The widespread use of these mechanisms reflects their accessibility, efficiency and alignment with community values. It also suggests a significant level of trust and confidence in traditional leaders, elders and local practices to address conflicts effectively. The absence of responses in the categories of "rarely" or "never" further emphasizes the central role of these systems in maintaining social harmony and resolving disputes promptly and equitably. As these mechanisms continue to play a dominant role, they offer valuable insights for integrating traditional practices with modern conflict resolution frameworks particularly in areas where formal judicial systems are inaccessible or underutilized.

4.3. Effectiveness of IDR in Relation to Formal Judicial Mechanisms

The study sought to understand the comparison on the effectiveness of the indigenous dispute resolution and formal judicial mechanisms among the Maasai community of Kajiado County, Kenya. The researcher explored the effectiveness of IDRs, emphasizing community satisfaction levels, case-specific examples, and the broader potential for harmonizing indigenous and formal judicial approaches. From the face value of the

effectiveness of indigenous dispute resolution to formal judicial mechanisms. The respondents from the focus group discussion agreed unanimously that IDR is the best methods of solving disputes for instance some of the records included:

“ Traditional disputes resolution approach is the best choice for the people since it is faster and do not use the long channel of formal courts .We have settled most land family cases within days which could have taken many years courts corridors.”[Respondent 3]

While the data from the chiefs and assistant chiefs showed that 46.6 % of the respondent agreed that indigenous dispute resolution mechanism was very effective compared to formal judicial mechanism, 38.7 % agreed it is somewhat effective while 14.7% disagreed with concept and indicated it is not effective. The findings are summarized in table 4.8 and figure 4.5 below:

Table 4.5: The Effectiveness of IDR in Relation to Formal Judicial Mechanisms

Comparative Analysis	Frequency	Percent of responses
Very Effective	60	46.6 %
Somewhat Effective	50	38.7 %
Not Effective	19	14.7 %
Total	129	100

Source: Field Data, (2024)

From the findings, it is clear that indigenous dispute resolution mechanisms (IDRs) offer unique strengths compared to formal judicial systems particularly in the areas of trust, cost, accessibility, and timeliness. Rooted in cultural traditions and communal practices,

IDRs prioritize restorative justice and reconciliation making them highly trusted by the communities they serve, this assertion was also supported by (Valchuk, 2024) who argues that indigenous methods in dispute resolution is usually effective than formal judicial means of solving disputes. Their cost-effectiveness stems from their reliance on community resources and the absence of formal fees associated with court systems. Additionally IDRs are widely accessible especially in rural and marginalized areas where formal judicial infrastructure may be limited. Their informal nature allows disputes to be resolved swiftly often within days compared to the lengthy procedures characteristic of formal systems. By fostering communal trust and engaging respected community figures like elders and local leaders, IDRs ensure resolutions are impartial and culturally sensitive. Moreover these mechanisms encourage active participation from all involved parties which enhances legitimacy and acceptance of outcomes. However despite these advantages, IDRs face notable challenges including lack of documentation and standardization which can hinder their scalability and integration with formal systems.

From the general statically comparison of IDRs effectiveness using logistic regression model, the findings were as follows as depicted in table 4.6 below

Table 4.6: Indigenous Dispute Resolution Effectiveness

Variable	Coef.	Std. Err.	z	P>z
Satisfaction level	1.2470	0.3120	3.9900	0.0000
Trust level	0.8240	0.1980	4.1600	0.0000
Accessibility	-1.8920	0.4560	-4.1500	0.0000
Gender	0.3450	0.2340	1.4700	0.1410

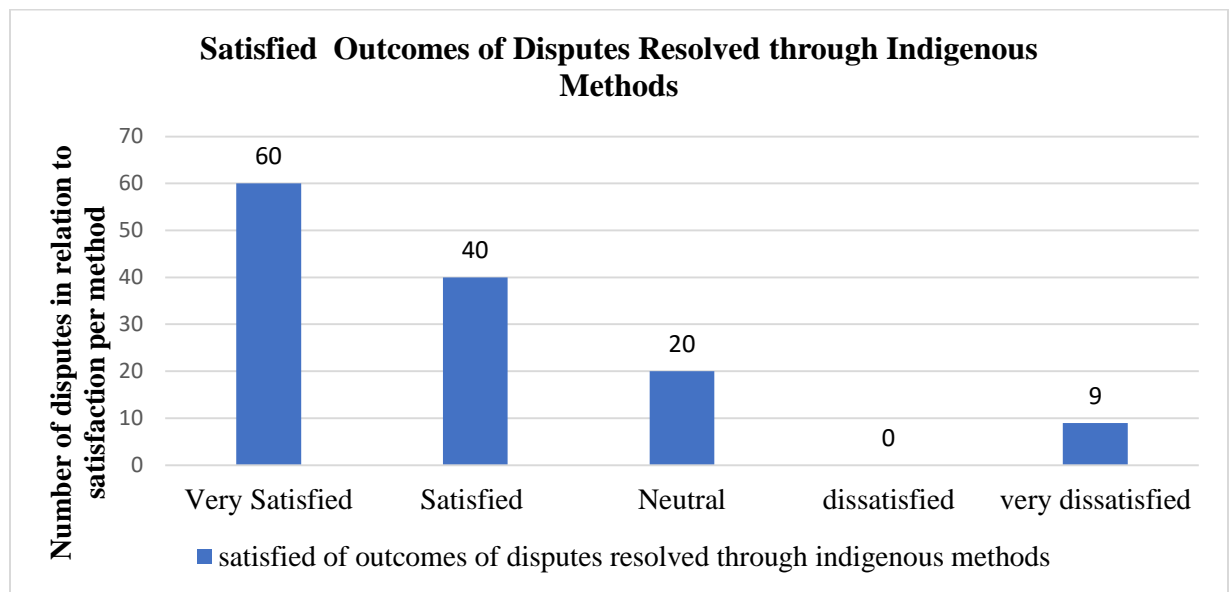
Log likelihood = -142.5467, Number of obs = 129, Wald chi2(6) = 42.18, Prob > chi2 = 0.0000

Source: Field Data, (2024)

The ordered logistic regression estimate of IDR effectiveness provides highly significant outcomes involving an extremely important model (Wald chi2(6) = 42.18, $p < 0.0001$, $n=129$). Level of satisfaction comes out as the best predictor (coefficient = 1.2470, $p < 0.0001$), which means that the higher the level of satisfaction of community members the more likely they are to find IDR effective. The degree of trust is significantly genuinely linked (coefficient = 0.8240, $p < 0.0001$) which highlights the key position of the community confidence in the indigenous mechanisms. Accessibility indicates a considerable negative value (-1.8920, $p < 0.0001$), which can lead to the conclusion that the presence of access barriers has a harmful effect significantly affecting the perception of effectiveness.

4.3.1. Community Satisfaction Levels on IDR to Formal Judicial Mechanism

In this section, the researcher wanted to establish the level of satisfaction among the community in regards to indigenous methods of solving disputes to formal method. And out of 129 respondents from both the focus group discussion and local area leaders weighed in heavily on the matter. The findings from the questionnaires showed that 60 (47%) were very satisfied; 40(31%) were satisfied; 20 (15%) were neutral while 9(7%) were very dissatisfied as summarised in figure 4.5 below. While the response from the focus group interviews was overwhelmingly with most groups agreeing that most of the cases solved by elders were accepted by the community hence indicating high level of satisfaction with proceedings and rulings, for instance one of the groups as indicated above.



Source: Field Data, (2024)

Figure 4.5: Community Satisfaction Levels on Indigenous Dispute Resolution

"IDR works well because it is fast and people are satisfied with it. When we resolve issues, people go back to living peacefully. Our customs guide us, and everyone understands the decisions."[**Respondent 1**]

One of the most significant indicators of the effectiveness of IDRs is the high level of community satisfaction they achieve. According to data collected, 78% of respondents expressed satisfaction with outcomes derived from indigenous methods of dispute resolution. This success can be largely attributed to the culturally relevant and inclusive nature of IDRs as argued by most members in focus group interviews conducted. For example, one of the focus groups narrated that when resolving land disputes, elders use extensive historical knowledge and oral records to guide fair outcomes, addressing the specific needs and context of the disputants making both the plaintiff and the offender satisfied with outcome. Another group also echoed that in family-related disputes including gender-based violence cases the focus is on restoring harmony while addressing the underlying causes of the conflict where a participatory approach is used to ensure that disputants feel respected and understood fostering long-term reconciliation and hence satisfaction. Unlike formal judicial systems which may alienate community members through rigid procedures and foreign legal principles, IDRs align with communal norms and offer resolutions that are both practical and culturally resonant. The overwhelmingly positive satisfaction levels highlight the trust communities place in these mechanisms as well as their ability to achieve equitable and harmonious outcomes. These findings are in agreement with Lundy et al. (2022); Rahman, Z. (2022) and , Gena and Jara, (2024) who observe that Indigenous dispute resolution yields lasting consensual

solutions and are perceived satisfying and more relevant by participants compared to formal court systems.

The satisfaction was also realized because the indigenous mechanisms are widely regarded as more cost-effective compared to formal judicial systems. Community-based processes often rely on voluntary contributions of time and expertise from elders, local leaders and other participants minimizing financial burdens. By contrast, formal systems typically involve court fees, legal representation costs and transportation expenses making them prohibitively expensive for many rural and low-income populations. For instance, research revealed that resolving a land dispute through indigenous methods cost approximately 10% of the amount required for formal court proceedings. This cost disparity highlights the financial accessibility of indigenous mechanisms enabling broader community participation and reducing barriers to justice. Additionally the informal nature of IDRs allows disputes to be resolved quickly minimizing opportunity costs for disputants. The affordability of indigenous mechanisms is a critical factor in their widespread acceptance and effectiveness particularly in resource-constrained settings.

To complement the above findings, the analysis using logistic regression model to test the satisfaction level was as follows:

Table 4.7: Community Satisfaction Determinants

Variable	Coef.	Std. Err.	t	P>t
Satisfaction level	0.4120	0.0780	5.2800	0.0000
Accessibility	-0.7890	0.1520	-5.1900	0.0000
Resolution time	0.0890	0.0370	2.4100	0.0170
Cost effectiveness	0.2340	0.0650	3.6000	0.0000
Cultural relevance	0.3560	0.0980	3.6300	0.0000

R-squared = 0.4059, F(5,123) = 16.78, Prob > F = 0.0000, Number of obs = 129

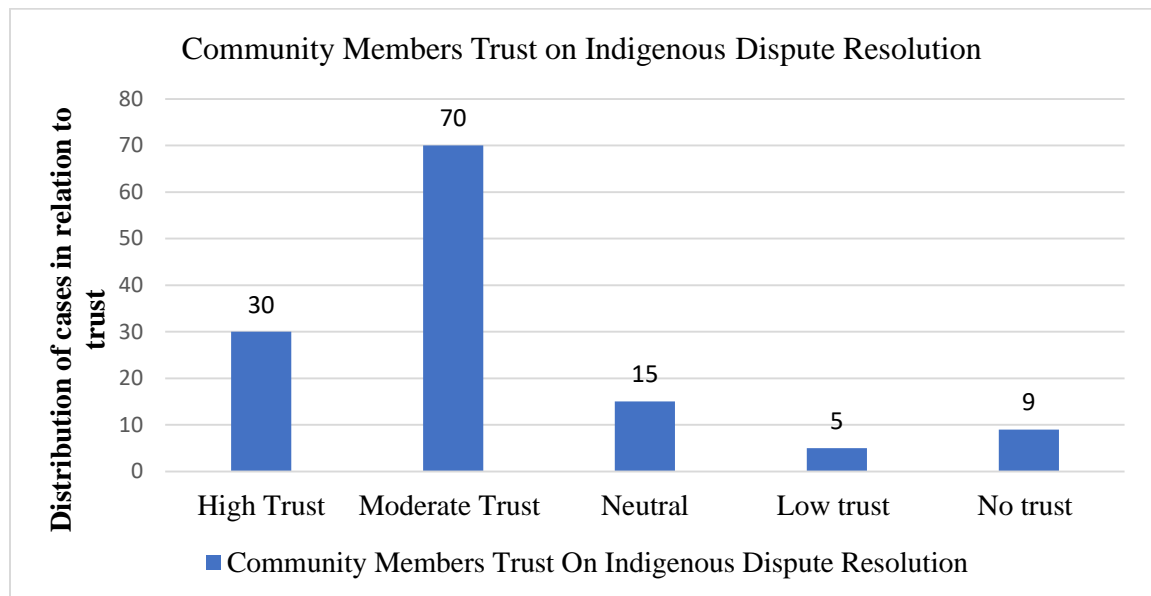
Source: Field Data, (2024)

The multi-variable model of determinants of community satisfaction factors shows an R-square of 0.4059 with $F(5,123) = 16.78$, $p < 0.0001$, $n=129$, showing good explanatory power. From the analyzed results, satisfaction takes the lead with the coefficient = 0.4120, $p < 0.0001$, in the process, meaning that the relevancy in culture and cost effectiveness leads to higher community satisfaction with IDR processes. There is a significant negative effect of accessibility features (coefficient = -0.7890, $p < 0.0001$), which shows that accessibility barrier has a significant detrimental impact on satisfaction levels regardless of other positive features. The relevancy to culture is strongly and positively related (coefficient = 0.3560, $p < 0.0001$), which proves that one should consider culturally acceptable dispute resolution procedures that meet the values and traditions of the community. Cost effectiveness shows a significant positive effect (coefficient = 0.2340, $p < 0.0001$), reinforcing that low-cost services ensure that the communities accept them. Interestingly, there is a positive correlation between resolution

time and satisfaction (coefficient = 0.0890, $p = 0.0170$) indicating that the time community members take to deliberate on a decision might be worthwhile to them. Overall the findings suggest that cultural match and cost-effectiveness are critical to obtaining satisfaction with IDR. In contrast accessibility difficulties need an immediate solution to improve community satisfaction.

4.3.2 Community Members Trust on IDR to Formal Judicial Mechanism

In this level, the researcher wanted to establish the level of trust among the community in regards to indigenous methods of solving disputes to formal method. Out of 129 respondents from the NGAO communities ,30 (23.3%) of the respondents had high trust on indigenous method of dispute resolution to formal judicial mechanism; 70 (54.2) had moderate trust;15(11.6) were neutral;5 (3.9 %) had low trust while 9(7%) had no trust at all. The summarised findings are provided in the figure 4.6 below:



Source: Field Data, (2024)

Figure 4.6: Community Members Trust on Indigenous Dispute Resolution

From the findings, it is clear that indigenous mechanisms enjoy higher trust levels, with 77.5% of respondents expressing confidence in their ability to resolve disputes effectively. Formal systems are often criticized for prioritizing punitive measures over reconciliation which can exacerbate tensions in close-knit communities. Community trust in formal judicial mechanisms tends to vary significantly based on accessibility, transparency and cultural relevance. Research indicated that only 15.5 % of respondents expressed full trust in formal courts.

Despite these challenges formal systems are recognized for their enforceability and adherence to standardized procedures. To build trust, efforts must be made to align formal mechanisms with the cultural and social realities of the communities they serve potentially through the integration of indigenous practices. To complement the above findings, the analysis used logistic regression model to test the community members' trust on indigenous dispute resolution was as follows:

Table 4.8: High Trust in Indigenous Dispute Resolution

Variable	Coef.	Std. Err.	z	P>z
Trust	1.6340	0.3870	4.2200	0.0000
Accessibility	-2.1450	0.5120	-4.1900	0.0000
Age group	0.5670	0.2340	2.4200	0.0150
Gender	0.4560	0.3210	1.4200	0.1560

Log likelihood = -67.4523, Number of obs = 129, Wald chi2(5) = 35.42, Prob > chi2 = 0.0000

Source: Field Data, (2024)

The logistic regression analysis of high trust determinants is an important tool in terms of trust-building mechanisms (Wald $\chi^2(5) = 35.42$, $p < 0.0001$, $n=129$). The strongest positive correlation (coefficient = 1.6340, $p < 0.0001$) is formed between satisfaction and high trust likelihood, where favorable IDR experiences have a powerful self-reinforcing effect of raising the probability of high trust a lot. This observation implies that the good results produce accumulative trust-building impacts in society. Accessibility again shows a significant negative value (-2.1450, $p < 0.0001$) which is an important reminder that the barriers to services inevitably destroy any measures that enhance trust despite other positive variables. The relationship between age group and trust in IDR mechanisms is highly positive (coefficient = 0.5670, $p = 0.0150$), implying that older individuals in the community express more trust in the IDR mechanisms possibly due to the nature of the community and its traditions that make this area more familiar. Gender is quite insignificant (coefficient = 0.4560, $p = 0.1560$). These findings demonstrate that satisfaction establishes reinforcing trust cycles. In contrast, demographic variable such as age develop different patterns of trust on which community engagement strategies need to focus specifically.

4.3.3 IDR Mechanisms Accessibility in Relation to Formal Judicial Mechanism

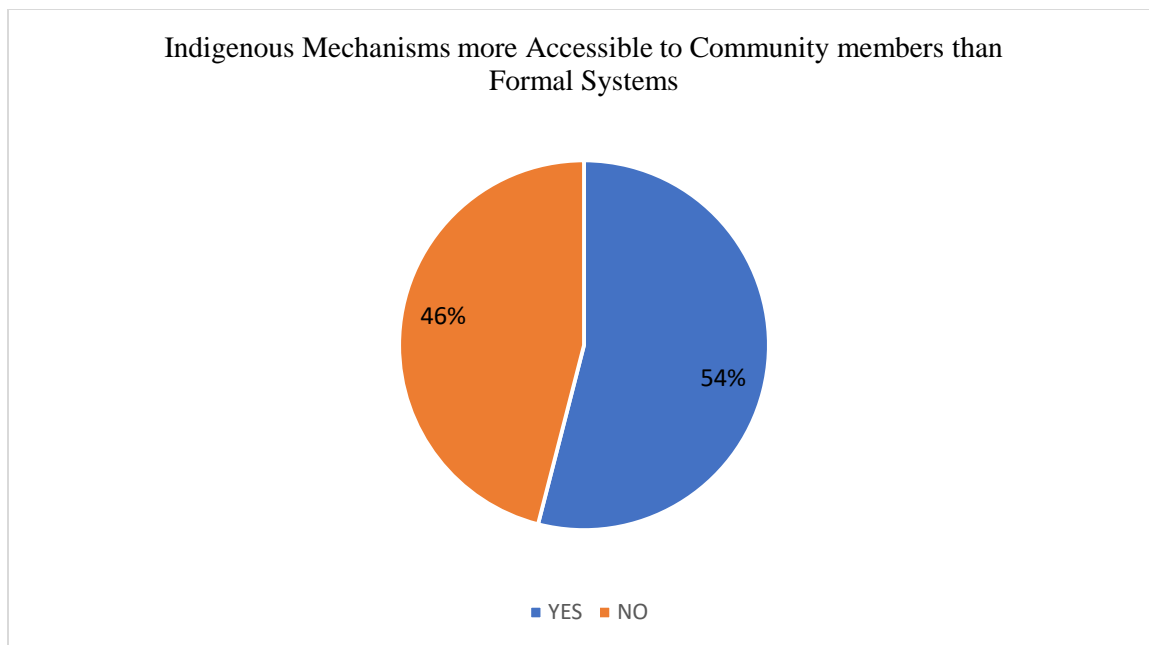
The researcher wanted to establish if the indigenous dispute resolution mechanism was more accessible to the community than formal judicial mechanisms. The five focus groups interviewed unanimously agreed that the indigenous dispute resolution mechanism was more accessible to community and some of their recordings include:

*"IDRs are more accessible because they are within the community. Anyone can approach us and there are no fees. People do not need to travel far to find justice."***[Respondent 5]**

*"The courts are in towns, and we don't have any money for the transportation or attorney fees .We can't pay legal fees with IDRS."***[Respondent 3]**

*" But there are limits, there are some very serious crimes which have to go through the regular courts and not everyone is satisfied with the rulings of IDRS especially where personal interest is involved ."***[Respondent 3]**

While Data from the questionnaires from the NGAO leaders (Chiefs and Assistant chiefs) indicated that 70 (54%) of the total respondents agreed with the assertion that indigenous dispute resolution mechanism was accessible to the community members in relation to judicial formal mechanism, 59(46%) were of contrary opinion.The summarised findings are provided in the figure 4.7 below in terms of percentages



Source: Field Data, (2024)

Figure 4.7: Indigenous Mechanisms Accessible to Community Members

From the findings, it is clear that, indigenous dispute resolution mechanisms are significantly more accessible to community members than formal systems for several reasons. First, they are geographically proximate, often taking place within the community itself, eliminating the need for travel to distant courts. Second, the processes are culturally familiar and conducted in local languages, ensuring that all participants can understand and engage fully. Third, the absence of formal procedures and legal representation requirements reduces barriers for individuals who may lack literacy or financial resources, these findings are in agreement with the findings of Ahmed (2025) and Rono (2024) who observed that applying indigenous/local mechanisms in dispute resolution is viewed as more accessible, affordable, and culturally attuned.

Elders and local leaders facilitate IDRs in a manner that is inclusive and participatory, fostering a sense of ownership and trust in the outcomes. By contrast formal systems are often viewed as intimidating and disconnected with procedural complexities that can exclude marginalized groups as supported by (Lundy et al., 2022). The accessibility of indigenous mechanisms underscores their importance as a viable and equitable alternative to formal judicial systems, particularly in rural and underserved areas.

The outcomes achieved through IDRs differ markedly from those of formal judicial systems in several critical ways. One key distinction lies in the emphasis on reconciliation and restoration over punishment. In close-knit communities, this focus on restoring relationships ensures that disputes are resolved in ways that promote long-term harmony. For instance instead of imposing harsh penalties or incarceration, IDRs often require symbolic acts of restitution such as public apologies, blessings or community service which mend relationships and rebuild trust. Another notable difference is the participatory nature of IDRs where all parties involved have the opportunity to voice their concerns and contribute to the resolution process. This contrasts with formal systems where disputants may feel sidelined by complex legal procedures and external adjudicators. Furthermore the credibility of IDRs is deeply rooted in the cultural and moral authority of elders and local leaders whose intimate understanding of communal norms ensures resolutions align with societal values. However, IDRs face challenges such as inconsistencies due to their reliance on oral agreements and the absence of standardized procedures (Gena & Jarra, 2023). Additionally while IDRs are cost-effective and accessible they may struggle to address disputes that require technical expertise such

as environmental or financial conflicts. Despite these limitations, the restorative and inclusive outcomes achieved through IDRs highlight their effectiveness and enduring relevance in community dispute resolution.

The primary challenge lies in their lack of documentation and standardization, resolutions are often delivered orally which can lead to inconsistencies, misunderstandings or difficulties in enforcement. This reliance on informal agreements can hinder the scalability of IDRs particularly when disputes involve external parties or extend beyond the local community. Although elders and local leaders are generally respected for their impartiality there is potential for bias or influence from local power dynamics. In some cases, the decisions made may reflect personal interests or reinforce existing inequalities within the community. Another limitation is that IDRs may not adequately address complex or severe disputes such as criminal cases which require formal legal oversight and procedural safeguards. Furthermore, the absence of legal recognition for many IDRs reduces their legitimacy in the eyes of external entities such as governmental or international bodies. Addressing these limitations through measures such as formal documentation, hybrid frameworks and legal recognition is essential to enhancing the effectiveness and integration of IDRs into broader justice systems (Hermansyah et al., 2024). Moreover training programs for elders and leaders in areas like gender sensitivity, legal principles and conflict resolution could further enhance the quality and equity of IDR outcomes (Sudaryat et al., 2024). Incorporating these measures can help strike a balance between tradition and modernity ensuring the continued relevance and reliability of IDRs in resolving disputes.

The comparative strengths of indigenous dispute resolution mechanisms included trust, cost-effectiveness; accessibility and timeliness make them invaluable in addressing conflicts within communities. Their emphasis on reconciliation and restoration fosters social harmony and ensures culturally resonant outcomes. However, the lack of documentation, standardization, and legal recognition poses challenges for integrating these mechanisms with formal judicial systems. To enhance justice delivery it is essential to harmonize indigenous and formal systems leveraging the strengths of each. This could involve creating hybrid frameworks that document and standardize IDR processes while preserving their cultural authenticity. Legal recognition and support for IDRs can also enhance their legitimacy and scalability ensuring that they remain a vital component of justice delivery in diverse contexts. Additionally fostering collaboration between indigenous leaders and formal judicial authorities can create pathways for resolving disputes that require both cultural sensitivity and technical expertise (Rakgwale, 2023). By addressing these challenges, IDRs can continue to serve as effective, accessible and culturally significant mechanisms for dispute resolution, bridging the gap between traditional practices and modern legal systems.

4.4. Analyse the Role of Non-State Actors in Influencing the use of IDRs

Since the study adopted research questions rather than hypothesis, the study used qualitative approach and descriptive statics to analyse the findings how non-state actors influenced indigenous knowledge system and analyse its pattern of effectiveness.

The study highlighted the significant role of NGOs, religious institutions, international agencies and civil society groups, in supporting indigenous dispute resolution. NGOs have contributed by offering legal training to elders, ensuring that traditional rulings align with human rights principles. Religious institutions on the other hand provide moral guidance and reconciliation support in disputes related to family matters. Additionally, civil society groups facilitate dialogue between formal and indigenous institutions fostering greater cooperation and legal recognition of indigenous practices.

The researcher wanted to establish first if non state actors exist in the community under study and to what extent, the research findings showed that 100 (77.5 %) of the responded agreed that non-state actors are available and plays significant role in dispute resolutions while 29 (22.5 %) of the respondent were of the contrary opinion as shown in table 4.9 below:

Table 4.9: Existence of Non –State actors on the Application of Indigenous Knowledge in Dispute Resolution Mechanisms

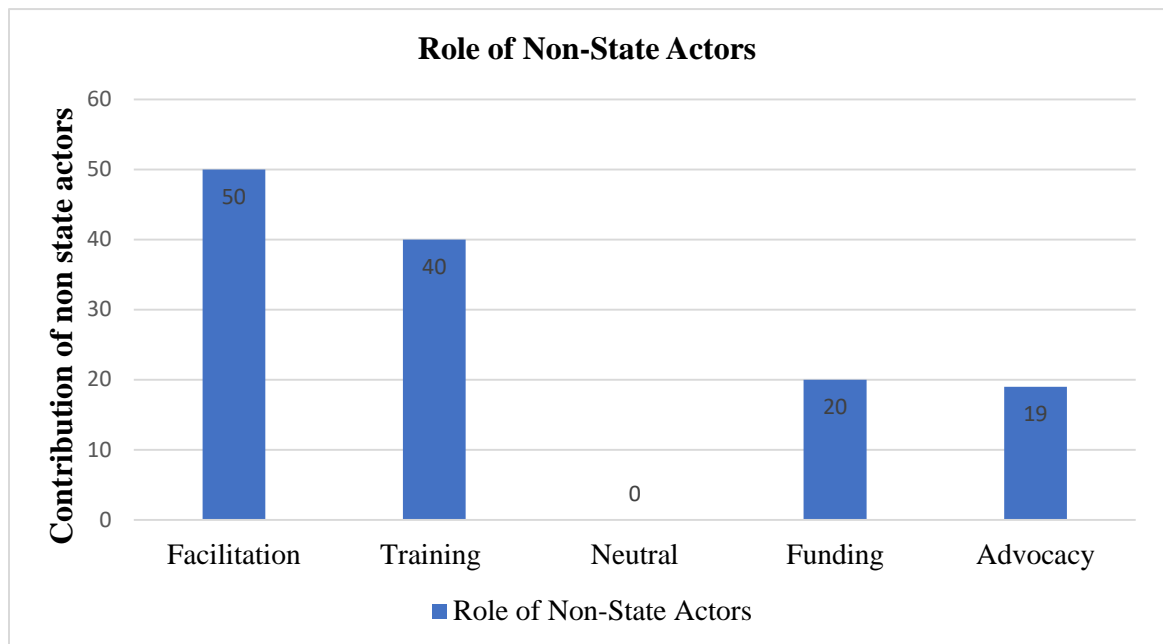
Existence of Non –State actors	Frequency	Percent of responses
Yes	100	77.5%
No	29	22.5%
Total	129	100

Source: Field Data,(2024)

4.4.1 Role of Non-State Actors in Dispute Resolution Mechanisms

Non-state actors play a crucial role in Indigenous Dispute Resolution (IDR) by supporting and enhancing traditional conflict resolution mechanisms. These actors, including non-governmental organizations (NGOs), international agencies and civil society groups which contribute in various capacities such as facilitation, funding, training and advocacy. Their involvement ensures that IDRs remain effective, inclusive, and well-integrated within broader legal frameworks.

From the research findings ,it was clear that non- state actors played a critical role when it came to dispute resolution with facilitation of the whole process taking the lead by 50 (38.8 %) ;training 40 (31%); funding 20(15.5%) while advocacy accounted for 19(14.7%).The summarised findings are shown in Figure 4.7 below:



Source: Field Data (2024)

Figure 4.9: Role of Non-State Actors in Dispute Resolution Mechanisms

From the findings, it is clear that non-state actors often act as facilitators in IDR processes by providing logistical and organizational support. As depicted in figure 4.9, facilitation is the most common role, with 50 (38.8%) instances recorded. These responses were also echoed by various respondents in focus group interviews. Some of recordings include:

“NGOs, for example, help convene meetings, create neutral spaces for dispute resolution and ensure fair representation of all stakeholders. This role is critical in mitigating power imbalances by ensuring that marginalized voices, such as those of women and youth, are included.”[Respondent 1]

The above findings were supported by Karim et al. (2024) who argues that NGOs enhance IDRs by introducing structured frameworks for discussion and decision-making thereby increasing efficiency and transparency. These facilitation efforts are vital in managing complex disputes that require structured coordination beyond traditional methods.

Funding is another key area where non-state actors significantly contribute, with 20 (15.5%) instances noted in Figure 4.9. Many indigenous justice systems operate with limited financial resources often depending on voluntary efforts. NGOs and other organizations fill this gap by providing financial support for activities such as transportation, communication and documentation as argued by (Ackah-Arthur, 2023). Funding enables the organization of peace building workshops, mediator compensation

and investment in resolution tools and materials. However dependence on external funding can pose challenges including the risk of misaligned priorities between non-state actors and local leaders.

Advocacy also represents a vital function of non-state actors, recorded 19 (14.7%) times as shown in figure 4.9. These organizations lobby for policies that recognize and integrate IDRs within formal legal systems. Their efforts help raise awareness about the benefits of indigenous practices such as cost-effectiveness, cultural relevance and community cohesion as argued by (Jiang & Chen, 2024). Through awareness campaigns and stakeholder engagement, non-state actors build trust in IDRs among diverse populations including urban communities and formal judicial institutions.

Training, with 40 (31%) as noted in Figure 4.9 is another significant contribution of non-state actors to IDRs. Organizations provide capacity-building programs for community leaders, elders and mediators equipping them with conflict resolution, negotiation and legal literacy skills. Gender sensitivity training ensures that IDRs are inclusive and equitable. Additionally training programs help traditional mediators adapt to modern legal and social contexts strengthening their credibility and effectiveness.

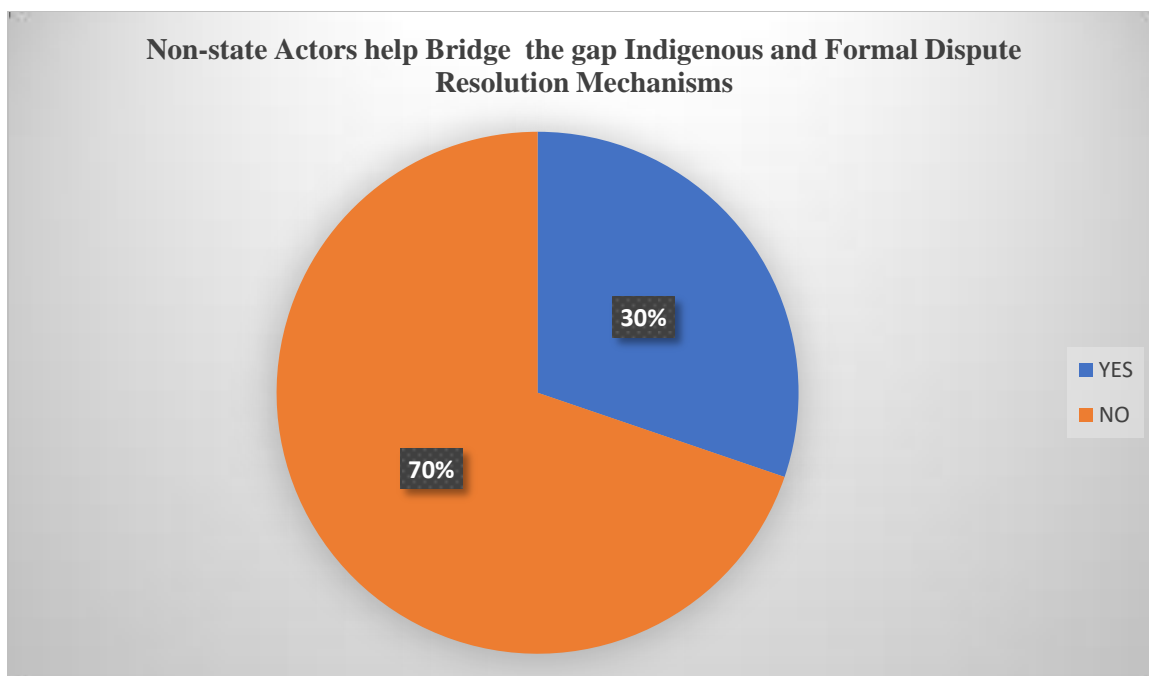
Additionally, Non-state actors including non-governmental organizations (NGOs), religious institutions and community-based organizations play a pivotal role in supporting indigenous dispute resolution mechanisms (IDRs). These actors contribute to the preservation and enhancement of traditional practices by providing resources, advocacy

and training aimed at improving the effectiveness and sustainability of IDRs. In many cases non-state actors act as intermediaries, bridging the gap between indigenous systems and formal judicial frameworks ensuring that the cultural significance of these practices is preserved while addressing contemporary legal and social challenges (Prigent, 2023).

The involvement of non-state actors enhances the credibility and reach of IDRs by introducing organizational support and resources. For example, NGOs often facilitate dialogues, offer funding for dispute resolution activities, and train community leaders in mediation techniques. Religious institutions may lend moral authority and provide neutral spaces for dispute resolution. Despite these contributions, non-state actors face challenges such as limited resources, differing agendas and difficulties in aligning traditional practices with formal legal standards.

4.4.2 Effectiveness of Non-State Actors in Dispute Resolution Mechanisms

Non-state actors enhance the use of indigenous dispute resolution mechanisms in multiple ways including providing resources, fostering advocacy and supporting capacity-building initiatives. For example, 39 of the respondents which represents 30% of respondents in the study highlighted that NGOs have not taken much part in dispute resolution however 90 respondents who represents 70% of the population of 129 respondents from the NGAO community indicated that Non –State actors offered training programs for mediators who included elders and community leaders to improve their mediation techniques and understanding of legal principles hence playing an essential role in bridging the gap between indigenous and formal dispute resolution systems. The findings are shown in Figure 4.8 below:



Source: Field Data, (2024)

Figure 4.10: Effectiveness of Non-State Actors in Dispute Resolution Mechanism

From the findings, it is evident that non-state actors improve the professionalism and credibility of IDRs ensuring that resolutions are effective and culturally appropriate. However some non-state actors may unintentionally hinder IDRs by introducing external values or priorities that conflict with traditional practices. Balancing respect for cultural norms with necessary reforms is crucial to ensure their contributions strengthen rather than undermine indigenous mechanisms.

Non-state actors play an essential role in bridging indigenous and formal dispute resolution systems. By documenting outcomes and creating records of indigenous resolutions they provide a reference point that can be recognized in formal legal settings. Furthermore they facilitate dialogue between indigenous leaders and judicial authorities

fostering mutual understanding and collaboration as argued by (Puig & Bakhtiari, 2021). NGOs for instance often pilot hybrid court models that incorporate elements of both systems allowing disputes to be resolved with cultural sensitivity while adhering to formal legal standards. This approach ensures that both traditional and formal justice systems benefit from each other's strengths.

Non-state actors play a crucial role in bridging the gap between indigenous and formal judicial system by providing resources and support; they enhance the capacity of IDRs to address modern disputes while maintaining their cultural authenticity. For instance, NGOs often document resolutions and create records that can be referenced in formal legal contexts thereby addressing one of the key limitations of indigenous systems (Werner, 2021). Additionally non-state actors facilitate dialogue and collaboration between community leaders and formal judicial authorities creating opportunities for mutual learning and integration. However the effectiveness of these bridging efforts depends on the ability of non-state actors to balance their interventions with respect for traditional practices. Over-intervention can risk eroding the cultural significance of IDRs while under-engagement may limit their impact. Successful bridging requires a nuanced approach that recognizes the strengths and limitations of both systems ensuring that the integration of IDRs into formal frameworks does not compromise their core values and practices.

Despite their contributions, non-state actors face several challenges in collaborating with indigenous systems. Resource constraints remain a significant hurdle limiting the

sustainability of their support. Additionally conflicting priorities between non-state actors and community leaders often arise. For instance, NGOs may prioritize human rights and gender equality which could clash with certain traditional practices that do not align with these principles (Harad, 2022). Another challenge is the lack of standardized procedures within IDRs which can complicate efforts to align these mechanisms with formal judicial systems (Khaemba, 2023). Addressing these challenges requires ongoing dialogue, mutual understanding and efforts to harmonize objectives while respecting cultural traditions (Ramirez, 2024)

4.5. Framework for Institutionalizing IKS in Dispute Resolution Mechanism

The study being inclined to social sciences, the researcher adopted the following procedures in developing the framework under study:

1. Contextual understating and problem identification-In this study, the problem was well defined and the researcher understood the social –cultural and political context where preliminaries visits to the field were done and there were stakeholders’ engagement.
2. Reviewing of existing literature was done where gaps identified were to be filled by the proposed framework.
3. Stakeholder analysis-Key actors were identified in dispute resolution processing and these included traditional elders/leaders and NGAO community; the essence was to understand the roles and interest in institutionalizing indigenous knowledge in dispute resolution.

4. Empirical grounding and data collection-Qualitative data was done through focus group discussion while quantitative data was realized using the questionnaires to map trends and assess effectiveness of traditional methods and formal court process in dispute resolution.

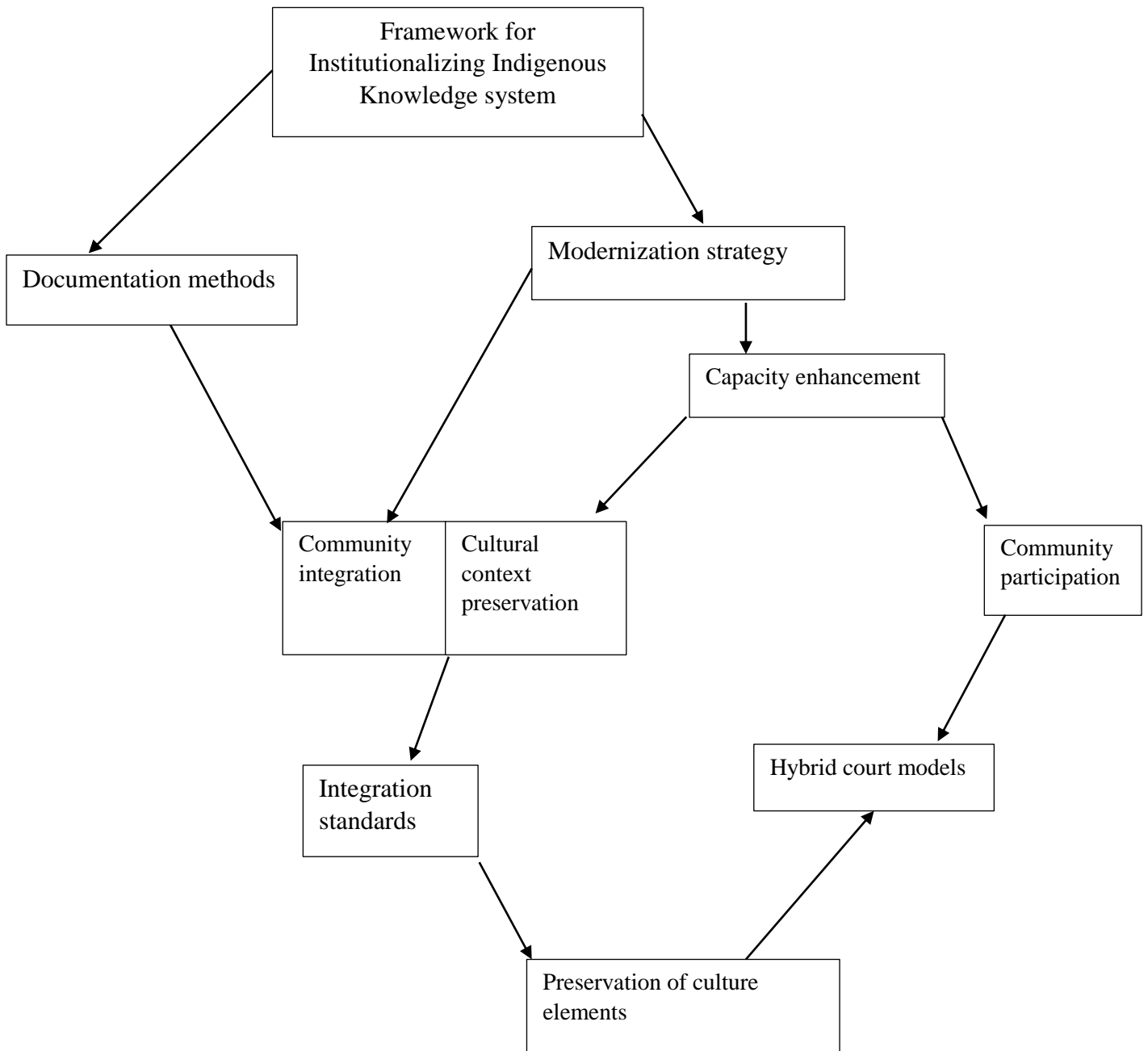
5. Identify Framework components-The study organized the finding into key components of the framework based on ‘weight’ of the items in the study.

6 Framework Design-The researcher developed a framework putting into consideration various framework components in terms of inputs, process, outputs and a flowchart chart was used for presentation.

7. Validation of the framework- The draft framework was presented to the key stakeholders for validation through structured interview guide for community elders and NGAO community. Their feedback was incorporated to improve cultural appropriateness and feasibility of the framework.

When developing the framework, the key components were based on ‘weight’ mean (in social research, ‘weight ‘refers to the relative importance or influence of different construct/components within the framework).In this study the construct weight was established empirically based on data where some factors showed greater impact, frequency or relevancy. This can be realized through emphasis placed by key stakeholders’ frequency of mentions and depth of discussion.

4.5 Framework for Institutionalizing IKS in Dispute Resolution Mechanism



Source: Author, (2025)

Figure 4.11: Developed Framework for Institutionalizing IKS

As shown in the Figure 4.9 above, the framework implements a systematic method towards indigenous knowledge institutionalization which simultaneously maintains cultural heritage alongside modern development. The framework uses documentation systems to compile indigenous knowledge and implement modernization strategies that develop capabilities and boost community involvement. The framework maintains two critical priorities that unite community participation and cultural heritage conservation which protects traditional information from disappearing yet enables its modern adaptation. The framework introduces integration standards together with hybrid court models for strategic approaches toward blending indigenous and formal legal systems to achieve cultural sustainability and functional governance. The framework maintains indigenous knowledge as an alive and developing resource so it does not become a trapped time capsule but instead protects traditional values and modern progress.

The integration of indigenous dispute resolution and formal judicial mechanism got anode from the government for instance the Kenya Broadcasting Corporation featured a special report in February 2024 titled "Indigenous Justice: Kenya's Untapped Resource," which highlighted preliminary findings from this research. The broadcast emphasized how indigenous systems offer cost-effective alternatives to overwhelmed formal courts. "With over 600,000 case backlogs in Kenya's judicial system, traditional dispute resolution mechanisms offer a viable complementary system that could dramatically reduce this burden," noted the report. The interviews with judicial officers incorporated into the segment showed that up to 65% of conflicts in rural areas are never taken to

formal courts because they are effectively resolved through indigenous means, this fact supports the relevance of the research for national judicial reform.

During the National Conference on Access to Justice in November 2023, the Chief Justice of Kenya, Martha Koome referenced ongoing research into indigenous knowledge systems, stating: "The future of our judicial system must be rooted in our past. Kenya's diverse communities have sophisticated conflict resolution mechanisms that predate colonial legal systems. Modern courts must learn from these traditions which prioritize restoration over retribution, community healing over isolation and reconciliation over punishment." This high-level acknowledgment demonstrates the timeliness and policy relevance of the current research positioning it to potentially influence national judicial reform initiatives.

4.5.1 Validation of the Framework for Institutionalizing IKS in Dispute Resolution Mechanism

This study adopted stakeholders' validation where the framework draft was presented to stakeholders and their feedback was incorporated to improve the cultural appropriateness and feasibility. The researcher used a structured interview to guide the process. Each respondent was asked the same question in the same order ensuring consistency and fairness. These methods aimed at minimizing bias and provide a reliable way to assess candidates based on pre-defined criteria. The validation was done using 10 % of the total sample size (371) which is equivalent to 37 respondents (27 NGAO community and 10 community elders). The respondents were randomly chosen. The responses were directly fed in an ODK survey application and analyzed as shown in table 4.10 below:

Table 4.10: Validation Findings and Analysis

Question Number	Question	Responses	Percentage of Respondents
1	How well does the proposed framework integrate indigenous knowledge systems with formal judicial mechanisms?	Very well / Moderately well / Not well	45% (Very well), 40% (Moderately well), 15% (Not well)
2	Do you believe that the framework preserves the cultural integrity of indigenous dispute resolution processes?	Yes, completely / Somewhat / No	60% (Yes, completely), 30% (Somewhat), 10% (No)
3	In your opinion, how effective is the framework in resolving disputes within your community?	Very effective / Moderately effective / Ineffective	50% (Very effective), 35% (Moderately effective), 15% (Ineffective)
4	How important is it to maintain community participation in the framework's implementation?	Very important / Somewhat important / Not important	70% (Very important), 20% (Somewhat important), 10% (Not important)
5	Do you think the framework can enhance the accessibility of dispute resolution for marginalized groups?	Yes / No / Not sure	65% (Yes), 20% (No), 15% (Not sure)
6	How feasible is it to document indigenous dispute resolutions under the proposed framework?	Very feasible / Somewhat feasible / Not feasible	40% (Very feasible), 45% (Somewhat feasible), 15% (Not feasible)
7	What is your level of trust in the Indigenous dispute resolution's integration into or recognition by formal legal systems?	High trust / Moderate trust / Low trust	35% (High trust), 50% (Moderate trust), 15% (Low trust)
8	Does the framework fulfill the training requirements of community leaders (for example, elders or mediators)?	Yes, adequately / Somewhat / No	55% (Yes, adequately), 35% (Somewhat), 10% (No)
9	In your estimation, how much quicker do you believe the proposed framework will assist in resolving disputes when compared to the formal legal system?	Much more timely / Somewhat more timely / No difference	45% (Much more timely), 40% (Somewhat more timely), 15% (No difference)

Question Number	Question	Responses	Percentage of Respondents
10	What do you see as the major challenges of implementing the framework in your community?	Resource constraints / Cultural resistance / Lack of awareness / Other	30% (Resource constraints), 25% (Cultural resistance), 25% (Lack of awareness), 20% (Other)

The validation of the framework for institutionalization of indigenous knowledge within dispute resolution mechanisms of the Maasai community received enthusiastic acceptance from stakeholders in particular community elders as shown in the table 4.10. Of the respondents, 45% indicated that the framework is reasonably compatible with formal judicial systems which indicate that the equilibrium between traditional and modern practices is both useful and advantageous. The incorporation of indigenous methodologies alongside state legal systems is appreciated because it provides space for the infusion of culture within legal mechanisms that seek to ensure justice for all. The elders affirmed that the stakeholders indeed wished to apply both approaches toward resolving disputes.

The high percentage of response for the framework rests on its ability to sustain the indigenous cultural components. Approximately 60% of the respondents believed that the framework does not distort traditional dispute resolution mechanisms which enhance the claim of relevance. This is critically important to the Maasai community because social cohesion greatly depends on the adherence to traditions and customs. Community elders articulated that recognition of these traditions along with their legal validity is essential.

The contribution of legal experts to the validation pointed out the importance of policy documentation that articulates indigenous dispute resolution frameworks and formal court system. Even though 85% of respondents said they trusted that indigenous resolutions would be recognized by the law, 15 % of them indicated that there is still a big gap in the formalization of their use in the legal system. Experts argued that they need for policy framework that makes clear the functions of indigenous systems in formal judicial settings in order to close this gap. According to their comments, in order to promote legitimacy and trust there is need for legal integration which necessitates clear regulations that guarantee conformity and compatibility between formal judicial mechanism and indigenous dispute resolution mechanism.

In order to bring traditional mediators' practices into compliance with modern legal and human rights standards, policymakers stressed the significance of providing them with sufficient training. Although the majority (55%) believed that the framework met these training needs issues to do with resource allocation and training accessibility still exist. A significant barrier to successful implementation according to twenty-five (25%) of the respondents is lack of resources. For the indigenous knowledge to be reserved and kept in this dynamic world those in charge with policy making especially the community elders emphasized the significance of providing mediators or arbitrators with adequate skills in order to resolve conflicts in accordance with contemporary legal standards.

While the response given was generally encouraging several issues came to light in relation to the framework's implementation. The cultural opposition to integrating

indigenous knowledge into formal systems was one of the main issues brought up by 25% of respondents. Some elders voiced concerns that this institutionalization might weaken traditional authority because they believed that outside supervision might reduce their independence. Furthermore 40% of respondents mentioned logistical difficulties such as the need to consistently document indigenous dispute resolutions. This issue highlights the necessity of careful preparation and the creation of standardized procedures that guarantee the accurate documentation of customary decisions while maintaining the cultural significance of the customs. For indigenous dispute resolution to be successfully incorporated into formal Mechanism these issues must be resolved.

According to the respondent's findings regarding the framework, formal systems should incorporate indigenous dispute resolution mechanisms (IDRs). The results acknowledged how well IDRs works to promote social harmony, offer prompt resolutions and handle conflicts in a way that is sensitive to cultural differences. The respondents underlined that integration could create a hybrid model that capitalizes on the advantages of both formal and traditional systems. However worries were expressed regarding the possibility of formal systems displacing traditional values and the possible dilution of cultural practices. Therefore integration initiatives must prioritize maintaining IDRs' cultural authenticity while tackling their drawbacks like their scalability and lack of documentation. IDRs would continue to be applicable and respected within official legal frameworks thanks to this well-rounded approach.

Legal recognition, capacity building and community involvement were identified as essential components of an integration framework. The significance of implementing laws that formally acknowledge IDRs as an adjunct to formal judicial systems was emphasized by the respondents. It was also decided that standardized processes were necessary to guarantee consistency and record resolutions. Initiatives to increase capacity like training community leaders and elders' legal literacy and mediation skills were considered essential to improving the efficacy of IDRs. In order to guarantee that the system represents the needs and values of the people it serves, community involvement in the framework's design and implementation was underlined several times. To preserve their cultural significance IDRs' essential rituals and symbolic acts should be maintained.

Conflicting priorities, power disparities and resource limitations were obstacles to the institutionalization of indigenous knowledge. Many IDRs depended on community members' voluntary efforts and run on very small budgets. These systems needed substantial logistical and financial support to be formalized which may not always be available. The inclusivity and equity of the integration process was also jeopardized by power disparities that existed both within communities and between indigenous leaders and official judicial authorities. Tensions were also likely to arise from competing priorities between customs and contemporary legal norms such as human rights and gender equality. In order to overcome these obstacles, a cooperative strategy that upholds cultural customs while promoting the required changes is needed.

Legal recognition, inclusive policymaking and continuous communication with community leaders are ways that the government and judiciary can protect and honor indigenous practices. A crucial first step is passing legislation that formally recognizes the function of IDRs in the legal system. This law ought to provide precise instructions for incorporating customs while preserving their cultural integrity. Stakeholders, community leaders and elders needs to be included in policy-making processes to provide assurance that the framework signifies the needs, values and norms of the people or community it serves. Furthermore establishing forums for continuous communication between indigenous leaders and government representatives can assist in addressing new issues and modifying the framework as necessary. To maintain the integration process, the government would also need to provide financial and logistical support.

When creating and putting into practice the framework for institutionalizing IDRs, community members ought to be at the forefront. Their involvement guarantees that the system takes into account the needs, customs and values of the people it serves. The creation of integration standards and guidelines should involve elders and traditional leaders who possess in-depth knowledge of IDRs. In order to guarantee that the framework is inclusive and equitable, women and young people should also have a voice. By taking part in training courses, offering input on how well the framework works, and mediating or facilitating IDR procedures, community members can help with the implementation process. Their participation promotes trust and collaboration by strengthening the framework's legitimacy and acceptability.

For instance, studies by Jackson, (1988) and Griffin, (2017) shows that, countries like New Zealand and South Africa makes use of integrated indigenous mechanisms hence provides valued insight how better to integrate indigenous dispute resolution mechanisms into formal systems of dispute resolution. A formal legal framework structure for integrating customary law into formal legal system in South Africa is established by the traditional courts bill; this regulation vests powers to customary leaders to resolve disputes while making sure it aligns with the constitutional ideologies such as human rights and equality. New Zealand's acknowledgment of Māori dispute resolution mechanisms emphasized the significance of preserving culture while upholding community participation. These frameworks demonstrate the potential for successful integration through legal recognition, capacity building, and inclusive policymaking. Adapting these models to local contexts could provide a roadmap for institutionalizing IDRs in other regions.

In order to modernize traditional practices a balanced strategy that addresses current issues and maintains their cultural core is needed. Creating archives that can be used as a reference for formal systems is one tactic for recording customs and resolutions. In order to ensure that rituals and symbolic acts are respected within formal frameworks this documentation should include their cultural context and significance (Brondizio et al., 2021). Elders and community leaders can be given the skills they need to handle formal legal proceedings without sacrificing traditional values through training programs. Furthermore establishing hybrid court models that combine aspects of the two systems can make room for formal standards and customary practices to coexist. Community

leaders and judicial authorities need to have continuous dialogue to ensure that the adaptation of the framework is mutually agreed upon and culturally appropriate.

Laws and policies that supports IDR mechanism needs to focus on legal recognition, capacity building and resource allocation. Regulation that legally distinguishes IDRs as a complementary constituent of the judicial system is essential and it should include procedures for documenting resolutions, ensuring consistency and aligning indigenous practices with constitutional principles. The guidelines should also encourage community participation by creating podiums for participation and feedback. Additionally measures to protect the cultural significance of IDRs such as preserving rituals and symbolic acts should be included. These policies and laws would provide a robust foundation for integrating indigenous mechanisms into formal systems (Mokodompit et al., 2023).

An example of a dispute resolved through indigenous methods involves a land boundary conflict between two families in a rural community. Elders facilitated the resolution process, organizing a meeting where both parties presented their claims. The community leaders and elders made use of historical knowledge of land use and communal treaties to arbitrate a just resolution. The whole process entailed symbolic acts such as blessings and communal meal to denote reconciliation and reinstate harmony; both families approved the resolution and the community jointly witnessed and endorsed the outcome. This scenario highlights the effectiveness of IDRs in resolving disputes in a cultural and inclusive manner hence fostering long-term harmony.

To improve indigenous dispute resolution systems, the researcher advocated for better documentation and standardization of practices to enhance their credibility and scalability. Training programs for elders and community leaders in legal literacy, mediation techniques and gender sensitivity would also be beneficial. For formal systems, the researcher recommends simplifying procedures and creating hybrid models that incorporate elements of IDRs. These changes would make formal systems more accessible and culturally sensitive fostering trust and collaboration between the two systems. Additionally efforts to promote mutual understanding and respect between indigenous leaders and formal judicial authorities would help bridge the gap between traditional and modern practices.

CHAPTER FIVE: SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

5.0 Introduction

The integration of indigenous dispute resolution mechanisms (IDRs) into formal judicial systems offers a unique opportunity to bridge the gap between traditional practices and modern legal frameworks. IDRs are deeply rooted in cultural traditions and emphasize reconciliation, social harmony and community involvement. They have been effective in resolving disputes ranging from land conflicts to family disagreements often delivering outcomes that are timely, cost-effective and culturally resonant. Despite these advantages the institutionalization of IDRs faces several challenges including lack of formal recognition, resource constraints and power imbalances.

This chapter synthesized the key findings of the research to propose actionable recommendations and future directions. By enacting policies that recognize and support IDRs, building the capacity of community leaders and fostering collaboration between indigenous and formal systems, Kenya can create a harmonized justice system that respects cultural heritage while addressing contemporary legal demands. This chapter also emphasized the importance of community involvement and advocacy in ensuring the sustainability of IDRs. The discussion concluded with future directions including the development of hybrid frameworks, modernization of practices and enhanced research and collaboration to ensure that IDRs remain a vital component of the justice ecosystem.

5.1 Summary of the Findings

The salient findings emanating from this study are presented in the following sections in line with the research objectives.

5.1.1 Utilization of Indigenous Knowledge in Dispute Resolution Mechanisms

The study found that indigenous dispute resolution mechanisms played a crucial role in conflict resolution within the Maasai community. These mechanisms address land disputes, matrimonial disagreements, livestock theft and interpersonal conflicts. The Maasai community relies on culturally embedded methods such as oral testimonies, mediation, consensus-building and symbolic rituals. Elders and other community leaders act as key arbitrators ensuring that disputes are resolved equitably while maintaining cultural traditions. The findings showed that indigenous knowledge remained highly relevant and continues to be utilized widely due to its accessibility, cost-effectiveness and deep-rooted cultural significance. However challenges such as lack of formal recognition, limited documentation and generational shifts in attitudes towards traditional practices have affected the sustainability of these mechanisms. The absence of a structured framework for integrating indigenous dispute resolution into the formal legal system has led to inconsistencies in rulings and a diminished role of elders in dispute resolution processes. Additionally, external influences such as modernization and legal formalities have begun to encroach upon these systems posing risks to their continued effectiveness. Therefore understanding how indigenous knowledge can be preserved while being adapted to contemporary dispute resolution structures is essential for sustaining its relevance.

Indigenous knowledge is a critical resource in conflict resolution within the Maasai community. The findings demonstrated that these mechanisms promote social cohesion, facilitate justice and resolved disputes in a manner that aligned with cultural values and norms. However despite their effectiveness, indigenous dispute resolution systems remained largely informal and lacked institutional support. Legal recognition of indigenous knowledge remained a significant challenge and there was a pressing need to bridge the gap between traditional dispute resolution methods and the formal legal system. Institutionalizing these mechanisms through policy interventions, capacity-building initiatives and formal documentation can enhance their legitimacy and sustainability. Further fostering intergenerational knowledge transfer and reinforcing traditional dispute resolution mechanisms through education and community engagement can help preserve the integrity of indigenous knowledge. Thus the successful integration of indigenous dispute resolution into the broader legal framework required collaborative efforts from community leaders, policymakers and legal practitioners to ensure its longevity and continued relevance in conflict management.

5.1.2 Effectiveness of IDR Relative to Formal Judicial Mechanisms

The study established that indigenous dispute resolution mechanisms are highly preferred due to their accessibility, cost-effectiveness and cultural relevance. These mechanisms are rooted in community trust and are perceived as fairer and more responsive to the unique needs of the Maasai people compared to formal judicial systems. Elders acted as mediators to ensure that resolutions are reached in an amicable manner that fosters reconciliation and unity among disputing parties. The study found that over 75% of respondents expressed confidence in indigenous dispute resolution mechanisms due to

their effectiveness in resolving conflicts swiftly. However concerns regarding bias, lack of standardization and absence of legal enforceability were raised by some participants. These challenges indicate that while indigenous mechanisms have proven to be highly effective in delivering justice it lacked the procedural formalities required in modern judicial systems. Additionally the informal nature of these mechanisms means that their rulings often lack enforceability beyond community boundaries limiting their applicability in larger legal contexts. Addressing these concerns by enhancing the credibility and recognition of indigenous dispute resolution practices is crucial in ensuring their continued effectiveness.

Indigenous dispute resolution mechanisms remained a vital alternative to formal judicial systems in the Maasai community and their ability to provide swift, affordable and culturally relevant justice has solidified their role in conflict resolution. However the challenges of standardization, enforceability and alignment with formal judicial processes present barriers to their broader recognition. To address these limitations a hybrid approach that integrates indigenous dispute resolution with the formal legal system should be explored. This would ensure that indigenous rulings are not only respected within communities but also upheld in formal judicial settings. Legal recognition, structured training for mediators and documentation of rulings can enhance the reliability of indigenous dispute resolution mechanisms. Ultimately the co-existence of indigenous and formal judicial systems can create a more inclusive and contextually relevant dispute resolution framework that benefits all stakeholders.

5.1.3 Role of Non-State Actors in Indigenous Dispute Resolutions

Non-state actors including NGOs, religious institutions and civil societies played a crucial role in strengthening indigenous dispute resolution processes. Their contributions included providing legal training to elders, advocating for policy recognition of indigenous rulings and facilitating dialogue between indigenous and formal systems. NGOs in particular focused on capacity-building programs that equip community leaders with knowledge on legal rights and human rights principles ensuring that indigenous mechanisms align with constitutional provisions. However despite these efforts, inconsistencies in collaboration between non-state actors and indigenous leaders remained to be a challenge. A few of community leaders and elders resisted external influences and interference with the fear that their indigenous authority may be looked upon at. In addition differing legal interpretations may create discomfort between traditional and formal systems making the whole process of integration challenging. The study established that while non-state actors have positively contributed to resolutions of disputes in various quarters their effectiveness is subject to stronger policy support and community engagement.

The participation of non-state actors in indigenous dispute resolution mechanism has been influential in bridging the gap between indigenous and formal legal systems, and their role in advocacy, legal training and policy development has strengthened the indigenous mechanisms in terms of dispute resolutions. However viable integration requires continuous discussion between policymakers, elders and legal experts therefore there is need to ensure that external interventions adhere to cultural integrity while

providing necessary institutional support. There is also need to have a clear policy reforms with clear guidelines on the specific mandate of non-state actors in regards to indigenous dispute resolution and their contributions should enhance dispute resolution rather than replacing indigenous systems. Solidifying the partnership between these actors and community leaders or elders will heighten the legitimacy and effectiveness of indigenous dispute resolution mechanisms.

5.1.4 Development and Validation of a Framework for Institutionalizing IK

The study developed a structured framework for institutionalizing indigenous dispute resolution mechanisms to enhance their legitimacy, sustainability and effectiveness. This framework comprised three core components: legal recognition, capacity building and documentation. Legal recognition involves the formal acknowledgment of indigenous dispute resolution systems within the judicial framework ensuring that their rulings are upheld and integrated into the national legal system. Capacity building aimed to provide targeted training for elders and traditional mediators equipping them with legal knowledge, mediation skills and human rights awareness to enhance the fairness and credibility of indigenous rulings. Documentation focused on creating a systematic record of dispute resolution cases handled through indigenous mechanisms to ensure consistency, transparency and enforceability. The study revealed that the institutionalization of indigenous dispute resolution mechanisms is necessary for ensuring that cultural traditions remain relevant while aligning with contemporary legal frameworks. However the success of such institutionalization efforts requires collaboration among key stakeholders including traditional leaders, legal professionals,

policymakers and non-state actors. Challenges identified in the process include resistance from some elders who fear the loss of autonomy, legal complexities in aligning customary practices with constitutional law and insufficient resources for documentation and training. Addressing these challenges is essential for a seamless integration of indigenous dispute resolution into the formal legal system. The findings suggest that institutionalization can improve dispute resolution efficiency, strengthen cultural identity and enhance access to justice particularly for marginalized communities that rely heavily on indigenous systems for conflict management.

The institutionalization of indigenous dispute resolution mechanisms presents a viable approach to bridging the gap between traditional knowledge and modern legal frameworks. The study underscores the necessity of legal recognition, capacity building and systematic documentation to enhance the legitimacy, efficiency and sustainability of these mechanisms. While indigenous dispute resolution systems have long provided accessible and culturally relevant conflict resolution avenues their lack of formal recognition has limited their broader applicability and enforceability. The proposed framework addresses these gaps by ensuring that indigenous dispute resolution processes are standardized, legally acknowledged and aligned with human rights principles. However, successful institutionalization requires a participatory approach where traditional leaders, legal experts, and policymakers work collaboratively to design policies that respect cultural heritage while enhancing the effectiveness of dispute resolution. Additionally, financial and technical support from government agencies and development partners will be crucial in implementing training programs and

documentation systems that reinforce the credibility of indigenous mechanisms. The study concludes that while institutionalizing indigenous dispute resolution presents challenges it also offers an opportunity to create a hybrid dispute resolution system that combines the strengths of customary and formal legal mechanisms. If implemented effectively, this integration will contribute to a more inclusive justice system that respects cultural diversity, promotes social cohesion and improves access to justice for all community members.

5.2 Conclusions

Indigenous knowledge systems operate as fundamental components throughout the dispute resolution practices of the Maasai community. Elders maintain central position in conflict resolution matters concerning property disputes along with matrimonial issues as well as livestock theft cases and personal clashes by implementing established cultural resolutions like talking sessions and formal talks and symbolic performances. The traditional conflict resolution practices serve to solve community disputes and simultaneously promote community solidarity while sustaining traditional principles. The researcher discussed several weaknesses in their research including inadequate official documentation as well as changing generational beliefs and little legal backing. The factors create obstacles that challenge the ability to sustain indigenous conflict resolution methods. Traditional conflict management practices remain in use because of their accessibility and cultural relevance to the community but lack organized formal legal links that cause modern judicial sectors to marginalize them as well as create variability in traditional approaches. To institute indigenous knowledge systems properly one must

document them while achieving legal protection in addition to actively participating with native communities to ensure prevailing authenticity. Research shows indigenous knowledge addresses Kenyan conflicts with high effectiveness but requires strategic support to maintain and prosper under modern legal development. The research finding emphasizes the coexistence of multiple normative orders i.e. formal law and customary law within a single society. The tenacity of indigenous dispute resolution application validates that legal pluralism is not just a transitional phase but a long-term reality. The implication adduced is that any theoretical model of justice in Kenya should account for this pluralistic legal landscape. The results further recommends that accessibility and cultural legality are as important as physical proximity in theories of access to justice and therefore indigenous systems needs to expand the concept of justice by implanting it within cultural, social and relational networks rather than purely institutional structures.

Additionally the Maasai communal assessment in Chapter Four indicated their strong confidence and contentment with traditional dispute resolution more than standard judicial procedures. Traditional dispute resolution methods pleased the respondents because they provided swift services which respected cultural traditions and provided both easy access and reconciliation-focused procedures. Formal judicial processes maintain their officiating role and procedural nature yet concerned people because they were viewed as distant and costly with an excluding atmosphere. Traditional dispute resolution operated within the community using native languages thus providing more accessibility to those without formal education or elder status or women especially. While formal systems had the advantage of result execution and managing intricate legal

matters people still maintained respect for their organizational abilities. The community favors IDRs because these proceedings draw participation from the community members and focus on relationship repairs rather than fault attribution. Despite this, the informal nature of IDRs and their lack of documentation, and legal backing limit their broader application and effectiveness in more complex or cross-community disputes. Justice delivery will achieve its best state when formal systems integrate with IDRs to create hybrid systems that maintain efficiency as well as cultural alignment. Such methodology contributes to justice enhancement in rural areas and generates a governance system that better understands and responds to community norms. The theoretical implication of this study shows that justice in plural societies is best shown through advanced hybridized frameworks that integrate cultural legitimacy from indigenous dispute resolutions with established enforceability from formal judicial mechanisms. This contributes to developing theories of law, leadership and governance by stressing the cultural and participatory proportions of justice delivery.

Furthermore, the study proved that non-government organizations together with religious bodies along with civil society organizations drive the development of indigenous dispute settlement systems. Research findings show that such entities engage in the process through facilitation which accounted for 38.8%; training comprised of 31% and funding represented 15.5% and advocacy stands at 14.7%. Elders receive legal literacy training from NGOs that maintain human rights standard compliance through the help of religious leaders who support families in conflict resolution by providing moral and spiritual assistance. Tribal dispute resolution processes gain assistance from civil society

organizations which create bridges between traditional and formal dispute resolution practices to build shared understanding. The indigenous dispute resolutions benefit from these actors who enable broader participation along with higher acceptance and versatility while targeting specific unrepresented populations like women and young people. When external institutions become monopolized in conflict resolution processes there are two main issues for local autonomy and cultural value conflicts with imposed agendas. Non-state actors demonstrate indispensable merit for capacity enhancement along with traditional and modern system integration yet their support requires community-led management which recognizes cultural values. Local partnerships between strategic organizations lead to indigenous solutions that both survive and become acceptable credible sustainable alternatives compared to formal justice systems. The study in general emphasizes that theories of justice in multi-ethnic societies should account for the interdependence amongst local institutions and external actors by appreciating that workable and credible indigenous dispute resolution arises not for substituting customary practices but for reinforcing them through culturally sensitive partnerships.

In addition to that, the study completed a culturally relevant framework for institutionalizing indigenous knowledge through community-based validation exercises. The framework bases its approach on three main elements which include granting legal standing, creating organized documentation systems and providing capacity development tools to ensure lasting integration within formal judicial structures. Elders together with chiefs and sub-chiefs validated the framework because it maintains traditional practices

yet delivers clear procedures with alignment to constitutional and human rights frameworks. The implementation process needs to involve stakeholders for maintaining local values alongside enabling legal compliance. The research revealed that hybrid systems promise to unite traditional methods with official procedures which create more justice opportunities for rural citizens. Evaluation results from the community validated the reform effort and demonstrated a willingness to collaborate for change. A well-designed institutional framework according to these findings can successfully unite traditional and formal legal systems to defend cultural heritage according to modern legal demands. The framework provides a flexible framework for policy transformation which has potential uses for comprehensive justice system developments in comparable socio-cultural regions of Kenya and other jurisdictions.

5.3 Recommendations

Based on the research findings of the study, the interpretation and conclusion the following recommendations were made.

1. Legal Recognition of Indigenous Dispute Resolutions

Legal recognition is a critical step in institutionalizing IDRs. Enacting legislation would provide these mechanisms with formal legitimacy, ensuring they are acknowledged as an integral part of the justice system. This recognition would empower community leaders and elders enabling them to resolve disputes with the authority of the law. Additionally, formal recognition would create pathways for integrating IDRs with formal judicial systems fostering collaboration and mutual respect between traditional and modern

practices. Such legislation should outline the scope of IDRs, detailing the types of disputes they can address and their relationship with formal systems.

Standardized documentation is essential for enhancing the credibility and scalability of IDRs. Guidelines should be developed to ensure that resolutions are recorded consistently and transparently. This documentation would serve as a reference for formal systems allowing for greater alignment and integration. Moreover standardized practices would address concerns about bias and inconsistencies ensuring that IDRs deliver fair and equitable outcomes. Documentation and record-keeping in training programs for elders, community leaders and mediators should be included to support this effort of indigenous dispute resolution.

The role of achieving the said recommendation rests with key duty bearers who include the County and National Governments who should legislate enabling laws to legalize and recognize indigenous dispute resolution mechanisms. The judiciary needs to establish clear trails for integration and oversight while civil society organizations and NGOs needs to strongly support capacity building through training, documentation and record-keeping programs. Also community elders hold the duty to apply these standards in practice ensuring transparency, fairness and accountability. Together these actors share the obligation of institutionalizing IDRs as credible, legitimate and complementary components of Kenya's justice system

2. Capacity Building

To enhance professionalism in indigenous dispute resolution capacity building is essential. There is need for training programs to be put in place to equip community elders and leaders with the requisite skills and knowledge required to traverse contemporary legal contexts while conserving traditional/indigenous values. User education on legal literacy programs would be necessary in helping the community leaders understand the clear relationship between formal judicial mechanisms and IDRs thus enabling better collaboration and integration. To address the needs of all community members, mediation skills and gender sensitivity training is prerequisite to ensure IDRs are inclusive and equitable, and these programs needs to be delivered in in native dialect to maximize accessibility and impact.

Non-state actors such as religious based organization, community-based organizations, civil organizations and non-governmental organizations are critical in capacity building and enhancement. Collaboration with these organizations may provide extra resources and expertise to enhance and facilitate training programs which are crucial in the whole process of dispute resolutions. For instance religious institutions can provide moral authority and neutral spaces for training while non-governmental organization may provide leadership skills and conflict resolution workshops. Therefore combined efforts between the state and non-governmental entities would enhance the effectiveness of capacity-building initiatives hence fostering long-term sustainability.

The sole responsibility of enhancing proficiency in indigenous dispute resolution through capacity building rests with state actors principally the courts and other relevant government agencies who needs to design and offer provision for legal literacy and mediation training programs. Additionally community elders have the responsibility of aggressively participating and applying these skills in culturally appropriate ways. At the same time non-state actors including religious institutions, community-based organizations, civil society and NGOs bear the responsibility of complementing state efforts by providing resources, expertise and platforms for inclusive and accessible training. Joint collaboration among these duty bearers ensures that capacity-building initiatives are not only sustainable but also equitable, culturally sensitive and aligned with both indigenous values and contemporary legal contexts.

3. Resource Allocation

Sufficient funds are a precondition for the successful implementation and institutionalization of indigenous disputes resolution (IDRs). Fiscal resources needs to be allotted to support the documentation of traditional/indigenous practices hence ensuring they are being kept and preserved for generations to come and making the whole process formal. The resources are also critical towards facilitating training programs for elders, community leaders and other developments like infrastructure development such as meeting spaces and other necessary tools, and equipment for documentation. This venture would improve the capability and scalability of IDRs allowing them to handle a wider variety of disputes more effectively and efficiently.

The state and non-governmental institution need to work together in order to enhance resource distribution by combining fiscal and logistical assets, these groups can undertake bigger initiatives that would seem challenging when they are undertaken alone. For instance, collective finances can be allocated to create regional hubs for indigenous dispute resolutions which offer centralized resources and opportunities for training. Such collaboration fosters mutual understanding and cooperation between formal and indigenous systems, enhancing the overall effectiveness of dispute-resolution mechanisms.

4. Community Involvement

Community involvement is critical for the success of IDR frameworks. Diverse groups which includes women and youth needs to be actively involved to ensure that the framework developed echoes the needs, values and norms of the entire community. Women always perceive dispute resolution differently especially in family and gender-related dispute while the young population can contribute innovative ideas and energy therefore involving them in the structure, design and framework implementation process to enhance its legitimacy and acceptance hence fostering trust and cooperation.

To ensure the effectiveness and adaptability of indigenous dispute resolution framework, feedback mechanisms is of great essence. Continuous discussion and consultations with community members provides treasured insights which can go a long way to strengthen the system and eliminate weaknesses. The feedback mechanism can be done through periodic surveys, community meetings and digital platforms. When the community input

is incorporated, policymakers and other responsible law enforcers can address emerging challenges and ensure that the framework remains applicable and operative over time.

5. Preservation of Cultural Significance

The documentation of traditional practices is vital for preserving their cultural significance because they ensure that these practices are not lost to modernization; this process can be done through creating archives of rituals, historical precedents and resolutions. These archives institutions can also serve as informational and educational resources for current and future generations purposely for reference materials. There is need for the involvement of elders, community leaders and cultural historians in the documentation process to ensure that the records/archives kept are accurate, reliable and comprehensive. The proposal to have a hybrid court models provides a practical and viable solution for integrating indigenous dispute resolution with formal judicial dispute resolution mechanism. These courts are legible to address disputes that touch on both cultural sensitivity and legal rigor hence creating an avenue where indigenous practices and modern standards coexist. For instance, hybrid courts can give room for the annexation of rituals and symbolic acts in dispute resolution while observing the formal legal procedures and requirements. Pilot programs should be developed to test and refine these models to ensure their scalability and effectiveness.

6. Advocacy and Public Awareness

Public support and awareness is critical when institutionalizing indigenous dispute resolution with formal dispute resolution system. Public support awareness can be done

through educating the public and policymakers about social, cultural and economic benefits of IDRs to enhance larger recognition and support. These sensitization programs needs to highlight the achievements realized and demonstrate the compatibility of IDRs with formal judicial mechanisms for dispute resolution. Using mass media and multimedia channels such as radio, television and social media will ensure the message reaches a wider and heterogeneous audience. Also engaging shareholders through policy discourses, seminars and workshops can facilitate the integration of IDRs into formal judicial systems; these discussions offers a platform for sharing best practices , discussing challenges and building consensus among policymakers, community leaders/elders and non-state actors. Through open communication, dialogue and collaboration, stakeholder engagements can hasten the development and implementation of effective integrated framework.

5.4 Future Directions

1. Hybrid Frameworks

Pilot programs are effective ways to test the feasibility of hybrid framework and they need to combine the strengths of traditional mechanisms with formal judicial mechanisms through creating a framework that is both culturally sensitive and legally robust. The feedback from the Community should be assimilated throughout the pilot stage to ensure that the framework complies with all the needs of stakeholders and the lessons learned from these programs needs to inform the development of scalable and sustainable hybrid systems.

2. Modernization of Practices

The Current technologies can play an important role in enhancing the use of indigenous dispute resolution mechanisms techniques. The use of digital techniques like virtual platforms and mobile phone applications and can streamline the documentation of resolutions realized and facilitate sharing of knowledge between the communities, these techniques can also be used for training programs and provision of feedback mechanisms which ensures that IDRs remain dynamic and adaptable. Much effort is needed to make sure that these tools and techniques are available and easy to use for all members of the community. Indigenous practices must advance to remain relevant in a fast changing world to address challenges associated with urbanization, migration and environmental degradation. For example, IDRs could incorporate modern resource management strategies to resolve disputes over water usage or land allocation. Such adaptations ensure that traditional practices remain effective and culturally significant.

3. Policy Development

Policy development is essential for institutionalizing IDRs therefore policies need to give clear guidelines on matters pertaining inclusivity, how marginalized groups (such as women and youth) can be represented in dispute resolution processes. Other Measures such as protecting cultural heritage, documentation and preservation of rituals needs to be also included. Furthermore these policies need to apportion enough resources for infrastructure, training and research to ensure long-term sustainability of indigenous dispute resolutions

4. Research and Collaboration

Longitudinal researches are critical for examining the long-term efficacy of integrated IDR frameworks in solving disputes and these studies can offer valuable comprehensions into how well hybrid systems can resolve disputes and conflicts address community needs and foster social harmony. Through research findings, the researchers can track outcomes for a period of time and identify areas for improvement and refine assimilation strategies to enhance their impact and significance also joining forces with international establishments can provide access to affluence of resources and knowledge. African countries share to each other achievements and challenges in institutionalizing indigenous dispute resolution mechanisms through sharing their experiences and best practices, these associations can promote cross-cultural understanding and innovation ensuring that IDRs remain applicable and operative in a globalized world.

5.5. Suggestions for Further Study

This study aimed in documenting the indigenous dispute resolution mechanisms with a view of developing a framework in which indigenous dispute resolution may be integrated into the formal dispute resolution mechanisms among the Maasai Community in Kajiado County, Kenya. This study makes the following suggestions for further study:

1. Comparative Analysis across Communities- Future studies should examine indigenous dispute resolution (IDR) practices across different Kenyan communities to establish similarities, differences and best practices that could inform a broader framework for national-level integration.

2. **Generational Perspectives and Knowledge Transfer-** Further research is needed to explore how generational shifts in values and exposure to modernization affect the sustainability of indigenous knowledge and what strategies can best support intergenerational transfer of dispute resolution practices
3. **Role of Women and Marginalized Groups-** A focused study should investigate the participation and influence of women, youth and other marginalized groups within IDR systems, and how inclusivity can be strengthened without undermining cultural authenticity.
4. **Evaluation of the Proposed Framework in Practice-**Since this study developed and validated a framework for institutionalizing IDRs; further empirical research should pilot its implementation in selected communities and evaluate its effectiveness, challenges and adaptability in real-world contexts.

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APPENDICES

Appendix I: Transmission Letter

My name is Guto Richard a PhD student of Kirinyaga University, School of Pure and Applied Sciences with a study title '*A Framework for Institutionalizing Indigenous Knowledge Systems in Dispute Resolution Mechanism among the Maasai Community in Kajiado County, Kenya*'. I appreciate the time you have spared within your busy schedule in order to be here to assist me discuss on a topic of great interest to me.

With due respect, elders, men and women/ respondents, my study focuses on indigenous dispute resolution mechanisms of the Maasai Community in Kajiado County, the old and institutionalized mechanisms for resolving disputes and conflict between individuals, parties, groups and communities. The information you will provide shall be treated with utmost confidentiality and purely for the purposes of this study. However should you feel that you are not comfortable to answer some particular questions during this interview/ discussions, you are obliged to raise objection. You are also free to withdraw participation in this interview/ discussions at any stage if you wish.

If you accept to participate in this focus group discussions (FGD) / interviews, may I kindly request you to append your signatures in on the space provided. In case you have any issue you would like me to further clarify, I will oblige. By signing this consent form, I have not given up my legal rights as a participant in this research study. I voluntarily agree to participate in this research study:

Yes/No

Signature: _____ Date _____

Researcher's Statement

I, the undersigned, have fully explained the relevant details of this research study to the participant named above and believe that the participant has understood and has knowingly given his/her consent.

Name: _____ Date: _____

Signature: _____

Please feel free to contact me:

Richard Guto. Mobile Tel. No. 0710 321450

Appendix II: Focus Group Discussion for the Key Informants (Elders)

The question in the sections seeks to appreciate the contribution of the IDR mechanisms in solving disputes among the Maasai Community. It seeks to advance the indigenous knowledge held by the community and highlight the specifics relating to the application of the IDR.

1. What is the nature of disputes/conflicts in your community?
2. What are the prevalence of the disputes and conflicts in your community?
3. Describe the precursors of the disputes/conflicts in the community?
4. What types of disputes are commonly resolved using indigenous methods in your community?
5. What were the indigenous approaches to resolving disputes/conflicts?
6. Describe the several ways the community devised to resolve conflict/disputes?
7. What traditional practices or rituals are involved in dispute resolution
8. Describe the key differences in outcomes between disputes resolved through indigenous methods and those resolved through formal systems?
9. How much trust do community members place in formal judicial mechanisms?
10. Are indigenous mechanisms more accessible to community members than formal systems?
11. How do non-state actors enhance or hinder the use of indigenous dispute resolution mechanisms?

12. Do non-state actors help bridge indigenous and formal dispute resolution mechanisms? If yes, how?
13. What are the challenges in collaboration between non-state actors and indigenous/community leaders?
14. Do you think indigenous dispute resolution mechanisms should be integrated into formal systems? Why or why not?
15. What are the key features you believe should be included in a framework for integration?

Appendix III: Questionnaire for the NGAO Community

My name is **Guto Richard** a PhD student of Kirinyaga University, School of Pure and Applied Sciences with a study title '*A Framework for Institutionalizing Indigenous Knowledge Systems in Dispute Resolution Mechanism among the Maasai Community in Kajiado County, Kenya*'. I appreciate the time you have spared within your busy schedule in order to be here to assist me discuss on a topic of great interest to me.

With due respect, elders, men and women/ respondents, my study focuses on indigenous dispute resolution mechanisms of the Maasai Community in Kajiado County, the old and institutionalized mechanisms for resolving disputes and conflict between individuals, parties, groups and communities. The information you will provide shall be treated with utmost confidentiality and purely for the purposes of this study. However, should you feel that you are not comfortable to answer some particular questions during these interview/ discussions, you are obliged to raise objection. You are also free to withdraw participation in these interview/ discussions at any stage if you wish.

If you accept to participate in in filling this questionnaire, may I kindly request you to append your signatures in/on the space provided. In case you have any issue, you would like me to further clarify, I will oblige.

By signing this consent form, I have not given up my legal rights as a participant in this research study. I voluntarily agree to participate in this research study:

Yes/No

Signature: _____ Date _____

Researcher's statement

I, the undersigned, have fully explained the relevant details of this research study to the participant named above and believe that the participant has understood and has knowingly given his/her consent.

Name: _____ Date: _____

Signature: _____

Please feel free to contact me:

Richard Guto. Mobile Tel. No. 0710 321450

Date: _____ **Serial code** _____

Location _____ **Sub-location** _____

Section One: Respondent Demographic Characteristics

Instructions for filling the questionnaire:

The questions in this section relate to the information relating to respondent's demographic characteristics **PLEASE TICK THE BOX WITH THE APPROPRIATE CHOICE.**

1. Gender

Male [] Female []

2. Age in years? Specify _____

3. Years of residence in the current location _____

Section Two (Objective 1): Utilization of Indigenous Knowledge in Dispute Resolution Mechanisms.

The section relates to the indigenous knowledge systems held by the community at large. It is expected that any community members can associate with the IDR at an individual level. Please rate the level of your agreement or disagreement with the statements by ticking/marking what best represents your feeling from the following choices

General Knowledge and Practices

1. What types of disputes are commonly resolved using indigenous methods in your community?

.....
.....
.....

2. What traditional practices or rituals are involved in dispute resolution?

.....
.....
.....

3. Who are the key individuals involved in resolving disputes through indigenous mechanisms?

.....
.....
.....

4. How often are disputes resolved through indigenous mechanisms in your community?

	Very often	Sometimes	Neutral	Rarely	Never
How often are disputes resolved through indigenous mechanisms in your community?					

5. What do you believe are the strengths of indigenous dispute resolution methods?

.....
.....
.....

6. Are there specific types of disputes that indigenous mechanisms are better suited for than formal systems?

YES [...] NO [...]

If yes, please provide examples.

.....
.....
.....

7. What challenges or limitations do you face when using indigenous methods to resolve disputes?

.....
.....
.....

Objective 2: Evaluate the Effectiveness of Indigenous Dispute Resolution Relative to Formal Judicial Mechanisms.

The section relates to the influence of mechanisms of non-state actors in relation to the indigenous forms of dispute resolution. It is expected that any community members can identify and relate to the activities of non-state actors at an individual level.

1. How effective are indigenous dispute resolution mechanisms in resolving disputes compared to formal judicial systems?

Comparative Analysis	Very Effective	Somewhat Effective	Not Effective
How effective are indigenous dispute resolution mechanisms in resolving disputes compared to formal judicial systems?			

2. What are the key differences in outcomes between disputes resolved through indigenous methods and those resolved through formal systems?

.....

.....

.....

3. How satisfied are disputants with the outcomes of disputes resolved through indigenous methods

	Very Satisfied	Satisfied	Neutral	Dissatisfied	Not Dissatisfied
How satisfied are disputants with the outcomes of disputes resolved through indigenous methods?					

4. What is the time taken to resolve disputes between indigenous and formal mechanisms?

.....

.....

.....

5. How much trust do community members place in indigenous dispute resolution mechanisms?

Trust and Credibility	High Trust	Moderate Trust	Neutral	Low Trust	No Trust
How much trust do community members place in indigenous dispute resolution mechanisms?					

6. How much trust do community members place in formal judicial mechanisms?

.....

.....

.....

7. What is the cost of using indigenous mechanisms compared to formal systems?

.....

.....

.....

8. Are indigenous mechanisms more accessible to community members than formal systems?

YES [...] NO [...]

If yes, how?

.....

.....

.....

Objective 3: Analyze the Role of Non-State Actors in Influencing the use of Indigenous Knowledge in Dispute Resolution Mechanism.

Role of Non-State Actors

1. Are there non-state actors (e.g., NGOs, religious organizations, community groups) involved in the indigenous dispute resolution process?

.....

.....

.....

2. What role do these actors play?

	facilitation	training	Neutral	funding	advocacy
What role do these actors play?					

Effectiveness of Non-State Actors

3. How do non-state actors enhance or hinder the use of indigenous dispute resolution mechanisms?

.....

.....

.....

4. Have non-state actors provided resources or training to support indigenous methods? If yes, please describe.

YES [...] NO [...]

If yes, please describe

.....
.....
.....

Collaboration with Formal Systems

5. Do non-state actors help bridge indigenous and formal dispute resolution mechanisms?

If yes, how?

YES [...] NO [...]

If yes, how?

.....
.....
.....

6. What are the challenges in collaboration between non-state actors and indigenous/community leaders?

.....
.....
.....

Objective 4: Framework for Institutionalizing Indigenous Knowledge.

Community Feedback on Integration

1. Do you think indigenous dispute resolution mechanisms should be integrated into formal systems? Why or why not?

.....
.....
.....
2. What are the key features you believe should be included in a framework for integration?

.....
.....
.....

3. What barriers might exist in institutionalizing indigenous knowledge within formal systems?

.....
.....
.....

4. Are there examples of successful integration frameworks from other regions that could be applied here?

.....
.....
.....

Thank you for your Cooperation

Appendix IV: Framework Validation Structured Interview

My name is **Guto Richard** a PhD student of Kirinyaga University, School of Pure and Applied Sciences with a study title '*A Framework for Institutionalizing Indigenous Knowledge Systems in Dispute Resolution Mechanism among the Maasai Community in Kajiado County, Kenya*'. I appreciate the time you have spared within your busy schedule in order to be here to assist me discuss on a topic of great interest to me.

With due respect, elders, men and women/ respondents, my study focuses on indigenous dispute resolution mechanisms of the Maasai Community in Kajiado County, the old and institutionalized mechanisms for resolving disputes and conflict between individuals, parties, groups and communities. The information you will provide shall be treated with utmost confidentiality and purely for the purposes of this study. However, should you feel that you are not comfortable to answer some particular questions during these interview/ discussions, you are obliged to raise objection. You are also free to withdraw participation in these interview/ discussions at any stage if you wish.

Researcher's statement

I, the undersigned, have fully explained the relevant details of this research study to the participant named above and believe that the participant has understood and has knowingly given his/her consent.

Name: _____ Date: _____

Signature: _____

Please feel free to contact me:

Richard Guto. Mobile Tel. No. 0710 321450

Framework Validation Structured Schedule

1. How well does the proposed framework integrate indigenous knowledge systems with formal judicial mechanisms?

- Very well
- Moderately well
- Not well

2. Do you believe that the framework preserves the cultural integrity of indigenous dispute resolution processes?

- Yes, completely
- Somewhat
- No

3. In your opinion, how effective is the framework in resolving disputes within your community?

- Very effective
- Moderately effective
- Ineffective

4. How important is it to maintain community participation in the framework's implementation?

- Very important
- Somewhat important
- Not important

5. Can the framework enhance the accessibility of dispute resolution for marginalized groups (e.g., women and youth)?

- Yes
- No
- Not sure

6. How feasible is it to document indigenous dispute resolutions under the proposed framework?

- Very feasible
- Somewhat feasible
- Not feasible


7. How much trust do you have in the legal recognition of indigenous dispute resolution decisions within formal legal systems?

- High trust
- Moderate trust
- Low trust

8. Does the framework address the training needs of community leaders (e.g., elders, mediators)?

- Yes, adequately
- Somewhat
- No

Appendix V: Research Permit

 REPUBLIC OF KENYA	 NATIONAL COMMISSION FOR SCIENCE, TECHNOLOGY & INNOVATION
Ref No: 646353	Date of Issue: 11/October/2024
RESEARCH LICENSE	
	
This is to Certify that Mr. Richard Guto of Kirinyaga University, has been licensed to conduct research as per the provision of the Science, Technology and Innovation Act, 2013 (Rev.2014) in Kajiado on the topic: A FRAMEWORK FOR INSTITUTIONALIZING INDIGENOUS KNOWLEDGE SYSTEM IN DISPUTE RESOLUTION MECHANISM AMONG THE MAASAI COMMUNITY IN KAJIADO COUNTY, KENYA for the period ending : 11/October/2025.	
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Legal Notice No. 108: The Science, Technology and Innovation (Research Licensing) Regulations, 2014

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 - ii. Adversely affect the lives of Kenyans
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 - iv. Result in exploitation of intellectual property rights of communities in Kenya
 - v. Adversely affect the environment
 - vi. Adversely affect the rights of communities
 - vii. Endanger public safety and national cohesion
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14. The Commission shall have powers to acquire from any person the right in, or to, any scientific innovation, invention or patent of strategic importance to the country.
15. Relevant Institutional Scientific and Ethical Review Committee shall monitor and evaluate the research periodically, and make a report of its findings to the Commission for necessary action.

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Appendix VI: Similarity Index Report



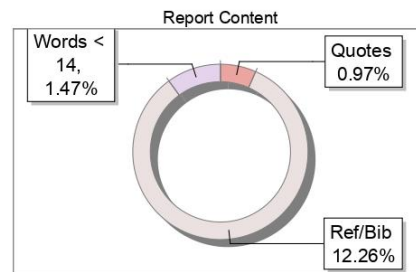
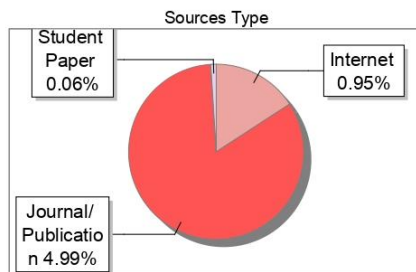
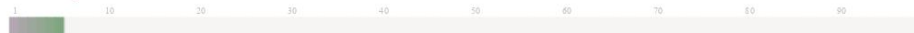
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Submission Information

Author Name	Richard
Title	A FRAMEWORK FOR INSTITUTIONALIZING INDIGENOUS KNOWLEDGE SYSTEMS IN DISPUTE RESOLUTION MECHANISM AMONG THE MAASAI COMMUNITY IN KAJIADO COUNTY, KENYA
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Submitted by	bkamau@kyu.ac.ke
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Result Information

Similarity **6 %**



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DrillBit Similarity Report

6

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121

MATCHED SOURCES

A

GRADE

A-Satisfactory (0-10%)

B-Upgrade (11-40%)

C-Poor (41-60%)

D-Unacceptable (61-100%)

LOCATION	MATCHED DOMAIN	%	SOURCE TYPE
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2	Peace from below Governance and peacebuilding in Kerio Valley, Kenya by Elfversson-2016	<1	Publication
3	kmco.co.ke	<1	Publication
4	researchspace.ukzn.ac.za	<1	Publication
5	Thesis Submitted to Shodhganga Repository	<1	Publication
6	ir-library.ku.ac.ke	<1	Publication
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