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Agikuyu Indigenous Methods of Conflict Resolution- the Case of Tetu Sub-County

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Abstract:

Since independence the Kenyan government has effectively promoted western administrative and judicial systems in all parts of the country including Tetu Sub-County to enforce law and order and dispense justice. However, various forms of conflict have become more pronounced in the area in the last twenty years. These conflicts include gender- based violence, land related conflicts, family conflicts and value- based conflicts, among others. The study traced Agikuyu indigenous methods of conflict resolution. It used historical research design. It used primary and secondary data. Primary data was obtained from archival sources and from oral interviews with informants. Fifty-seven individuals including seven key informants were interviewed and sixty-five questionnaires were distributed and collected. The informants comprised both elderly persons and the youth. The youth informants were identified through simple random sampling while the elders were identified through purposive sampling procedures. Secondary data was obtained from published works and journals. The study adopted qualitative approach in data analysis. The data collected was analyzed descriptively. It was organized and interpreted based on the objective of the study. The study established that indigenous institutions were important to peace building and conflict resolution but were neglected to some extent. It concluded that indigenous institutions are still available and relevant in conflict resolution in the study area and recommended the government, all stakeholders and the constitution to revisit and give more emphasis on the use of indigenous institutions in conflict resolution. This will ensure peaceful co-existence in the community.

1. Introduction

Augsburger (1992) presents four basic propositions in regard to cross-cultural conflict. He posits that win-lose form of conflict resolution block people from exploring alternative solutions. People in conflict are the least able and equipped to settle their own disputes and that the traditional ways of settlement like threats and litigation must be broadened into more creative ways like mediation and negotiation. Augsburger further contends that there exist in traditional cultures time tested ways of resolving conflict that are better than modern ways. As such universal way of achieving conflict resolution would be inappropriate because there exist in every culture a way to resolve problems that work for them based on their values and history. Furthermore, he argues that it is important to decentralize from common sense in regards to conflict. Each culture will have a pattern of behaviors, a set of values and a set of laws to deal with conflict and thus they will vary from culture to culture.

Peace building should have space for diverse actors, from the state to civil society and ultimately to local community members who are faced daily with the impact of conflict (Lederach, 1997). He advocates grassroots peace building instead of state-centric peace building, hence his conception of the peace building pyramid model which categorizes actors in peace building into top, middle and grassroots ranks. At the top level, there are government institutions, political elites and the military leaders who are not only powerful but also have the mandate to engage in peace building from their constituencies. The middle-level actors include nongovernmental organizations, other civil society actors and local leaders who are capable of influencing both top leaders and grassroots actors. At the bottom level of the pyramid are grassroots actors and members of local communities who not only experience the day-to-day impact of conflict but are also best positioned to resolve that conflict because they are aware of their environment and the needs of the community.

In his research, Ayittey (1992) advocates for the use of existing institutions to generate economic prosperity. He asserts that development simply means improving existing ways of doing things to make the processes more efficient and productive than before. In the African context, development means using the same indigenous system to produce more output. Furthermore, he argues that the

real development solution lies in returning to Africa's own roots and building upon its age-old traditions of participatory democracy, free markets, and free trade. As such Africans, must embrace indigenous conflict resolution mechanisms to ensure peace in the society.

Shireesh (2010) contends that peace education is an interdisciplinary area of education whose goal is institutionalized and non-institutionalized teaching about peace and for peace. It aims to help students acquire skills for non-violent conflict resolution and to reinforce those skills for active and responsible action in the society for the promotion of the values of peace. In addition, peace education aims to prevent conflict in advance. People are taught how to peacefully exist on the basis of non-violence, tolerance, equality, respect for differences and social justice.

In her study on Agikuyu traditional moral values, Kinoti (1994) notes the rapid decline in moral standards in Kenya. There are widespread social evils such as corruption, robbery, prostitution, broken homes and sexual promiscuity. The large number of teenage pregnancies is a matter of great concern too. Consequently, the loss of respect for traditional values had created a moral vacuum. As such conflicts, have increased in the society and hence the need to trace traditional roots to deal with the situation.

1.1. Theoretical Consideration

The study was informed by the indigenous political institutions perspective and human needs theory. The study sought to establish to what extent the indigenous institutions can be used in the management of conflicts in Tetu Sub - County. Indigenous approaches to conflict resolution are important because they hinge on people's culture (Byrne & Irvin, 2000). Rituals were key components in conflict resolution among the Agikuyu.

Scholars of the indigenous political institutions perspective emphasize the need to interpret the world from the indigenous peoples' own perspective and purpose (Alfred & Wilmer, 1997; Ayittey, 1992; Smith, 2001). Indigenous peoples' institutional theory can help scholars and researchers to explain the indigenous peoples' existence in contemporary society to counter western institutions and values that have been promoted all over the world at the expense of indigenous cultural systems.

The indigenous institutions perspective indicates that societies can still apply indigenous conflict resolution mechanisms to address local conflicts. The current study seeks to examine traditional conflict resolution and their relevance in the modern society. This theory is relevant to the study because it recognizes the role of culture in conflict management and it emphasizes on the need of the involvement of all the people in the community to solve conflicts.

Human needs theory (Burton, 1990) states that individuals must be given recognition as persons if social and gender-based violence is to be contained, young people must be given a role in the society if street gangs are to vanish and teenage pregnancies are to decrease. In addition, ethnic minorities must be given an autonomous status if violence is to be avoided, decision-making systems must be non-adversarial if leadership roles are to be collaborative.

Burton further contends that when societies were small extended family, there was a large degree of collaboration within them. With population increase and end of face to face relationships, conflicts of interests conditioned social relationships. The struggle to survive and achieve has been very much a personal and not a community one. Conflicts are defined in physical terms even if there are non-material human values and needs involved. But in all cases, there are non-material needs to be satisfied that provoke such aggression. Following this theory, if the needs of the people of Tetu Sub-County are satisfactorily satisfied conflicts in the region will reduce

1.2. Agikuyu Indigenous Methods of Conflict Resolution

1.2.1. The Pre-Colonial Agikuyu Society

The Agikuyu ethnic community had their unique structure of governance which is entirely based on three major segments namely the family group (*mbari or nyumba*), the clan (*muhiriga*), and age grade (*riika rimwe*). According to Mary Wambui, a 90-year-old lady that has devotedly been part of the Agikuyu customs, the family group was responsible of bringing together all those who are related by blood. Examples of these were the man and his wife or wives, his children, grandchildren and also great grandchildren. The clan was responsible of bringing several family groups (*mbari units*) who share in a clan name and are believed to come from one family group in the remote past. The age grading helped in uniting and solidifying the whole tribe in all its activities and ensuring stability.

Conflict resolutions among the Agikuyu was handled by either of the above three principle factors governing the ethnic group. The minor conflicts were handled by the '*mbari*' or '*nyumba*' of which in case they were not able to resolve, it was taken to the '*muhiriga*', and after that, such was taken to the highest level which is the council of elders and who would handle the case until a solution was attained. All cases would be handled by these groups and through them; peace was maintained among the Agikuyu ethnic group.

Henry Mwangi, the husband to Mary Wambui, who was also a Mau Mau fighter, added that the fathers in every family were the main judge in every family handling and overseeing the activities of the family. They were in charge of any issue that arose as dispute and unless such was beyond their capacity, they would handle it. In case the case was beyond what they could handle, they could call heads of other families within a *mbari* (kinsfolk), who would now come in as not only heads of their families but as recognized elders of the *kiama*.

1.3. The Agikuyu Indigenous Methods of Conflict Resolution

John Thuo responded in an interview that adjudication and arbitration are currently the most predominant methods of conflict resolution in Kenya. The western legal system places great emphasis on courts. Kenya like modern states emphasizes more on the use

of court systems in conflict resolution. However, citizens are poorly informed about the requirements of the existing judicial system in the country. The judicial structure which is a colonial heritage from the British does not adequately reflect on Kenyan social values and socio-political organization. This further complicates the resolution of conflict especially those over resources. This gives strength to Ogot, B. (1999), who points out that people's customs, languages, traditions and lifestyle is very important in enriching the community and protecting it from the negative effects of modern technology.

The village elders, the chiefs and sub-chiefs in the study area, when asked of the challenges people of the community encounter in conflict resolution, they cited delays, high expenses, complicated technicalities and corruption as the disadvantages of courts. Geoffrey Muthama, an elderly man and a former sub-chief added that people are shifting to alternative methods of dispute resolution which include arbitration, negotiation and mediation. The courts are too rigid because disobeying the court orders leads to punishment and this makes the courts unsatisfactory for certain disputes. This confirmed the earlier comment by Lederach (1997) who said that "peace building should have space for diverse actors, from the state to civil society and ultimately to local community members who are faced daily with the impact of conflict".

Hannah Wambui, one of the respondents said that in the traditional society emphasis was not laid on the declaration of winners and losers but on amicable settlement of disputes. As such it led to a win-win outcome. In Kenya people rely on informal conflict management mechanism partly due to inability to access the legal system. A good example is the Land Dispute Tribunal Act of 1990 where land issues were handled by local elders and their judgment was final.

The most important indigenous conflict resolution institution in Kenya is the council of elders. For example, Mburugu and Hussein (2002) observed that the Turkana, Borana and Somali communities still use their elders. However, the institution has been weakened by the fact that they are unable to enforce punishments. Ruto, Mohamud and Masinde (2004) have pointed out that the Pokot, Turkana, Marakwet and Samburu utilize the institution.

The elders were trusted and acknowledged in conflict resolution. This finding concurs with Cagnolo, C. (2006) who asserts that in Agikuyu tradition there were no special law courts nor recognized judges but recognized elders had right to speak and give judgment on a case. Traditional institutions of resolving conflicts among communities are fading away due to marginalization by formal dispute resolution mechanisms and westernization. Elders are finding it hard to prevent and manage conflicts because their actions are not supported by any legal framework. In addition, they do not have a mechanism to enforce their resolutions.

Mohamud (2006) posits that information and knowledge could be used as a method of conflict resolution in areas like gender inequalities in land ownership and access. Information would equip people with awareness of their rights in regard to access of land and other resources. It would also be essential because the existing mechanisms of dispute resolution such as courts have failed and traditional justice is not fully recognized under the law. Mohamud thus contend that information professionals should intensify disseminating more information on the role of traditional institutions in fostering cohesiveness.

Lederach (1997) uses conflict transformation to describe peace building. Conflict is caused and causes changes in relationships, in order to bring peace, destructive interactions must be transformed into constructive relationships. This process needs right information to create conducive environment. However, such knowledge must be managed in conflict resolution. Information dissemination is important in conflict resolution. With proper information among citizen's conflicts can be avoided.

The study, through most respondents established that people who wanted long term solutions to their conflicts often preferred indigenous institutions such as negotiation, conciliation, mediation or a combination of mechanisms. Respondents pointed out that alternative dispute resolution enhances justice.

Table 1.0 illustrates the identified Agikuyu indigenous methods of conflict resolution with their percentage rating in success.

Methods of conflict resolution	Percentage (%) rating
Mediation	30%
Arbitration	35%
Negotiation	25%
Conciliation	30%
Adjudication	40%

Table 1: The Agikuyu Indigenous Methods of Conflict Resolution

1.3.1. Mediation

The researcher identified the mediation ADR as the most frequently used to resolve disputes. A large percentage of informants supported mediation. Mediation involved a presence of a third party in conflict resolution. The mediator was neutral and facilitated to help people discuss difficult issues and negotiate an agreement. The third-party person or group was usually an elderly person, respected by the two parties and whose word the two parties trusted and respected. Such cases in Agikuyu community were reported to be common in marriages, where the husband and the wife who were in dispute would call for an elderly couple to resolve their dispute. This finding concurs with NALEAP, (2012) who asserts that mediation involves an independent third party helping disputing parties to resolve their dispute.

In such a case, the third party listened to both the wife and husband at a time as each of them stated their grievances. Thereafter, the mediator advised the couple on how to reconcile for a win-win outcome.

John Kahinga, one who has been in the mediation team in the community for long confirmed that in most land disputes cases people preferred approaching elders from their villages to help resolve their dispute rather than go to courts. The informants stated that courts

were expensive and time consuming. Mediation could be used to resolve burial issues, land boundaries, land inheritance, land distribution among the children and wife/wives of the deceased among other conflicts

In an interview with Juliana Wangeci, a woman from Wamagana ward, her family was facing difficulties after their mother died. Her father announced to all children the location of their land but the elder brother was dissatisfied and wanted to kill the father that very night. The issue was that the father had given his grandson and the unmarried daughters the most fertile part of the land. The situation was averted with the arrival of their younger sister who saw their brother holding their father by the neck and when the brother saw her he stopped and pretended that all was well. Alarmed by the incident an urgent meeting was called which involved the entire family, an elder family friend and the area chief. Mediation was applied in this case and today the family is at peace though the sons are hesitant to relocate to their allocated areas

An elder pointed out that the role of mediators was to present available options to the disputing parties, urging them to consider them in order to have their dispute resolved. They assessed the situation and recommended some better options on behalf of the parties; Giving suggestions on behalf of the disputing parties, emphasizing the important norms, rules and regulations of the community while targeting at helping the two disputing parties come to an agreement with each other.

Julius Chege, a chairman of *Nyumba Kumi* initiative in Wamagana ward explained in an interview that as time progressed by and as westernization gained a front hold other cases of disputes that required mediation increased. These included religious issues where two leaders from the same religion, in this case church leaders; or two from different churches had a dispute and a leader was needed to mediate the conflict. In such a case a senior leader in that particular church was called upon to mediate between the two until an agreement was reached to resolve the dispute. Mediators of the Agikuyu community were respected men and women who were full of accumulated experience and wisdom in the society. They included mostly the clan elders and the religious leaders who were known to be capable of mediating disputing parties.

A respondent, who was once a chairman in the Catholic Church, Mr. John Wainaina explained how his church and the then area councilor had a dispute over a piece of land. The church wanted to construct a dispensary but the councilor considered the land public property. Elders were called upon and through mediation the dispute was amicably resolved. Responses to the questionnaires pointed out that cases of school strikes coffee and tea farmers' demonstrations required mediation from ward representatives and district officers concerned.

1.3.2. Arbitration

Ng'ang'a, (2006) explains that council of elders (*kiama*) carried out legislative, executive and judicial functions. The most significant function was the administration of justice. They did this through arbitration by a court constituted by the *kiama*. The primary purpose of the judicial process was to maintain peace and stability in the society.

Ng'ang'a further states that more often it was the disputants who referred cases to the elders for arbitration. Normally the hearing was public and everyone attending could express their opinion. Junior elders and some warriors who wished to be acquainted with legal procedures and customary law were allowed in the audience. *Ndundu ya kiama* considered judgment and it excluded anyone who had direct or indirect interest in the case. The disputants produced each a goat as the court fees which were slaughtered and roasted during *kiama* session. The meat was eaten as the judgment was delivered.

Ng'ang'a asserts that under customary law there was no imprisonment. Compensation was the main method of concluding most litigation. However, habitual offenders whose crimes were of serious nature were publicly put to death by the *muingi*- the people. Methods of execution included having dried banana leaves tied around the body then set on fire, being rolled in a bee-hive from a hill down the river to drown and stoning. Close relatives to the offender are the ones who started the execution of a punishment.

Judy Wairimu, an 80 years old lady said in an interview that women were never sentenced to death. Theft especially of livestock and honey and causing bodily harm were compensated by paying ten goats and a *ngoima* (a fattened ram) for *kiama*. Killing a person was compensated with hundred goats paid to the relatives and ten *ngoima* to the elders. For murder of a woman the compensation was thirty goats and three *ngoima*.

From the respondents, the study established arbitration to be still relevant today. According to the results of this study it rated at 35% success rate meaning it was the second most used among all others. This alternative involved a third party listening to the argument and making a decision to solve a dispute. In that situation, the two disputing parties chose through an agreement to use a third party to resolve their disputes. Even though there was no any single alternative known to work better than the other in the case of arbitration, whatever the resolution would be reached by the two disputing parties was usually the final judgment and was recognized by all the members of the community and respected.

The two disputing parties in arbitration would therefore choose to use mediation, reconciliation, negotiation or adjudication as long as an agreement was reached finally. Cagnolo, C. (2006) who explains that in the Agikuyu juridical courts the accuser and the accused appointed a commission of elders who would hear their case and make a fair judgment. Cagnolo argues that the position as members of the tribunal was supposed to be honorary and neutral.

In addition, there was mediation- arbitration where the disputing parties agree to mediation and they give the neutral third party the authority to make a decision if mediation is not successful.

1.3.3. Negotiation

The other Agikuyu ADR in use was negotiation whereby the two disputing parties had to explore ways of resolving their disputes without the help of a third party. Negotiation was a rare way of resolving conflicts among the Agikuyu community but to some extent

the study found this alternative to be helpful to some members of the community. The two disputing parties had to keep communicating with each other with either party offering to provide any necessary offer to end the dispute. NALEAP, (2016) Outline that negotiation involves talking to the source of grievance and hoping that it will solve the problem. Gakiri an informant aged 50 yrs confirmed that people in the area of study use dialogue to resolve their disputes. He points out that village elders are involved in these dialogues and they assist in making the best decision.

Joseph Mwatha, a former chief told the researcher in an interview that examples of cases that were handled through negotiation included debt cases, marriage issues, Industrial disputes (employer and employee disputes), issues of early pregnancies among others. As a matter of fact, as long as the two disputing parties were able to negotiate and reach an agreement to resolve their dispute, the dispute was considered resolved by the members of the community.

1.3.4. Conciliation

Conciliation, which was the fourth alternative identified in this study ranked equal with mediation among the Agikuyu. The reason being that conciliation fully relied on mediation results. In this method of dispute resolution, the two parties relied on a council of elders as mediators or any other mediator taking obligations to bring to settlement the dispute.

Examples of such obligations were the fines and any other payments by the party that was found to be at a fault and ultimately bring harmony among the two disputing parties. This process usually occurred after the mediation was done and was aimed at bringing healing among the disputants. Marriage disputes for example where the wife had been sent to her parental home, were common among the Agikuyu where the mediators (mostly the clan elders) demanded that some fines had to be paid to the parents of the wife before she was taken back to her husband. Cagnolo, (2006) points out that an unfaithful wife was returned to her father and no longer acknowledged by her husband until the father of the culprit or his representative paid a bull. Debt cases were also common, where the debtor was expected to pay the debt within a particular period of time without which further actions were taken against him/her.

1.3.5. Adjudication

Adjudication was the last identified ADR approach. It ranked the highest in percentage of success. This was a process where a council of elders or leaders took charge of the case from the beginning to the end. In other words, there were no much discussions between the two disputing parties, but the two were heard by the council. Thereafter, a judgment was passed which was final to solve the dispute. In this alternative, the disputing parties were urged to reconcile and end their disputes.

This alternative is the most common among the Agikuyu. Such cases covered both criminal and domestic cases and the council of elders had the final judgment on the case.

This concurs the explanation of Cagnolo, (2006) that the judgments of the Agikuyu tribunal were final and the contenders were subjected to oaths. If the elders were not satisfied with the evidence provided they sought appeal to the judgment of God.

1.3.6. Mentorship

This study also identified mentorship to be an important factor in ensuring peace and harmony in the area of study. As such, Mbari (sub-clan), muhiriga (gikuyu clans) and riika (age-set) helped keep the community together. Muriuki, (1974) observes that to the Agikuyu initiation conferred a new social status. Childhood behavior values were abandoned and the initiated became full members of the community. It was also an opportunity to teach the group traditions, religion, folklore, mode of behaviour, taboos, correct sexual behaviour and duties of adults. The age-set membership encouraged cooperation and solidarity. Riika-mates looked upon each other as brothers and sisters.

The Agikuyu tried to retain clan and sub-clan solidarity by holding occasional reunions and clansmen were expected to act together especially on important occasions such as circumcision, marriages and payments of blood fines. Because of population increase and widespread dispersal and intermixture with neighbouring peoples, distinction between clans became blurred.

The Agikuyu had a way of mentoring the young generation to take over from the older generation. These included sensitizing men on their responsibilities. The elderly men held meetings with the young men and also involved them in some of the court sessions of various cases in order to tutor them. Those who qualified were graduated by the elders to replace those who became too old to handle cases or passed away.

David Muthee, the chairman of evangelistic churches, and a member of the county government, told the researcher in an interview that to avoid the young people from engaging in immoral activities like theft and drug addiction, the community introduced and supported various sports activities to occupy the leisure time of the youths and the community at large. These activities according to an informant included wrestling (kurundana) and dancing (daci). This finding concurs Cagnolo, (2006) who points out the Agikuyu began singing and dancing in early childhood. Cagnolo points out that the girls sang Ndumo for example Weru, Ihindi Rimwe, and Kamuti. The young men sang Nguru and Ndarama. Other songs included Kibata, Mugoioyo, Gitiro, Muthunguci and Gichukia. Cagnolo argues that these types of songs were sang by people of different age and they had moral teachings to the society.

In addition, some respondents pointed out that currently, civic education is another very important programme that has boosted the alleviation of disputes among the Agikuyu. Civic education enhances democracy and empowers everyone in the community to exercise their rights by speaking out their minds as it concerns their wellbeing in the community. The national government has really been in support of this and as a result has introduced the *Nyumba Kumi* program to encourage a reporting of any suspicious strangers. This has reduced crime cases among the community.

There are other groups among the Agikuyu ethnic community and particularly the western educated elites, which have helped to promote unity in the community. According to most informants in the area of study these include the women groups, tribunals, peace and justice committees (also involved in the modern mediations and arbitrations) and sub-location development committees among others. These groups have been in the lead together with the clan elders and religious leaders in Tetu sub-county to curb disputes in the community and encourage dialogues among the members of the community.

George ndung'u pointed out that the banning of illicit brew and all sorts of drug abuse has been taken like an ADR in Tetu Sub-County. This is because alcohol and other drug abuse is a major source of conflicts. In the Sub-County marriage disputes and gender-based violence have increased mainly because of drug abuse. Men who are supposed to head their families have forgotten their responsibilities. The situation had become so serious that men could not be able to articulate issues without being drunk. This contradicts Cagnolo, (2006) statement that the elders saw to it that the young men did not get drunk and they had a saying, "Njamba ithiaga ita na itimu no ti na kinya kia njohi." ("One goes to fight holding a spear not a container of beer.") Some women got fed up with their husbands' behaviours and physically assaulted them. The government's decision to deal with alcohol abuse under the "Mututho" laws have been realized with most men changing from irresponsible people into responsible people.

Andrew Mwaura explained that in the traditional society, initiation ceremonies were very key in educating the youths and making them strong to face the atrocities of life other than killing one another or committing suicide in case of a dispute. During initiation period the initiates were counseled by the elderly men and women to allow them learn important traditions and customs of the community. The *mbari* groups and *muhiriga* leaders also took charge of their responsibilities, so that anyone who defied the norms of the clan was punished as a deterrence of the same.

Magdalene Wanene argued that the initiation tradition though not very strong is still being practiced in Tetu Sub-County. The tradition is not very strong because nowadays many people have migrated to the urban centre from the villages. Informants reported that parents take their sons to hospital for circumcision without a *mutiri* or even a ceremony as it used to happen. Due to the laxity in this tradition, many youths are amenable to social evils such as committing murder, suicide or are recruited into terrorist groups. Such youth think that they are resolving their conflicts by engaging in such anti-social activities. This contradicts Cagnolo, (2006) that the *Anake* had well defined social responsibilities and a well-defined code of conduct. The Agikuyu community respected the *mwanake* such that they called him *Kienyu kia Ngai* (a chip from God). This is because they portrayed a strong sense of community defense. Nearly every member of the community provided for the maintenance of the *Anake* and they were anxious not to offend them.

1.4. Challenges Facing the Practice of Indigenous Institutions in Conflict Resolution

In the questionnaires and interview schedules used in the collection of data, there were items that sought to identify challenges encountered in applying the alternative dispute resolution mechanisms procedures. This was very important since the challenges would bring out an understanding of the reason why applying the alternative dispute resolution mechanism has been marginalized despite its possible advantages. The following challenges were identified.

The first challenge was lack of qualified personnel in implementing the ADR. It was noted that most individuals are only qualified by virtue of age and respect in the society. However, the age may not necessarily be the right qualification but there is need to set a standard of qualification in terms of academic background, past experience in implementing ADR among other qualifications. In addition, since the modern methods of dispute resolution require an academic and professional qualification, working with illiterate people in incorporating the two systems may prove difficult.

Dispute resolution procedures require people to be educated to understand and interpret them correctly. In fact, the issue of pending cases, use of lawyers and several documentations before the modern cases in court are cleared is a complicated procedure for the ADR facilitators to comprehend. This is because most of them use verbal judgment without the need of lawyers and documentations. As such, the ADR facilitators would need to be enlightened on the procedures for effective merging of the two systems.

ADR facilitators will need sensitization to overcome biased judgment of the culprits. For instance, in some cases like early marriages and teenage pregnancies, instead of the ADR facilitators supporting the modern legal method and let the justice take its course, they instead support the accused for personal reasons or due to corruption. This has hindered the systems from working together and has instead become another dispute to handle all together.

Juliet Nyokabi, said that clitoridectomy for example, was one area where the two systems differed with each other. While the Agikuyu tradition and culture supported clitoridectomy, the modern legal systems disagree and treats it as an inhuman act. With the spread of westernization, this practice is almost eradicated, though it is still being practiced in some places among this community.

Fear of victimization and enmity by the members of victim's family has been a common occurrence among the Agikuyu. The informants pointed out that in some cases; the elders in charge of the ADR have been attacked and killed by the victims or the family members of the victims. This is also combined with corruption among the members of the victims which finally brings mistrust of the elders by the members of the community. This problem according to an informant can be overcome by an intensive awareness campaign on ADR among the members of the community and a workshop for the facilitators.

Secondly, lack of standardized system of alternative dispute resolution execution is another very common challenge facing the efforts towards merging the ADR and the modern legal systems. In other words, the elders in charge of the ADR treat every case differently regardless of whether they look alike or not. This makes some victims to feel unjustly handled since their colleague with the same kind of case are treated leniently. If there were a standardized way of dealing with every issue, then the ADR system would be wholly accepted by the community. However, this is not the case.

The modern legal systems of justice are however very different from the ADR. There is a standard for handling every case so that those who commit a particular type of crime face the same judgment as did their previous victims. For example, a murder case has the same judgment which is life imprisonment or death penalty depending on the stipulated extent of the case. Rape cases are treated the same everywhere so that all the magistrates and judges have a standard for treating every stipulated type of a case. An informant who was a lawyer argued that the ADR facilitators didn't look at the technicality of the cases and conflicts would arise if they were to be merged. He added that with the assistance of professionals, elders can come up with a standardized way of prosecuting wrong doers' constitutionary.

2. Conclusion

This study established that indigenous institutions are very important in peace building and especially in conflict resolution. However, people need to be sensitized on the importance of these institutions in managing conflicts among them. The government through the constitution should give more emphasis on the indigenous institutions

Kamau Mwathi, a former renowned magistrate argued that the reasons why they preferred ADR to courts is because they are cheap and speedy. He also argued that ADR unlike the courts are confidential because parties in a conflict can choose to keep their resolution private. This enhances relationship between parties. For instance, a respondent gave a case where parties were involved in a land dispute but after negotiation today they live together as loving neighbours.

In addition, the respondents also pointed out that whenever one uses ADR they felt satisfied with the resolution they got because all the issues were well clarified by both parties and the solution was reached by both of them. These advantages are in line with (NALEAP, 2012)

Alternative dispute resolution mechanisms are a better option to the people of Tetu Sub-County. Emphasis need to be put in re-educating the members their traditions and the benefits of embracing ADR in conflict management. ADR is relevant to this community since the mechanism is indigenous to the Agikuyu community.

For ADR to be incorporated in modern legal system the government and all stakeholders must be involved. ADR mechanisms need to be recognized fully in the constitution. The society should be made aware of the many positive alternatives to resolve conflicts. This will ensure peaceful co-existence among members of the society. ADR mechanisms will also ensure reduced backlog of cases in the courts and speeded processes of dissemination of justice.

3. Recommendations

The study established that Alternative Dispute Resolution mechanisms are still applicable and more effective among the Agikuyu of Tetu Sub-County and recommended the following:

1. The government and all stakeholders to join hands in campaigning for the use of ADR to resolve conflicts.
2. The community to be made aware of the available ADR through conferences and civic education.
3. The constitution to give more emphasis on ADR in conflict resolution more so on Land, gender-based violence and family related conflicts.

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