

UTILIZATION OF INDIGENOUS KNOWLEDGE SYSTEM IN DISPUTE RESOLUTION MECHANISM AMONG THE MAASAI COMMUNITY IN KAJIADO COUNTY, KENYA

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Abstract

Disputes and conflicts are ubiquitous occurrences with both negative and positive effects on social and economic development of societies and nations in Kenya. Numerous cases are outstanding in the formal court systems, despite the alternate dispute resolution mechanisms. There are numerous indigenous dispute resolution (IDR) mechanisms; hence the need for studies seeking to evaluate the positive contribution of the IDR mechanisms in dispute resolution among communities in Kenya. This paper examined use of indigenous knowledge system in dispute resolution among the Maasai community in Kajiado County, Kenya. The study employed a mixed-method research design. The target population was 5,202 individuals aged 75 years and above (including 55 locational chiefs, and 116 assistant chiefs) from four Sub-Counties of Kajiado County. 371 individuals were sampled through multi-stage sampling criteria. Data was collected using focus group discussions and questionnaires. Qualitative data was collected and analysed thematically while quantitative data was analysed descriptively. Results showed that indigenous knowledge was used in resolving land disputes, matrimonial disagreements, Livestock theft cases and interpersonal conflicts with elders arbitrating the cases.

Keywords: Indigenous Knowledge, Indigenous Knowledge System, Dispute, Dispute Resolution Mechanism, Kenya.

Background of Study

Dispute resolution mechanisms include formal judicial and alternate dispute resolution mechanisms. The most noticeable form of dispute resolution mechanism has been the state intervention such as the deployment of security forces which does not holistically resolve the conflict¹. Dispute resolution mechanisms in Africa include formal and traditional justice systems the latter being predominantly used by the rural populations. Traditional justice structures in South Sudan resolve as much as 90% of civil and criminal disputes². Formal and informal systems as exhibited by the Nigerians³.

Indigenous knowledge has guided human societies in their numerous interactions with the natural environment through agricultural activities, management of disease and injury; conflict resolutions; naming and explaining natural phenomena, and how best to cope with dynamic environments. It is through this fine-grained engagement of society with environment that indigenous knowledge systems have evolved versatility and complexity to enable interpretation and ability to cope with environmental dynamics. Thus, indigenous communities have long used indigenous dispute resolution (IDR) to solve intra- and inter-communal conflicts based on their cultural wisdom and experiences. The indigenous knowledge systems (IKS) are defined as intrinsically encoded social processes of the communities⁴ that are distinctly built on methodologies, philosophies, and criteria.

Indigenous knowledge systems are tacitly or explicitly transferred across the generations through cultural and social events, oral media through art and drawings, experiences, folk tales, real-life stories, rituals, songs, traditional norms, laws and legends. In Africa, many ethnic groups still organize themselves around traditional political systems making IDR mechanisms a dominant justice system at the local levels in many African countries⁵.

Statement of the Problem

Disputes have become increasingly intractable as a result of weakened traditional governance systems; the breakdown of inter-communal social contracts; elders' loss of control over the youths; the persistence of *moran* (warrior) culture; and politicisation of peace-making processes^[8]. Cox et al 2014 ^[9] noted that peace architecture in Kenya remains

fairly weak due to the institutionalized political, economic and social fundamentals. The alternative dispute resolution (ADR) which includes indigenous dispute (IDR) resolution mechanisms are anchored in legal and policy frameworks such as the Constitution of Kenya 2010, the Judiciary of Kenya policy framework as well as the international and regional human rights instruments and sustainable development goals ^[10]. Traditional disputes resolution is considered effective in dealing with interpersonal or inter-community conflicts ^[7]. However, the biggest challenge confronting humans is not about the occurrence of disputes per se, but how these disputes are fully resolved. This paper examined utilization of indigenous knowledge system in dispute resolution mechanism among the Maasai community in Kajiado County of Kenya.

Objective of the study

The objective of this study was to investigate utilization of indigenous knowledge system in dispute resolution among the Maasai community in Kajiado County of Kenya.

Literature Review

There are a number of IDR mechanisms depending on the community and location. The Afar people of Ethiopia use 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 ^[12]. The Borana have an IDR mechanism named the '*Gadaa*' system which is headed by Abba gadaa or the leader of *Gadaa*. On the other hand, the Somali community in Ethiopia have an IDR mechanism headed by a governing unit the *guurti* (the council of elders) while in Kenya, the Turkana have the tree of men (*Ekitoe Ng'ekeliok'*), the Pokot the Kokwo. The Miji Kenda of Kenya have the *Kayas*, the Meru the *Njuri Ncheke*, the Kikuyu the *Kiama* and the Luo the *Ker* ^[6]. The Mbeere have the *mutongoria wa kithaka* while the Kipsigis community have the *Kamasian* ^[13].

The indigenous dispute resolution (IDR) mechanism takes the form of participatory justice and communal enterprise and works within the traditional framework; the process makes use of cultural process which capitalizes on cultural affinity. The use and application of IDR mechanism was the main methods of dispute resolution in the pre-colonial period and to some extent resembled ADR, but the uniqueness is truly indigenous and unique to the

communities or natural settings. Indigenous dispute resolution processes were 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 ^[6] and had a substantial degree of success in ensuring peaceful coexistence of groups and in maintenance of order.

According to Murithii 2017 ^[11], the IDR mechanisms have been accepted widely especially in Africa because they appeal to local cultural norms and leadership framework structures hence the outcomes were more likely to be internalized and understood by the concern parties, the indigenous processes are inclusive promoting public participation seeking consensus when addressing the root causes of conflicts, leading to sustenance of peace since the processes are drawn from local cultural assumptions, values, norms, as well as traditional and community-based political dialogue and justice. 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 indigenous justice systems in Africa have survived in various forms especially in rural communities serving large population ^[3]. The IDR mechanisms are centred on the values of truth, justice, forgiveness, reconciliation, voluntary participation, and emphasis on complaint behaviour. Many indigenous conflict resolution mechanisms are accompanied with the ritual symbol of reconciliation ^[5]. The ritual process in conflict resolution is made to strengthen the terms of reconciliation and to limit conflict reoccurrence where the parties consent and mutual agreement takes precedence over imposed outcomes to improve and restore conflict peacefully. 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. This study sought to understand the extent to which indigenous knowledge systems are used to resolve disputes among the Maasai community of Kajiado County, Kenya. This was done through interrogation to establish the disputes commonly resolved using indigenous methods; traditional practices or rituals involved in dispute resolutions and how often are disputes resolved through indigenous dispute resolution mechanisms.

Methods

Mixed-method research design was used with a target population of 5,202 individuals aged 75 years and above (including 55 locational chiefs, and 116 assistant chiefs). A multistage approach was applied, incorporating purposive and clustered techniques to obtain the study population. The sample size was 371 and the tools for data collection were focus group discussions and questionnaires. Data collected was analysed and presented in form of tables and bar charts.

Results and Discussions

Disputes Commonly Resolved using Indigenous Methods

Focus group discussion was held with key community elders on how commonly resolved disputes using indigenous methods for both male and female residents of Kajiando County and the response was summarised in figure 1 below:

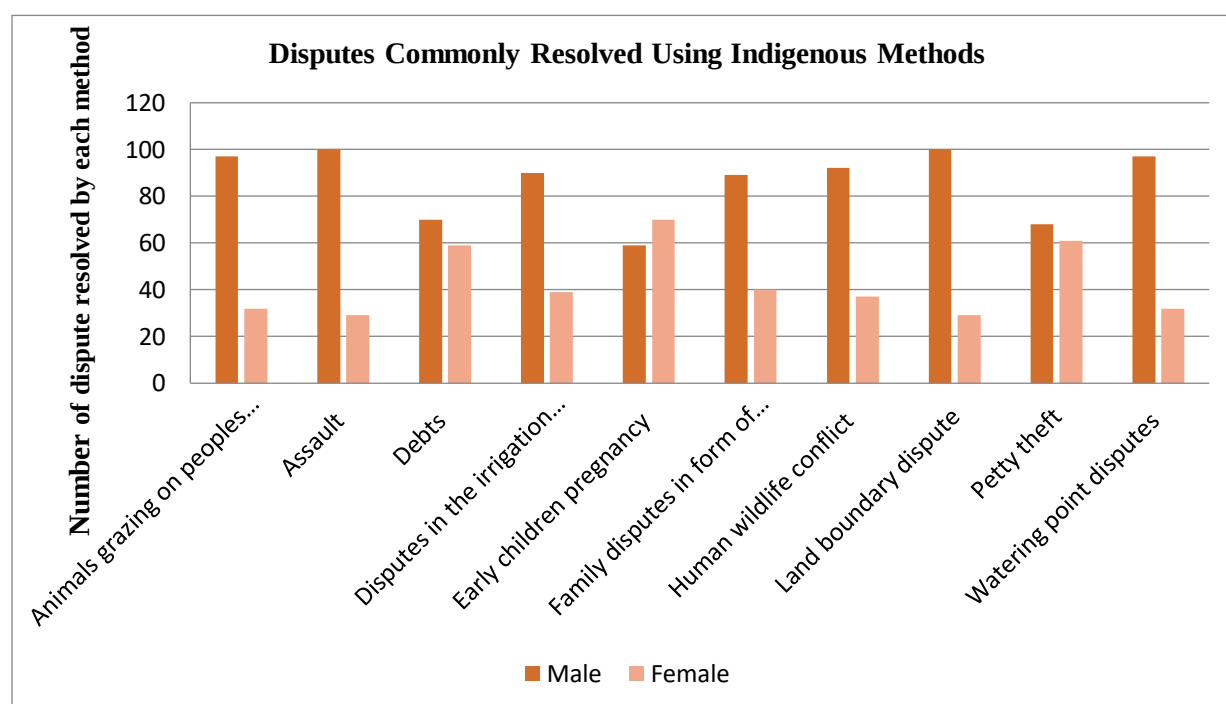


Figure 1: Disputes Commonly Resolved Using Indigenous Methods

Some of the responses from focus group discussion 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]

The responses 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.

As provided in figure 1 above, 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 such disagreements, application of indigenous methods become phenomenal resolving conflicts through mediation by local elders or leaders,” this statement is supported by ^[14] who observed that, in such a scenario, the procedure commonly starts with the affected farmer presenting their side, in this case, claiming that they have suffered damage to their crops, to which the livestock owner is afterwards given a chance to defend themselves. 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 ^[15].

The cases of physical assault were addressed through indigenous mechanisms that emphasized restoration and reconciliation rather than punishment; the elders mediated these disputes by bringing together the victim and the perpetrator to discuss the incident in a neutral and respectful setting. 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. These findings were in agreement with observations of

Shretha et al 2014 ^[16] who argued that the involvement of the broader community ensures accountability and reinforced the importance of non-violence as a shared value.

On disputes connected to debts, the disputes were settled through community approaches which are restorative and based on consensus. Local leaders talk to the creditor and debtor and allow them to converse freely on the matter guided by the mediator. Solutions entail 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 restoration of peace and resolution, reinforcing cordial relations in the aftermath of the dispute while marking reconciliation. With regard to the disputes pertaining early adolescent pregnancy, the community leaders mediated the dispute by pulling together the families of the people in question to discuss the matter and to reach a consensus. This observation coincides with the observation of Keddell et al 2021 ^[17] 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. By ensuring these disputes are addressed in a culturally sensitive way; indigenous mechanisms promoted accountability while fostering understanding and compassion.

Violence against women was solved through community initiatives which emphasized protection and reconciliation. The process entailed accepting the harm caused and the measures to avert recurrence as well as providing support to the affected person. The key resolutions included making apology in public, compensation, or the imposition of fines which were accompanied by symbolic acts such as communal meal to restore harmony and institute blessings. Naime 2024 ^[18] noted 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 wildlife crop destruction or livestock predation were determined through IDR mechanisms which putting more emphasis on sustainability and coexistence.

Resolutions reached often included compensation or payment for damages, agreed-upon preventive measures usually accompanied by ritual to promote harmony between human beings and nature. Land border disputes resolution is reached through mediated processes conducted by elders and resolutions often resulted in 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 contesting parties. This observation is supported by observations of Tenam and Abebe 2022 who alluded that, by providing culturally relevant and lasting solutions, these mechanisms (IDR) prevented disputes from escalating and promoted sustainable land management practices. The solution for petty theft disputes was offered through restorative justice practices that put more emphasis on accountability and compensation and the resolutions reached often entailed compensation for stolen items, offering public apologies which were accompanied by symbolic acts such as blessings or sharing meals to signify forgiveness and reconciliation

Both the NGAO community and local leaders emphasized 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 clear understanding of cultural norms and historical agreements, which serve as the foundation for fair and sustainable dispute resolutions.

Summary of Traditional Practices or Rituals used in Dispute Resolutions

Results of this study highlights various methods used in dispute resolution among the Maasai population of Kajiado County of Kenya revealing a spectrum of practices ranging from punitive measures to reconciliatory rituals as summarized on table 1 and figure 2 below.

Table 1: Traditional Practices or Rituals involved in Dispute Resolutions

Cases Solved By Each Method	Frequency	Percent of responses	Percent of cases
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Fines (Erupet)	65	52.42	52.42
Exile	11	8.87	8.87
Spiritual cleansing and taboos	20	16.13	16.13
Forced divorce	6	4.84	4.84
Community policing through beating	11	8.87	8.87
Peace meetings and sharing meals	1	0.81	0.81
Rituals	2	1.61	1.61
Curse	8	6.45	6.45
Total	124	100	100

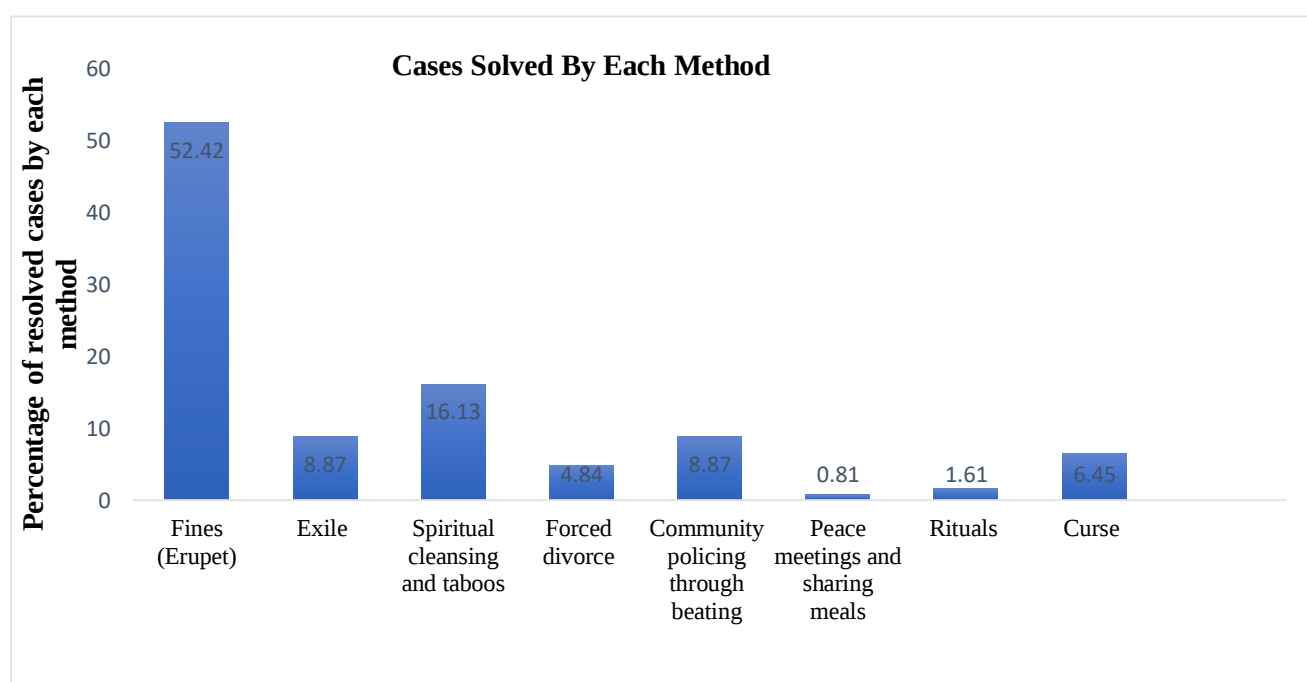


Figure 2: Traditional Practices or Rituals used in Dispute Resolutions

From the findings as summarized from table 1 and figure 2 above, monetary fines are a widely accepted method 52.42% of cases used to compensate aggrieved parties. This practice emphasizes accountability while providing restitution, ensuring that offenders acknowledge their wrongdoings and restore balance. As reported by Diab et al 2022 these fines are often determined through communal discussions, ensuring fairness and proportionality to the offense. Symbolic acts, such as public acknowledgments or blessings, accompany payment of fines, reinforcing reconciliation and communal harmony. Exiles, accounted for 8.87% of the cases, where an individual's actions are considered highly disruptive. Exile served as both a deterrent and a means of restoring balance without confrontation. Notably, 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.

Spiritual cleansing is fundamental to Maasai's dispute resolution processes with 16.13% of cases resolved in this manner. Spiritual leaders conduct rituals involving prayers, blessings, accompanied by symbolic items such as sacred herbs and water to cleanse the acrimony or animosity, and to sanctify the resolution process. Use of these rituals is meant to instill spiritual harmony and reaffirm the community's collective obligation to peace. This observation is supported by report of Bernves 2017 ^[14] who argued that, these practices done during indigenous dispute resolution mechanisms symbolizes the community's intent to leave behind animosities and reinforce social bonds. Though less common, forced divorce often occurred in cases of abuse or violence in an intimate relationship, which accounted for 4.84% of the cases. This practice put forth the well-being of the aggrieved party while restoring family peace. Rituals such as returning dowries or performing blessings which accompanied divorce signified closure and promoting healing for all entities involved. Forced divorce only happened as a last-resort guided by the gravity of the wrongdoing and the community's determination to advocate for justice and protect vulnerable members.

For matters associated with minors such as defilement, punitive and stringent actions like public admonishment/rebuke, beatings were administered to uphold communal norms and values. This method accounted for 8.87% of the cases observed from the findings. These measures were taken to prevent repeated offenses and emphasized joint accountability and social order. Peace meetings and shared meals were used in 0.81% of the cases. The act of sharing meals signified reconciliation and restoration of relationships between the disgruntled parties hence showing mutual respect, and fostering of communal bonds. Bernves 2017 ^[14] supported this assertion by arguing that, such rituals provided a room for open dialogue, demonstrating the parties' commitment to honoring resolutions and rebuilding trust. Spiritual practices and curses on the other hand accounted for 6.45% of the cases highlighting the spiritual connotation and symbolic acts involved in dispute resolution. Curses were rooted in the belief of spiritual justice, invoked by elders to prevent

harmful behavior and compel accountability. Tseng et al 2021 [21] observed that curses serve as a powerful deterrent though they remain controversial and are typically reserved for severe cases. 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, it is evident that the Maasai community is commitment 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 highlight areas that may require adaptation or integration 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 of conflict resolution.

Frequency of Disputes Resolved using Indigenous Dispute Resolution Mechanisms

Frequency of dispute resolution using IDR mechanisms in the surveyed community is summarized in figure 3 below:

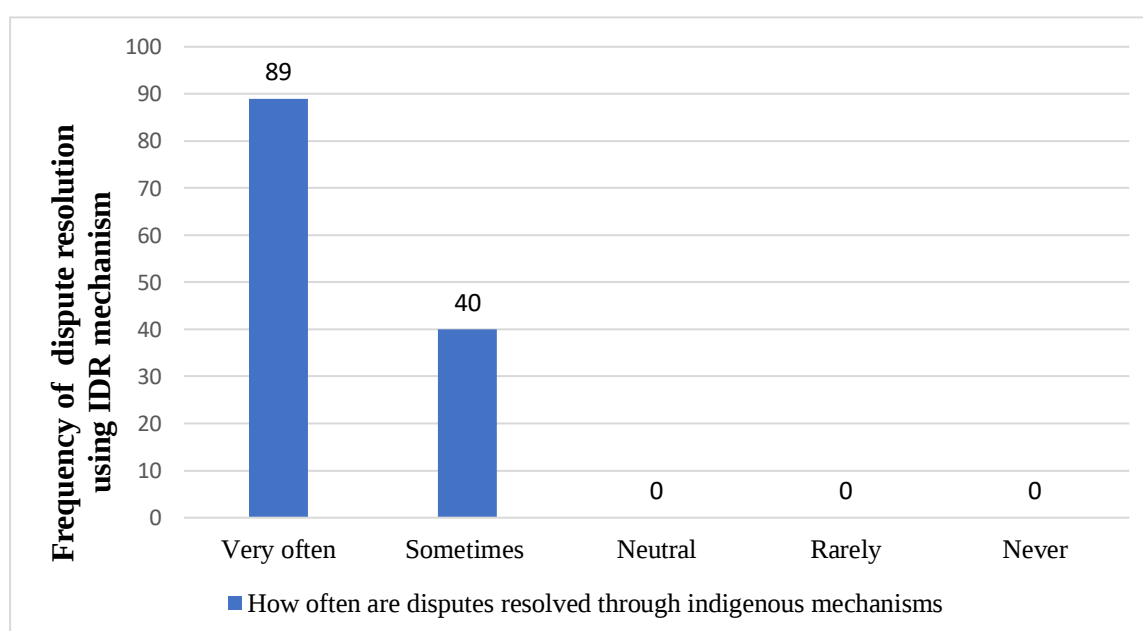


Figure 3: Frequency of Dispute resolution using Indigenous Dispute Resolution

Methods

As shown in figure 3 above, an overwhelming majority of respondents 89 (69 %) indicated that disputes are resolved through IDR mechanisms "very often." 40(31%) of the respondents stated that disputes were sometimes resolved through indigenous means. Notably, there were no responses indicating neutrality, rarity, or absence of the practice

It is evident from these findings that IDR mechanisms remain highly relevant in Maasai community 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 focus on reconciliation and restoration rather than punishment, which is particularly valuable in close-knit communities where maintaining harmony is crucial [22]. Thus, by involving elders, local leaders in dispute resolution local leaders and community members, ensured that all voices are heard, fostering collective ownership of decisions. This contrasts with formal Judicial systems, which often alienate disputants through complex procedures and legal jargon. Furthermore, the participatory nature of IDRs enhances credibility and trustworthiness of the process as resolutions are perceived as fair and unbiased.

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 in addressing conflicts effectively. The absence of responses in the categories of "rarely" or "never" further emphasizes the central role of the IDR 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 underutilize

Conclusion

This study observed that IDR mechanisms played a crucial role in conflict resolution among the Maasai community. These mechanisms addressed land disputes, matrimonial disagreements, livestock theft, and a variety of interpersonal conflicts. The Maasai community relied 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. Indigenous knowledge remained highly relevant and continues to be used widely due to its accessibility, cost-effectiveness, and deep-rooted cultural significance and it operates as fundamental components through generational dispute resolution practices of the Maasai community.

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