

**THE ROLE OF ALTERNATIVE DISPUTE RESOLUTION MECHANISMS ON
PREVENTION OF CONFLICT: A CASE STUDY OF ISIOLO COUNTY**

BY

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DECLARATION

I certify that this Research Project is my original work and has not presented for the award of a degree in this or any other University.

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This Research Project is submitted for examination with my approval as the University supervisor.

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DEDICATION

I dedicate this study to my parents, especially my Mother Elizabeth Kagiri who provided me with much needed encouragement and moral support through the study. I would also like to dedicate this to my sister Juliet KananaKithamba, who worked tirelessly and supported me through the entirety of this Research Project. Last but not least are friends who have been there with me and assisted me through my Masters' journey. Thank you all for your support.

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ABSTRACT

The purpose of this study was to determine the role of alternative dispute resolution mechanisms in preventing conflict. The case study was of Isiolo county. The wider region of North Eastern has been plagued with conflict since Kenya got its independence. Warring communities and death have been the order of the day. Countless people have lost their lives in the past and continue to do so till present day. Although this study may not have solved all these issues, a couple of suggestions have been made in order to avoid conflict. The presence of the national government in conflict in Isiolo is evident. However, the government often reacts to the eruption of violence and has not managed to build conflict prevention structures. There exist conflict early warning mechanisms in the region but these do not address the underlying structural issues in Isiolo. This study has sought to bring to light the possibility of preventing conflict through alternative dispute resolution. Parties can avoid violence through the application of negotiation, mediation and conciliation. Together with strengthening local mechanisms for conflict prevention, better and improved structures can be created in order to prevent conflict.

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ACRONYMS AND ABBREVIATIONS

ADR	Alternative Dispute Resolution
CEWs	Conflict Early Warning Mechanisms
CSO	Civil Society Organizations
DPC	District Peace Committees
FBO	Faith Based Organization
GoK	Government of Kenya
ICRM	Indigenous Conflict Resolution Mechanisms
NGO	Non-Governmental Organization
NSC	National Steering Committee
UN	United Nations

CHAPTER ONE

INTRODUCTION TO THE STUDY

1.1 Background to the Study

Alternative dispute resolution (ADR) refers to a variety of methods and techniques aimed at permitting the resolution of disputes outside the court system.¹ Globally, ADR has been formalized and some of the decisions and outcomes are legally binding. Some of the methods used in ADR include mediation, arbitration and conciliation and good offices. These informal procedures outside of the court room often lead to a more efficient and accessible justice system.² Throughout society there has always been a method and a way of resolving disputes. In pre-colonial Africa for example, most ethnic groups had communal as well as private tools of dispute resolution. Modern law and courts as well as formal systems of justice became entrenched in Africa during the colonial and the post-colonial era.

Africa is home to a myriad of conflict handling mechanisms that are cultural and contextual. It is contended that the resolution of a conflict and the law are inseparable particularly disconnecting law from customs, taboos and other traditional practices. There is also an indisputable tie with family, lineage and clan structures.³ In Africa, resolution of conflicts to a greater extent hinges not only on the participation of the parties involved in a dispute but also the wider community. This in turn renders dispute resolution not as an interpersonal encounter but as a communal responsibility. It is a process whose values and principles prescribe restructuring a relationship

¹Mnookin, R. (1998). *Alternative Dispute Resolution*. Harvard Law School, John M. Olin Center for Law, Economics and Business Discussion Paper Series. Paper 232

² Delgado, R., Dunn, C., Brown, P., and Lee, H. (1985). *Fairness and formality: Minimizing the risk of prejudice in alternative dispute resolution*. *Wis. L. Rev.*, 1359.

³Magesa, L. (2014). *African religion: The moral traditions of abundant life*. Orbis Books.

from negative to positive with the later characterized by among other elements; equality, participation and respect.⁴

Alternative dispute resolution has become a key element of the modern justice system. It is able to resolve sensitive issues such as communal, family and inter personal issues out of formal courts. ADR is restorative in nature and the settlement reached is as a result of participation as well as consensus between the parties involved. This provides a win-win situation that is satisfactory to the parties in conflict. This also provides parties with the impetus to honor their agreements and implement them in order to prevent conflict. A study on various communities in Africa revealed that each community had a unique way of conflict resolution. The common factor about these indigenous methods is that they promoted joint ownership and stake holding in a conflict.⁵

1.2 Statement of the Research Problem

Due to the cost of conflict and its toll in society, it is better to prevent it than to deal with its effects on society. It is better to prevent and resolve conflict before it erupts thus creating a better environment in the community. Thus, preemptive measures and mechanisms such as early warning mechanisms are necessary and play a vital role in conflict prevention.⁶

⁴Assefa, H. (1996). *Peace and Reconciliation as a Paradigm: A Philosophy of Peace and its Implication for Conflict, Governance and Economic Growth in Africa*, East African Educational Publishers: Nairobi

⁵Bujra, A., and Solomon, H. (2005). *Perspectives on the OAU/ AU and Conflict Management in Africa*. Development Management Policy Forum, Addis Ababa

⁶Issaka, K. (2007). *Conflict Prevention and Early Warning Mechanisms in West Africa. A Critical Assessment of Progress*, Africa Security Review, vol 16, pp96

Human interactions irrespective of time and space have always been characterized as either conflictual or cooperative. As such one can posit that from simple to complex society, the presence of conflict is inevitable.⁷ Societies can choose to be cooperative when faced with conflict by preventing it from escalating. However, this can only be achieved through identifying and preventing the root causes of the dispute before-hand in order to prevent violence. The issue with Kenya is that conflict management practices are often reactive instead of proactive. Most of the structures that have been put in place are geared towards conflict resolution and management as opposed to prevention. This gap can be linked to the various conflicts that have turned violent and no resolution has been found.

The justice system in Kenya only provides a legal means of alternative dispute resolution. The courts are often used when parties in dispute cannot come to an agreeable outcome. The formal legal system does not provide a solution that fits both parties but in itself is a win-lose situation. One party wins at the cost of the other. This does not help to amend nor to create bonds that would help prevent conflict in the future. Therefore, the punitive nature of the legal system in itself can be said to contribute to conflict. Violent conflict in Africa continues to be persistent indicating that despite the increased attention and improved knowledge about conflict management, modern international methods are also defective in facing these challenges.⁸

African society has and continues to be arranged along ethnic lines. Herein strong bonds were created through which conflict was prevented and subsequently resolved in case of eruption.

⁷Bercovitch, J. (1996). *Resolving International Conflict: The Theory and Practice of International Mediation*, Lynne Rienner: Boulder

⁸Zartman, L. W., and Touval, S. (1996). *International Mediation in the Post- Cold War Era*. Managing Global Chaos: Sources of and responses to international conflict. pp 445-461

However, these problem-solving approaches that were in engraved in social life through oral tradition have been lost due to a shift from a traditional society into a modern one.⁹ In Kenya, modern society has lost most of its alternative dispute resolution mechanisms to formal ones. The institutions and systems such a clan elders have been replaced by Judges and Magistrates. The result of this is that the outcomes of these legal procedures is to terminate an issue and not investigate its root problems.

To prevent conflicts, institutions have to be guided on methods to address the underlying causes of conflict in order to prevent escalation and subsequent violence. In Kenya, members of the civil society, relevant government arms, members of religious organizations and members of the community involved in Alternative Dispute Resolution have to be empowered to guide disputants in conflict. These institutions can provide avenues for conflict prevention that the Court system cannot.

1.3 Objectives of the Study

1.3.1 Overall Objective

The overall objective of this study is to understand the role that Alternative Dispute Mechanisms play in preventing conflict with a focus on a case study of Isiolo county, Kenya.

1.3.2 Specific Objectives

The specific objectives of this study include:

⁹ Malan, J. (1997). *Conflict Resolution Wisdom from Africa*, Africa Center for the Constructive Resolution of Disputes: Durban, South Africa

1. To examine how Alternative Dispute Resolution Mechanisms are used to prevent Conflict.
2. To examine the effectiveness of Alternative Dispute Resolution in the prevention of conflict.
3. To explore the importance of non-state actors in Alternative Dispute Resolution.

1.4 Research Questions

The following questions guided the study.

- a) How are ADR mechanisms used to prevent conflict?
- b) Is ADR effective in the prevention of Conflict?
- c) Are non-state actors important in ADR in Kenya?

1.5 Justifications of the Study

1.5.1 Introduction

Conflicts often arise due to deep rooted issues and interests within society. The formal legal system is not restorative in nature but is punitive. The justice that it offers often leaves one party disgruntled with the outcome.

The social justification for this study is to enable society through alternative dispute resolution mechanisms, to solve deep rooted issues so as to prevent conflict. The legal justice system in Kenya is not available to all and at times proves to be expensive to the normal Kenyan. Through ADR, societies will be able to use tools available to them locally to solve their own issues and restore relationships.

1.5.2 Academic Justification

Academically, alternative dispute resolution can be used as a substitute for the formal legal mechanisms. These tools ought to be investigated in order to bring out their advantage as well as accessibility. The role of academia in this case is to highlight the various tools that members of society can use other than the legal justice system. By outlining these methods such as mediation and conciliation, members of society can be accorded with justice that serves that is participatory and non-punitive.

1.5.3 Policy Justification

The policy implications of ADR are far and wide. Firstly, the effectiveness of the policies of the National Cohesion and Integration Commission have to be investigated. This study aims at bringing to light the alternate mechanisms that can be used by the commission in order to ensure peace and conflict prevention. The study also aims at informing policy makers of the gaps in the legal system that can be addressed by ADR and the parties involved. The government can therefore be able to work with various stakeholders so as to ensure there is a solid foundation upon which policies to prevent conflict can be formulated.

1.6 Literature Review

Conflict is an endemic phenomenon in human existence. In any time in history, human beings are involved in various forms and various levels of conflictual interactions. Conflict is defined as a state of affairs in which two or more actors are involved in the pursuit of what would appear to

be incompatible interests. Therefore, it can be said to be a struggle for scarce status , power and resource by opponents that lay claims to these values.¹⁰

However, although conflict is associated with death and destruction of property leading to human suffering, there are positive aspects of conflicts such as wars of liberation. Nonetheless, conflicts are for the most part a destructive and an undesirable phenomenon. Conflict is therefore the struggle of independent people who have incompatible goals and interfere with each other in attaining those goals.¹¹ Generally, conflict arises from basic human instincts through the competition for resources and power as well as the structure of societies and institutions in those societies and also from the struggle between classes.

Conflict can lead to progress through efforts made by each individual, class or institution in seeking to attain its own ideals of good in society.¹² This is in relation to low level as well as low intensity conflicts. Therefore conflict in itself can lead to formation of relationships and better bonds through society. It is in difficult times that members of society come together to find solutions thereby cementing relationships. This interaction brings about more social cohesion and strengthens the togetherness and social fabric.

Conflict can be violent or non-violent and can its causes are deeply rooted in people's lives. It can be caused by political, social, economic or environmental factors. Its social causes mostly occur because people in conflict are often interdependent and in constant interaction with each

¹⁰Coser, L. A. (1956). *The Functions of Social Conflict*. Vol 9, Routledge. United Kingdom

¹¹Folger, P., and Stutman, K. (1996) *Working through Conflict*. Addison Wesley Publishing Company

¹²Cooley, C. (1902). *The Looking Glass Self*. O'Brien. pp 126-128

other. It is the aspect of incompatibility when it comes to certain needs as well as interests fueled by lack of communication and misinterpretation of each other that usually leads to conflict that is protracted and intractable.

In all human relationships, disputes arise due to resource allocation, roles and rights. However, acceptable compromises and adjustments can be made although there are cases in which it seems that there can be no compromise. Group identity and personal recognition are the kind of goals and values in society that cannot be divided up as can material resources and this can lead to conflict.¹³ The interests of parties that are constantly in conflict are created in society through ideas and morals.¹⁴

Conflict therefore, arises as a power struggle and struggle to achieve goals and needs in society pitting people against one another in interpersonal conflicts as well as groups against each other in intergroup conflicts. These sociological factors often arise as people are unwilling to compromise on their needs and values in an oppressive system leading to competition among people that often results in violent or non-violent conflict. Conflict prevention refers to the activities and actions designed to resolve, manage or contain conflicts before they become violent. In the cold war era, many scholars, preemptive strikes were viewed to be equal to conflict prevention by the academics of the time.¹⁵ Following this period, scholars have moved to understand conflict prevention as the peaceful prevention of disputes.

¹³ Burton, J. (1990). *Conflict: Resolution and Prevention*, New York: St. Martin's Press

¹⁴ Collins, R. (2009). *Conflict Sociology*, London: Paradigm Publishers

¹⁵ Wallensteen, P. (1998). *Preventing Violent Conflicts: Past Record and Future Challenges*. Uppsala: Department of Peace and Conflict Research

Conflict prevention can therefore be understood as any structural or mode of intervention that keeps interstate and intrastate tension and disputes from the use of armed forces that can often lead to further violence. This is done in order to strengthen the capabilities of the parties to find solutions to such disputes peacefully and to address the root factors that cause these disputes and lead to violent conflict.¹⁶

Conflict prevention can be categorized as either direct and structural prevention. Direct conflict prevention refers to those measures that are often pursued in order to prevent the short term as well as potential eruption of violent conflicts. On the other hand, the focus of structural prevention is the long- term measures aimed at addressing the root causes of violent conflict through addressing factors and underlying causes of conflict.¹⁷

The main focus of this study is structural prevention of conflict through alternative dispute resolution mechanisms. Alternative dispute resolution means alternative both to litigation in the courts as well as to customary conflict resolution. ADR has been defined as a dispute resolution process that is informal in nature whereby individuals and parties meet with a third party who helps them to resolve their conflict out of the formal court system.¹⁸ Negotiation, mediation, conciliation, arbitration and as well as inquiry are the main forms of alternative dispute

¹⁶ Lund, M. (2002). *Preventing Violent Intrastate Conflicts: learning lessons from experience. Searching for Peace in Europe and Eurasia*. An overview of Conflict Prevention and Peace Building Activities. Boulder CO: Lynne Rienner Publishers

¹⁷ Swanstrom, N., and Weissmann, M. (2005). *Conflict, Conflict Prevention, Conflict Management and Beyond*. Silk Road Studies Program

¹⁸ Sprangler, B. (2003). *Alternative Dispute Resolution (ADR). Beyond Intractability*

resolution.¹⁹ This means that ADR can be applied to various conflict situations and is not as rigid as the formal justice system.

ADR is recognized in the Kenyan Constitution. Article 159 of the Constitution enjoins courts and judicial authorities in the exercise of judicial authority aimed at promoting all forms of alternative dispute resolution that include mediation, reconciliation, arbitration as well as traditional dispute resolution mechanisms.²⁰ These processes provide more satisfaction to the disputing parties as they are less destructive for the relationship of the parties and are more time and cost efficient. These often leads to durable solutions to which parties in conflict can stay committed, therefore reducing the possibility of appeal, dishonoring of the agreement and future conflict.²¹ These processes aim at maintaining a balance between process fairness, content gains as well as improving the relationship between people in conflict.²²

There are four broad varieties of conflict in Kenya namely; pastoralists' conflicts, gang related violence in urban centers, clashes related to elections and violence over access to protected areas.²³ Some can be processed through the legal framework provided for in the Courts as they present a win-win situation. However, some conflicts need to be addressed before they become violent as they involve members of communities. These conflicts need to be prevented from becoming violent because they may cause harm to relationships that are the fabric of society.

¹⁹Muigua, K. (2012). *Settling Disputes through Arbitration in Kenya*. Glenwood Publishers. Pp 1-19

²⁰ Article 159 (2) (c), Constitution of Kenya, 2010

²¹Ury, W. L., Brett, J. M., and Goldberg S. B. (1988). *Getting Disputes Resolved: Designing Systems to Cut the Costs of Conflict*. Jossey-Bass

²²Cloke, K. (2002). *Mediating Dangerously: The Frontiers of Conflict Resolution*. John Wiley and Sons

²³Wakhugu, J. W., Nyukuri, E., and Higgin, C. (2008). *Land Tenure and Violent Conflicts in Kenya: In the Context of Local, National and Regional Legal and Policy Frameworks*. In Consultative Proceedings Report. Nairobi: African Center for Technology Studies

Practitioners of ADR as well as traditional leaders in society are involved preventing and resolving violent conflict. While conflict resolution practitioners such as mediators from other contexts may have well designed conflict analysis and resolution mechanisms, Africa has its own oral approaches that have existed since time immemorial.²⁴ However, modernity and its attendant features in today's society has resulted in the loss of oral tradition in African communities that often transmitted the experiences and expertise that can be useful to dispute resolution especially due to the gravitation of communities to urban life.²⁵

Due to modernity, some of the traditions and methods that were used in the past have become obsolete as not everyone lives in the communal setting. However, there is a need to embrace both traditional and modern techniques in the prevention of violent conflict. The international community has not had great success in peace making and peace building in especially in Africa. African peace educators should evaluate the efforts aimed at peace so that they come up with and implement African based dispute resolution mechanisms as opposed to the utilization of theories that are mostly borrowed from Western peace educators.²⁶

The issue is how to merge modern mechanisms of dispute resolution with traditional mechanisms in order to prevent conflict. These two are often carried out side by side with the main aim of conflict prevention without dependence on each other. In Kenya, the civil society in

²⁴Ewusi, S., K. (2012). *Weaving Peace: Essays on Peace, Governance and Conflict Transformation in the Great Lakes Region of Africa*: Trafford publishing.

²⁵ Malan, J. (1997). *Conflict Resolution Wisdom from Africa*, Africa Center for the Constructive Resolution of Disputes: Durban, South Africa

²⁶Alinur, H., H. (2014). *Interclan Peace Initiative in Mandera County: A case of Qurreh and Murulle communities from 1998-2002* (Doctoral Dissertation, University of Nairobi)

partnership with the religious societies as well as the government has embarked on various missions to manage conflict in Kenya. A variety of NGO's and Church based organizations together with the government exist in conflict prone areas. However, these conflicts develop into violent conflict despite their presence. The need for practitioners and actors in ADR to recognize traditional systems of ADR is more important now than it has ever been.

Additionally, traditional conflict resolution mechanisms often fostered peaceful co-existence among Africans parties in conflict as it was done through the community and elders who often advised parties to live peacefully.²⁷ Pastoralist communities in Kenya have successfully used traditional methods of conflict management in resolving conflicts that are intractable and that have cultural practices that are complex that the formal mechanisms of conflict management such as courts may not be able to address.²⁸

In Kenya, conflict management has been geared towards conflict containment as opposed to conflict transformation that is an aspect of conflict prevention. Through conflict transformation, various parties can be able to ensure that there is no eruption of violent conflict in the future. There is need for an all- inclusive framework where modern ADR mechanisms are synthesized with traditional methods of ADR. This requires leaders such as elders to be trained or be informed of the vast availability of ADR mechanisms such as mediation, arbitration, negotiation and arbitration so that they can be used together with local mechanisms to ensure conflict

²⁷Muigua, K., (2014). Traditional Dispute Resolution Mechanisms under Article 159 of the Constitution of Kenya 2010.

²⁸ Ibid.

prevention. This ensures ownership of the process as conflict management is carried out by those directly involved in the conflict.

The Alternative Dispute Resolution Mechanisms used in Kenya are mediation, negotiation as well as conciliation and inquiry. The crux of the study is how these are used together with traditional mechanisms of dispute resolution to prevent conflict. Negotiation is a mechanism through which two or more parties in dispute agree to reach a joint decision regarding issues that affect both parties in order to avoid further dispute or violent conflict.²⁹ It is also a mechanism through which two or more parties meet to discuss shared as well as opposing interests that affect an area that affects both parties.³⁰ It is a key approach to the peaceful resolution of disputes and conflicts that may arise between parties and the benefits of this compromised solution is believed to outweigh the losses arising from refusal to negotiate.³¹

The expectation of this process is to create an outcome that is beneficial and acceptable to all parties involved in the conflict. The outcome of a negotiation process should be one that is satisfactory whereby both parties are able to address the root problem of the conflict.³² The process is often voluntary so that the parties have the choice to agree, disagree or continue talking to improve the terms of the agreement.

²⁹ Fisher, R., Ury, W., and Patton, B., (1987). *Getting to Yes*. Simon and Schuster Sound Ideas

³⁰ Fisher, R., Ury, W., and Patton, B., (2008). *Negotiating Agreement Without Giving In*. Penguin Putnam Incorporated, United States

³¹ Umunadi, E. K. (2011). *The Efficiency of Mediation and Negotiation Methods for Dispute Resolution in Delta State*, Sacha Journal of Policy and Strategic Studies. Vol 1

³² Muigua, K., (2014). Traditional Dispute Resolution Mechanisms under Article 159 of the Constitution of Kenya 2010.

Mediation is a form of the negotiation process whereby parties no longer only negotiate with each other but now involve a mediator who is in the middle of proceedings.³³ It incorporates consensus building and is effective, efficient and addresses power imbalances among parties and is thus effective in dealing with inter-personal or inter-communal conflicts.³⁴

An acceptable third-party often helps the parties to reach a negotiated agreement that is acceptable to both parties. However, the mediator does not have the power or authority to make decisions on behalf of the parties. The process itself is often a non-binding process but the mediator can draw up a legally binding contract if the parties in dispute are able to reach a consensus or agreement.³⁵ The needs and interests of the parties in dispute can play a role in selecting mediation as the process for alternative dispute resolution as it offers privacy and confidentiality without rigid rules of negotiation that can be beneficial to the parties in conflict as well as address their interests.³⁶

In conciliation an independent person or group is selected by the parties in conflict due to their expertise or experience in the dispute and uses various techniques in order to bring parties to an agreement that is mutually acceptable.³⁷

³³Mwagiru, M., (2006). *Conflict in Africa; Theory, Processes and Institutions of Management*. Center for Conflict Research. Nairobi

³⁴Mwagiru, M., (2004). *Diplomacy Documents. Methods and Practice*. Institute of Diplomacy and International Studies

³⁵ Moore, C. W., (2003). *The Mediation Process: Practical Strategies for Resolving Conflict*. Jossey-Bass. 3rd Edition. San Francisco

³⁶ Ibid

³⁷ Fisher, R., Ury, W., and Patton, B., (2008). *Negotiating Agreement Without Giving In*. Penguin Putnam Incorporated, United States

The third party in conciliation serves to intervene in the conflict and does not have to be fully neutral. Conciliation can be used when parties are unable, unprepared or not willing to bargain.³⁸ A conciliator, however, is not able to impose the agreement on any party and his/her recommendations may be rejected by one of the parties. It is therefore an advisory role. It is a voluntary process where parties reach an agreement based on the best options available to them.³⁹

It is an effective mode of conflict resolution as the conciliator provides an advisory role to the parties in order to influence the outcome as well as to bring out the underlying issues that should be addressed as conciliator is often an expert in this field. They only help the parties to come to agreement as the power to accept or deny lies with the parties in conflict. It is important as the conciliator can have views and information that had not been considered by either party thus assisting in the process. It is different from mediation as the conciliator is often not neutral and cannot make any binding agreements between the parties. The parties only agree to their decisions making it a holistic approach because all parties have to take part in the process, contribute to the process and agree to the decisions made.

Retired General Sumbeiywo acknowledges the use of skills drawn from what he had learnt from his father who was a chief and mediator, as well as what he observed and learnt from elders arbitrate disputes. “In the olden days, mediation was in the blood of elders, we would sit under a tree each time there was a dispute, listen to all sides of the conflict, ask necessary questions and

³⁸Muigua, K., (2005). *Resolution of Natural Resource Conflict through Arbitration and Mediation*. LLM Dissertation

³⁹Umunadi, E. K. (2011). *The Efficiency of Mediation and Negotiation Methods for Dispute Resolution in Delta State*, Sacha Journal of Policy and Strategic Studies. Vol 1

rarely fail in getting a solution.”⁴⁰ At present, members of the civil society, church based organizations and village elders are often involved in alternative dispute resolution in order to bring about a holistic approach to conflict prevention.

1.7 Theoretical Framework

This study is guided by the Theory of Conflict Transformation as propounded by scholars such as Johann Galtung, John Paul Lederach and Thania Paffenholz.⁴¹ According to these scholars, conflict transformation is often an enduring process that leads to alteration of the structural, personal and cultural aspects of conflict. The main aim of conflict transformation is the overall change in structures in society that lead to conflict as well as the creation of better relationships between those in conflict.

Many societies have their own mechanisms and techniques for preventing, managing and resolving conflicts thus efforts for transforming conflicts need to include respect and promote resources from within the society and the peace building initiatives employed build on the society's existing cultural frameworks.⁴²

Conflict transformation aims at rebuilding relationships, focusses on reconciliation and fortification of a society's long term peace and building potential.⁴³ It aims at changing behaviors, relationships, attitudes, interests and discourses as it addresses underlying structures,

⁴⁰Waihenya, W. (2006). *The Mediator: General Lazaro Sumbeiywo and the Southern Sudan Peace Process*. East African Education Press

⁴¹Paffenholz, T. (2014). *International peacebuilding goes local: analysing Lederach's conflict transformation theory and its ambivalent encounter with 20 years of practice*. *Peacebuilding*, 2(1), 11-27.

⁴²Zistel, S. B., (2008). *Conflict Transformation and Social Change in Uganda, Remembering After Violence*. New York: Palgrave Macmillan

⁴³Shulika, S. L., (2013). *Managing the Challenges of Conflict Transformation and Peace Building in South Sudan*. University of KwaZulu Natal. Master's Thesis

culture and institutions that lead to violent political and social conflict.⁴⁴ It is opposed to the settlement of disputes because settlement often focusses on interests thus failing to address values and needs that are inherent in all human beings which are important aspects for peaceful co-existence.⁴⁵

A transformational approach advocates for a constructive change or growth in conflict through parties working together as conflict have the potential for constructive change.⁴⁶ The Multi-sectoral approach of the theory makes it more holistic and flexible for its application to numerous types of disputes.⁴⁷ The theory therefore advocates for a shared ownership of the conflict management process. This builds relationships and consent through a process that has been carried out personally encouraging the parties in conflict to adhere to their agreements.

Through conflict transformation, prevention of conflict is possible to the change in the attitudes of the parties, their improved communication as well as nature of the conflict. This also encourages state and non-state actors together with traditional leaders to take part in conflict transformation. It is important to use the tools provided by alternative dispute resolution so as to achieve an outcome that is acceptable to all parties.

1.8 Hypothesis

1. Alternative dispute resolution is effective in the prevention of conflict.

⁴⁴ Ibid pp 101

⁴⁵Fetherston, A. B., (2000). "From Conflict Resolution to Transformative Peace Building: Reflections from Croatia," Center for Conflict Resolution- Department of Peace Studies: Working Paper 4, April pp 6-8

⁴⁶Lederach, J. P., (1995). *Preparing for Peace: Conflict Transformation across Cultures*. Syracuse University Press

⁴⁷ Alker, H. R., Gurr, T. R., and Rupesinghe, K., (2001). *Journeys through Conflict: Narratives and Lessons*. Rowman and Littlefield

2. Non-state actors play an important role in alternative dispute resolution in Kenya.

1.9 Methodology of the Study

1.9.1 Sampling Design

The study shall use purposive or judgement sampling in the collection of data. This is the purposeful non-deliberate sampling of particular elements in the population that represent the entire population. Sampling is the process of selecting subjects or cases who often represent the whole population to be included in the study.⁴⁸ This method shall ensure that subjects are chosen based on the purpose of the study.

1.9.2 Data Collection Instruments

This study shall utilize both primary and secondary sources in the collection of data. The secondary sources of data include books, journals, and relevant articles. The primary data, however, shall be collected through the use of a questionnaire distributed to relevant respondents involved in the conflict in Isiolo. Each individual shall be required to fill in information regarding conflict in the region.

Questionnaires are appropriate for use when the target population is educated and knowledgeable.⁴⁹ Questionnaires also save on cost and time required. The kinds of questions included in the questionnaire were structured (close-ended), unstructured (open-ended) as well as a few contingency questions so as to probe for further information. The questionnaire to be used

⁴⁸Mugenda, o. and Mugenda, A., (2003) *Research Methods: Quantitative and Qualitative Approaches*. Nairobi, ACTS press.

⁴⁹Mugenda, o. and Mugenda, A., (1999) *Research Methods: Quantitative and Qualitative Approaches*. Nairobi, ACTS press

comprises of two sections. The first part includes demographics about the respondent and the second part includes questions pertinent to this study.

1.9.3 Target Population

A target population includes all people, things or elements that have the characteristics and traits that the researcher is looking for.⁵⁰ It is the specific population from which the information is being collected from. This target population in this study shall include all those involved and with knowledge of the conflict in Isiolo including: government officials, members of the civil society, inter-governmental organizations, the community and members of the church as well as the media.

1.10 Scope and Limitations of the Study

The research was limited to Kenya and it focused on the role of alternative dispute resolution mechanisms in preventing Conflict. The researcher aims to collect reports and relevant information from the civil society, relevant government arms, members of religious organizations and members of the community involved in Alternative Dispute Resolution. This shall be limited by time, financial constraints as well as availability of these parties.

⁵⁰Ngechu, M., (2004) Understanding the Research process and methods: *An Introduction to Research methods*. Nairobi, Acts press

1.11 Chapter Outline

The study shall be presented in 5 chapters:

Chapter 1: Introduction and Presentation of the Study

Chapter 2: Conflicts and Conflict Mapping of Isiolo

Chapter 3: Actors in ADR in Kenya; Inclusive of civil society, relevant government arms, members of religious organizations and members of the community involved in Alternative Dispute Resolution.

Chapter 4: Interpretation and Analysis of Data.

Chapter 5: Summary of Findings, Conclusions and Recommendations.

CHAPTER TWO

FACTORS CONTRIBUTING TO THE CONFLICT IN ISIOLO

2.1 Introduction

The harsh climatic conditions and environmental conditions in Isiolo county coupled with political instability as well as the proliferation of small arms and light weapons has led to an intractable and protracted conflict among communities living within the region. Tribal rivalry, conflict of interests, political influence and ownership of scarce resources have all contributed to the unending animosity between communities in Isiolo.

The county and national government have come up with many tools for conflict prevention and escalation in Isiolo mostly based on dealing with the disputes before they become violent. This is response to direct conflict and does not focus on dealing with the structural conflict that leads to the escalation of violence. The government together with other bodies do this through Early Warning Response as well as the National Rapid Response Framework.

The Early Warning and Response works through information gathering by the government agencies, United Nations agencies, the media, community based organizations as well as individuals within the community. All this is need information from the news, political and social activities as well as the identities of the groups residing in the area. The information is then analyzed by relevant authorities in order to come up with scenarios, predict possible outcomes as well as offer preventative measures to the disputes. The probabilities, policy options

and recommendations are disseminated to selected United Nations agencies, government bodies as well as non- governmental organizations.

The emergence of conservancies, cattle rustling, scarcity of resources and political instigations have all led to the constant eruption of conflict in the region. The proliferation of small arms and light weapons has also led to banditry and rampant cattle rustling in the region. These activities mainly carried out by the youth may have cultural taints to them such as cultural practices by the Samburu Morans after circumcision and this has led to constant insecurity. The inability and ineffectiveness of local security enforcement agencies as well as local actors has led to continued invasions into farms as well as game reserves.⁵¹ Politicians in the region have constantly manipulated in their followers in the region to divide ethnic groups pitting them against each other in order to gain political millage. Often raids and attacks can be carried out by youths carrying weapons leading to destruction of property and loss of life. The leadership in the area continue to use these gangs to further their political agenda as these groups are loyal to their ethnic leaders. The state is often unable to respond to this insecurity and these issues as they have been crippled by ethnic centers of power that govern the community and often mislead them. Thus any policies and institutions created by the government without the support of local leadership is often futile as the harsh reality of life in Isiolo is often governed by ethnic loyalty and ethnic systems of communal living.⁵²

⁵¹ National Steering Committee on Peacebuilding and Conflict Management (NSC) Secretariat, (2009), Report of the Consultative Peace Forum for the Isiolo Triangle.

⁵² Fratkin, E. (2001) East African Pastoralism in Transition: Maasai, Borana and Rendile cases. African studies review 44.3. pp 1-25

2.2 Land as a Trigger in Conflict

During the colonial era, the British created the Northern Frontier District as part of the British Protectorate in 1909 as a response to the ongoing southward expansion of the Abyssinian Empire in a region subject to rival imperial ambitions.⁵³ As one of the major pastoralist groups in the region, the Maasai had suffered a series of blows: Epizootics had killed their herds and they had also been victims of serious drought, smallpox outbreak and internal strife. As a result of this situation, a large group of Maasai accepted through a formal agreement with the British, a move from the Rift Valley to a specific reservation that is present day Laikipia as well as to parts of Isiolo.⁵⁴

A large percentage of the land in Isiolo is regarded as trust Land. Trust land was introduced in the 1930's by the British government as a remedy the natives' feelings of insecurity in the tenure of their lands. This insecurity arose from the right of the administration to make grants to non-natives of lands that lacked legally defined ownership or title.⁵⁵ The Constitution of Kenya states that the county council are in charge and own all the trust land that fall within their jurisdiction. The local authority thus holds land in trust for the who ordinarily reside on that land. After Kenyan independence, it was the county council that was vested with that power and responsibility. According to the 1963 constitution, the county council was to mandated with holding land in trust "for the benefit of the land" and make valid rights and interests that "under

⁵³ Hogg, R. (1986) The New Pastoralism: Poverty and Dependency in Northern Kenya. *Africa*, 56(3), 319-333

⁵⁴ Kameri-Mbote, P., & Kindiki, K. (2008). Trouble in Eden: How and Why Unresolved Land Issues Landed 'Peaceful Kenya' in Trouble in 2008. In *Forum for Development Studies* (Vol. 35, No. 2, pp. 167-193). Taylor & Francis Group.

⁵⁵ Boye, S. R., & Kaarhus, R. (2011). Competing claims and contested boundaries: legitimating land rights in Isiolo District, Northern Kenya. *Africa Spectrum*, 99-124.

the African customary Law for the time being in force” could be held by “a tribe, a group, a family or an individual”.⁵⁶

While the 1963 Trust Land Act provided local people with rights of occupation, use and inheritance with regard to land, it did not give the occupiers and users legal property rights. People in the region often refer to their customary rights to use and reside on the land as the land in the region has not been surveyed and inhabitants do not have formal or own title deeds. However, individuals or groups who are to control of the land are not defined in the trust land act. Despite widespread abuse by the county council as the custodians of this land, the act gave the county council the responsibility to “give effect to” local people’s rights and interests.⁵⁷

Historical grievances have led to the politicization between different groups in the area about the use and distribution of land. Coupled with forced evictions and resettlement processes are weak land policies and local land administration mechanisms that create animosity in the region. The high level of unemployment in the region has led politicians to use the youth as recruits to further their political.⁵⁸

Isiolo is comprised of a number of ethnic groups each laying claim to contentious parcels of land. Politicians have used the issue of land ownership to gain political mileage with the knowledge of the Trust lands arrangement. Ownership has been a historical and current issue as

⁵⁶ Kenya Constitution (1963), Chapter IX, Cap. 282 –116.

⁵⁷Boye, S. R., &Kaarhus, R. (2011). Competing claims and contested boundaries: legitimating land rights in Isiolo District, Northern Kenya. *Africa Spectrum*, 99-124.

⁵⁸Osamba, J. O. (2000). The sociology of insecurity: cattle rustling and banditry in North-Western Kenya. *African Journal on Conflict Resolution*, 1(2), 11-37.

land for grazing and pasture continues to be depleted. Many pastoralist communities in the region fight over grazing rights despite the long-standing agreements and grazing corridors that have been agreed on by elders. There is also the issue of communities engaging in the fencing of parcels of land for use by their communities solely. There has been long-term conflict between the Turkana and Borana over this issue as the Turkana are accused of fencing off large tracts of land for use by their community only. The Borana and other communities are thus forced to travel long distances in search of pasture and more often than not, encroach into privately owned ranches.

There is also a large conflict over land in Isiolo as it has attracted a number of outside investors due to the flagship project by the national government to make it a resort city. This together with the building of the Isiolo airport and other social amenities has led to the scarcity of land in the region. The land is being bought by those considered to be outsiders leaving less land for grazing. The economic viability of buying land in Isiolo has been boosted by a number of other projects by the national government such as LAPSSET (Lamu Port South Sudan Ethiopia Transport). The continuous carving of land in the region has contributed to the land scarcity experienced by the local communities leading to conflict.

2.3 Small Arms and Light Weapons

Small arms refer to revolvers, rifles, carbines, self-loading pistols as well as assault rifles that can be operated and carried by an individual. Light weapons are often weapons such as heavy machine guns that can be operated by two or a small group of individuals.

Small arms do not necessarily lead to conflict but the accumulation and build-up of them can lead to serious animosity and security concerns as they are cheap, light, easy to handle, transport and conceal. As a result, armed individuals have the means to cause violence and thus there is more demand for these weapons do to the increased insecurity. Individuals and groups in the region often purchase and attain weapons for their own security leading to a large armed population. This has a ripple effect in leading to more insecurity and instability in the region.

The proliferation of these weapons has been a primary security concern in Kenya for very many years. There are many social, political and economic factors that have led to the demand for these weapons. Due to its position in a region that is full of armed conflicts, small arms find their way to Kenya through some of its porous borders. Regions in northern Kenya such as North-Eastern Kenya are victims of such arms trade due to the fact that it's located at Kenya's border with Somalia. These weapons lead to insecurity in the region because they fuel ethnic tension and are used in cattle rustling in which cases have risen over the years. The study of the causes of the spread of these weapons, reasons that they are spreading and their effects in Kenya is a phenomenon that has been outlined in this research.

The use of weapons in violent conflict had displaced more than 160,00 people by 2003 in North Eastern Kenya. The victims of this violence are usually innocent and unarmed young men, women and children who are then forced to protect themselves by arming themselves as well. This creates a situation where there is an increased demand for small arms which thus leads to more people being displaced and a rise in insecurity.⁵⁹ The Kenya Police Force is often unable to protect the innocent in this region due to the fact that they are small in number and thus everyone

⁵⁹Pkalya, R., Adan, M., & Masinde, I. (2003). Conflict in Northern Kenya: A focus on the internally-displaced conflict victims in Northern Kenya. *ITDG. Of, 251*.

becomes a keeper of his or her security. This leads state of lawlessness in the region in which all conflicts and issues are solved by the barrel of the gun and also the control of power by those with the most weapons and resources. There is continued loss of life and underdevelopment is a key feature of this region.

North-eastern province has witnessed major cattle rustling activities that have left many people dead and a rise in humanitarian issues due to the large number of small arms in the area. It is also important to note that these areas are beyond the control of the Kenyan security forces and are actually controlled by criminal gangs who are occasionally proud to display their AK47 rifle weapons to the media.⁶⁰ The surge in SALW has also led to an increase in ethnic clashes which have been prevalent in the country since the onset of multiparty elections. In places such as the Isiolo, ethnic conflicts which are actually inspired by cattle raids are on the rise showing how these weapons can be used to fuel ethnic tensions.

The national government in part has had a role to play in the continuous ethnic tension brought about by the availability of SALW's. In its capacity, the government supplied a number of guns to residents so as to appear boost the strength of the Kenya Police Reservists (KPR) in order to enable them to defend the Isiolo communities against attacks. The way the guns were distributed also raised eyebrows in the district with the Turkana and Samburus claiming that many of the guns were given to Boranas.⁶¹

⁶⁰Lesogorol, C. K., &Mkutu, K. A. (2010). Guns and Governance in the Rift Valley: pastoralist conflict and small arms. *The Journal of Modern African Studies*, 48(1), 178.

⁶¹Ruto, P., Musoi, K., Tule, I., &Kirui, B. (2010). Conflict Dynamics in Isiolo, Samburu East, and Marsabit South Districts of Kenya. *Amani Papers*, 1, 1-19.

The morans, who are the standing army of the Samburu and Rendile from the adjacent Laisamis district, including the traditional elders who support cultures that encourage people to engage in cattle rustling and related conflicts in order to acquire a form of identity and prove that they are men capable of defending their communities, are perhaps the real actors and perpetrators of the conflict. The Boranas and Somalis in Isiolo district seem to lack this segment of warriors and that's why they are overwhelmed. The fear is that if the conflict continues and the Boranas continue to be the main victims, the possibility of them outsourcing militias is increasing becoming a reality.⁶² The culture of moranism has exacerbated the conflict between the Boranas/Somalis of Isiolo and Samburus of Samburu east district. Their lack of a standing army of Morans makes the conflict and fighting difficult for the Borana and Somali.

The conflict is influenced by the alliances that shape the conflict in Isiolo. These include the Turkana Samburu alliance that provide a safe passage for raiders from Samburu East who raid and drive away livestock from Isiolo. The Borana and Meru are the most affected with the Meru bearing the brunt of these raids. However, the Borana are able to launch counter attacks against the Samburu.

Guns and ammunitions are readily available in the two districts. Anyone can own a gun if you have the money to buy it. Those who trade in arms are the Somalis; the Samburus acquire the guns and ammunitions from them. Some of the guns used are G3, AK47 and M16. It is also alleged that there could be other more sophisticated illicit arms in civilian hands in the two districts. This has given the youth from both communities the courage to raid and fight the other

⁶² Ibid

communities as one way of amassing wealth (livestock) and testing their might. Some not only use these guns during raids but also attack vehicles plying those routes.⁶³

2.4 Climate Change and Fight for Scarce Resources

The depletion of natural resources and increased demand for reduced supply, is a result of climate change which leads to conflict due to socio-economic tensions. How regions react and mitigate climate change often depends on the adaptive capacities of those in the region. Due to this, it has been observed that poor countries are highly affected by climate change as it leads to continued aridity and increase in the size of dry lands and deserts.⁶⁴

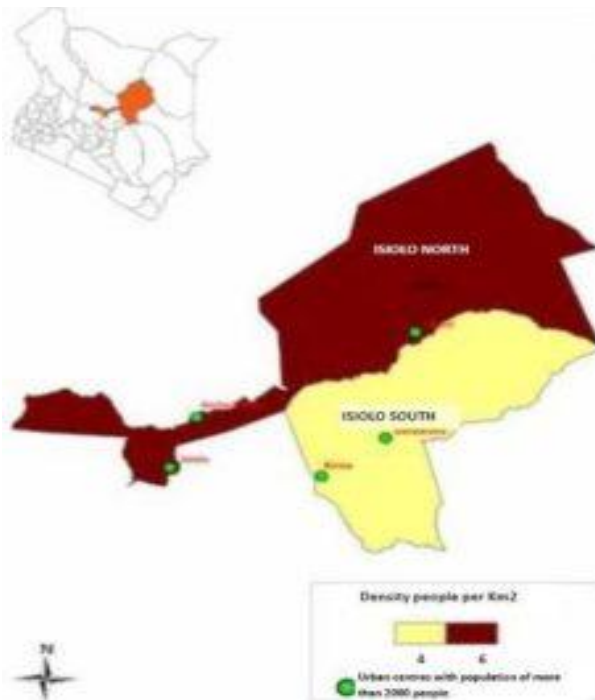
Isiolo County is an arid territory in north eastern Kenya, with high temperatures and low rainfall making it a desert like region. It borders Wajir, Meru, Garissa, Samburu, Tana River, Laikipia and Marsabit counties. Most of its residents are pastoralists. The scarcity of these resources has often resulted in violent conflict as these pastoralist communities struggle to acquire and control the little that is available. Cattle rustling as well as ethnic related violence have often led to the displacement of residents in the region. The environment has also changed drastically due to stress on existing resources, resulting in an increase in droughts, famines and other natural catastrophes.⁶⁵

⁶³ Njuguna, E., Ndung'u, J., & Musoi, K. (2015). SaferWorld.

⁶⁴ Niamir-Fuller, M., & Turner, M. D. (1999). A review of recent literature on pastoralism and transhumance in Africa. *Managing mobility in African rangelands: The legitimization of transhumance*, 18-46.

⁶⁵ Niamir-Fuller, M., & Turner, M. D. (1999). A review of recent literature on pastoralism and transhumance in Africa. *Managing mobility in African rangelands: The legitimization of transhumance*, 18-46.

MAP OF ISIOLO



Due to their pastoralist way of life, residents often rely on natural resources that have been constantly depleted by climate change and its effects. Pastoralist groups bear the brunt of this change since their livelihoods are vulnerable to these changes. Temporary and permanent migration patterns are being affected by climate change as it has led to competition for resources that are already scarce, leading to the further movement of people within and between borders. This has led to further stress on already diminishing resources in both rural and urban areas, thus increasing the likelihood of disputes that eventually lead to conflict. Thus, micro level

mechanisms of conflict management are often rendered ineffective due to the combination of these factors.⁶⁶

Pastoral and agro-pastoral communities predominantly occupy Isiolo county and limited grazing resources including water have historically contributed to conflict. Recurrent dry spells and drought in the surrounding counties have resulted in diminished pasture reserves and the subsequent movement of livestock from the neighboring counties and compete for grazing resources with local livestock. There exist local traditional resource sharing mechanisms that have been based on negotiations carried out by elders from the communities in the region. These routes and rules of access were created to solve disputes and provide for the safe passage of people and livestock. However, conflict has continued to erupt in the region due to the fact that these routes and negotiated areas are often ignored by pastoralists in the region. They choose their own routes as well as ignore the rules that have been set down in order to ensure peace. Agro-pastoralist conflicts are also on the rise due to diminished pastures and land for grazing. This has led to constant invasion by herders and their livestock into the farms of the agricultural communities. This is true of the Somali conflict with the Meru farmers as their camels continue to graze on the farms. This has led to continued animosity in the region. This has also led to conflicts between the Somali and some agricultural Turkana. Camels continue to be associated with some of the conflicts in Isiolo due to their nature of looking for pasture wherever it can be found. There have been recent deaths as well as deaths in the region as a result of the continued violence due to farm invasions by pastoralists with camels.⁶⁷

⁶⁶ Aid, C. (2011). Life on the Edge of Climate Change: The plight of pastoralists in Northern Kenya

⁶⁷ Report of the Inter- Ministerial Committee on Conflicts over Management of Conservancies in Isiolo County: August 2012

Agro-pastoral conflicts have been on the rise in the region particularly between members of the Turkana, Meru and the Somali communities. This is due to grazing of camels on land used for farming. Much of the agricultural land in the region is in Meru and thus this brings about a border dispute between the Meru and Somali communities. The camels are free to roam and eat all the vegetation. The association of camels with conflict in the region is not a new phenomenon and often occurs during times of drought and low rainfall.

The pastoralists are also facing a myriad conflicts as a result of new boundaries that have been created for electoral and administrative purposes. The nature of pastoralist conflict has also changed over time and new dynamics are at play. The recent increase in importance of Northern Kenya and the politics surrounding devolution has had an effect on the conflict context in counties such as Isiolo, which had been ignored in the past. Isiolo county is known as the transit or gateway to Northern Kenya and has attracted a lot of interest as it has been earmarked as one of the beneficiaries of an international airport. This together with new projects such as LAPSSET as well as infrastructural changes and development that come as a result has led to the continued fight for scarce resources.⁶⁸

Despite these positive upcoming developments, political and economic interests seem to fan violence in the region as many parties are jostling for positions to capture the natural resources left and these are the main sources of conflict in the region.⁶⁹

⁶⁸ Njuguna, E., Ndung'u, J., & Musoi, K. (2015). SaferWorld.

⁶⁹ Sharamo, R. (2014). The Politics of Pastoral Violence: A Case Study of Isiolo County, Northern Kenya. *Working Paper-Future Agricultures*, (95).

2.5 The Issue of Conservancies

The land has been greatly politicized and is often at the center of most violent conflict in Isiolo. Conflict is encouraged by the manner in which land is divided.⁷⁰ A large portion of the land is divided between the national government, county government, game reserves, ranches and game parks. All these are protected and not easily accessible to the local population. The land in the hands of these groups is large and is mostly the viable farmable and economically valuable land. This coupled with private ownership of large tracts of land by private individuals has led to further scarcity of this important resource.⁷¹ The capturing of the land that is left for the locals often leads to ethnic tensions and violence.⁷²

Conservancies have been created in Isiolo mainly for the purpose of safe guarding the flora and fauna in the region but also as an economic tool as they gain revenue from visitors and donors. They are often land that has been conserved by local communities due to the biodiversity that exists within them as well as the cultural values attached to them. This is often done through customary law.⁷³ Conservancies in Isiolo were established as a source of revenue for the inhabitants of the region who accumulate this revenue through tourism. These economic

⁷⁰ Abdi, A. (2011a) 'Politics of land to blame for Isiolo violence', East African Standard, 5 November

⁷¹ Haro, G. O., Doyo, G. J., & McPeak, J. G. (2005). Linkages between community, environmental, and conflict management: Experiences from Northern Kenya. *World development*, 33(2), 285-299.

⁷² Carrier, N., & Kochore, H. H. (2014). Navigating ethnicity and electoral politics in northern Kenya: the case of the 2013 election. *Journal of Eastern African Studies*, 8(1), 135-152.

⁷³ Stevens, S. (1997). *Conservation through cultural survival: Indigenous peoples and protected areas*. Island Press.

activities drive local communities to protect the wildlife in the region, manage pasture in a durable manner so as to improve their livelihoods.⁷⁴

Conservancies have been plagued by the current animosity between the local ethnic groups in the region. Conservancies have been seen in a bad light due to the custodians as well as groups that operate and protect them. There has been continued violence between the Turkana and Borana communities due to this. The Turkana and Samburu are the two ethnic groups that are used by these conservancies as guards and reservists. This has led to further animosity as the Borana have seen this move as a tactic to gain and keep the land by the Turkana leaving the Borana with no land. This constant rivalry has been further politicized and ethnic groups are in constant conflict due to these underlying issues. The root is in the historical claim by the Borana that the region belonged to them and the Turkana and Samburu are viewed as outside invaders. The issue of conservancies coupled with this has led to countless deaths and continued rivalry amongst ethnic groups in the region.⁷⁵

Conservancies have led to diminished grazing resources and pasture for herders and pastoralists in the region leading to further conflict. As this land continues to be carved off from the existing land that had been used by herders in the regions for a long time, the lack of viable alternatives as well as access to this land has led to continued animosity. Grazing rights in these conservancies has been restricted despite the fertility of the land within these conservancies. Groups in the region continue to fight for control and access to the small portions of land left.

⁷⁴ Report of the Inter- Ministerial Committee on Conflicts over Management of Conservancies in Isiolo County: August 2012

⁷⁵ Report of the Inter- Ministerial Committee on Conflicts over Management of Conservancies in Isiolo County: August 2012

2.6 Politics and Ethnicity

The Borana and Turkana have been at the forefront of the ethnic conflicts occurring in the region due to their competition for political dominance. The Borana have often formed alliances with the Somali in the region in order to amass number to run and win the political seats in the region. However, the Turkana have formed alliances with the Samburu in the area in order to overthrow the majority Borana. This political competition was evident in the 2007 elections when a Samburu backed Turkana candidate almost beat his rival Borana candidate in the parliamentary race.⁷⁶

During those elections, the Borana candidate won with a small margin due to their alliance with the Somali and this sent a message to the community as a whole to mobilize or else face dominance by the Turkana. The resultant political rivalry has brought in other communities into the conflict due to the rampant ethnic violence in the region. Therefore, while most conflicts in Isiolo are often driven by competition over scarce resources, they are also fueled by political motives. The Borana community in the region regard themselves as the historical custodians of Isiolo and aim to flush out political rivalry from other communities.⁷⁷

⁷⁶Ruto, P., Musoi, K., Tule, I., & Kirui, B. (2010). Conflict Dynamics in Isiolo, Samburu East, and Marsabit South Districts of Kenya. *Amani Papers, 1*, 1-19.

⁷⁷ Report of the Inter- Ministerial Committee on Conflicts over Management of Conservancies in Isiolo County: August 2012

Devolution led to the same rivalry being witnessed in the 2013 general elections as ethnic communities were jostling over position in the county government. As a consequence, significant efforts were put into building cohesion between the community groups and negotiating modalities for power sharing that would be considered fair by the majority of ethnic groups in the region. This resulted in a relatively peaceful election period and transition but it was not without its tensions. During the election period, intra and inter- ethnic tensions began to center on income and socioeconomic status, with poorer sections of the communities feeling marginalized and neglected.⁷⁸

Many of the conflicts in the region to this regard are enforced by political ambitions in order to control resources and power. Many politicians in the region use ethnic narratives in order to mobilize their kith and kin. The politics of the region is center heavily on us versus them despite the fact that only a minority of the population really control the resources in Isiolo. The politicians there seek to better their positions in the county government over their rival communities. This has largely led to deaths and forced evictions in Isiolo.

⁷⁸Ruto, P., Musoi, K., Tule, I., & Kirui, B. (2010). Conflict Dynamics in Isiolo, Samburu East, and Marsabit South Districts of Kenya. *Amani Papers, 1*, 1-19.

CHAPTER THREE

NON-STATE ACTORS AND LOCAL CONFLICT PREVENTION MECHANISMS

3.1 Introduction

Civil society organizations can be defined to include community based organizations in which individuals pursue various shared views and interests in an organized manner. They form associations based on mutual interests that can further their agendas in the community. The activities and participation of CSO's is not controlled by the government and includes associations such as faith based associations, women's groups, environmental groups as well as professional.⁷⁹

3.2 Civil Society Organizations

CSO's are vast and wide and have activities across the whole globe through include a diverse set of organizations, ranging from small, informal, community-based organizations to the large, high-profile INGO's. These organizations vary in their structure, mandate as well as who is involved in their activities. They work freely and are not under government control and management.⁸⁰ This means that they can approach people based on their specific needs and fight for their rights through the development of policies that are beneficial to communities around the globe as well as in implementing these policies.⁸¹

⁷⁹ Tomlinson, B. (2013). Working with Civil Society in Foreign Aid: Possibilities for South-South Cooperation. *Beijing: UNDP China*.

⁸⁰ Nyamu-Musembi, C., & Musyoki, S. (2004). Kenyan civil society perspectives on rights, rights-based approaches to development, and participation.

⁸¹ Ghaus-Pasha, A. (2005, May). Role of civil society organizations in governance. In *6th global forum on reinventing government towards participatory and transparent governance* (pp. 24-27).

They are important organizations and mechanisms that can be used in conflict prevention and resolution despite their major function as champions of democratic governance. Conflicts tend to arise over non-negotiable disputes over the satisfaction of fundamental basic needs. Civil societies are able to implement a bottom up approach to conflict prevention as they are in contact with those communities and individuals that are affected by conflict. This gives them the advantage of feeling the real effects of conflicts on the ground. In Lieu of this, Civil societies are therefore trusted in the communities in which they work and public participation is encouraged and practiced widely. This means that they can get long term solutions to disputes and conflicts due to the participation of the community and have the expertise as well as the mechanisms of dealing with and preventing conflict.⁸²

African civil societies are able to prevent, mitigate and resolve conflicts. This is due to their good relationship with communities and in-depth knowledge about the issues and interests. This has made them the go to mechanism when the international community wants to prevent or resolve conflicts in the region. It is a less expensive method because communities participate in the process and this brings about a holistic approach to conflict management. They are also able to monitor the work being done on the ground and assist in implementation.⁸³

Civil society organizations often provide communities with alternatives to violence as they support all aspects of conflict management through intervention in issues and disputes that government mechanisms are unable to prevent and resolve. Non- governmental organizations

⁸² Ibid

⁸³ Adejumo, S., & Olukoshi, A. O. (2008). *The African Union and new strategies for development in Africa*. Cambria Press.

play an important role in conflict prevention and management because they are able to respond much faster and better than most governments in poor countries. Due to their mechanisms and processes as well as guidelines, NGO's are able to work with a multitude of stake holders in order to prevent conflict. They are also trusted by the communities giving legitimacy to their activities in society.⁸⁴

Parties involved in conflict often avoid the courts and instead resort to informal traditional peace processes. These processes are cost effective and build on relationships as they require participation from members of the community. They are vastly used in Africa today as they offer a cheap and effective method of preventing conflict. The outcomes are also accepted by members of the society and promote cultural values and cohesion. The government continues to encourage these traditional forms of conflict prevention and has recognized their outcomes as binding to all those involved in the process.⁸⁵

This has occurred in North Eastern Kenya. In Isiolo, past government regimes would respond to conflict through the deployment of the army and armed personnel. This practice still continues also through the arming of local ethnic groups through the Kenya Police Reservists. However, the use of force is often counter- productive and costly. State interventions in conflict management are short-term and reactive with little implementation of visionary policies, hence the engagement of CSOs.⁸⁶. This approach often has more durable effects in Isiolo.

⁸⁴Regehr, E. (1997) Civil Society, Conflict Management, and the Avoidance of War.

⁸⁵ National Steering Committee on Peacebuilding and Conflict Management (2006) National Policy on Peacebuilding and Conflict management

⁸⁶ National Steering Committee on Peacebuilding and Conflict Management (2006) National Policy on Peacebuilding and Conflict management

Dialogue, negotiations, problem solving workshops, information, education and communication are some of the mechanisms that civil society organizations have used to prevent conflict, reconcile communities and build better relationships between them. Civil society organizations are able to enhance peace and prevent conflict through incorporating all members of the society in the negotiation process. Through this all the needs and interests of groups in the community are addressed.

In Isiolo, District Peace Committees have been at the forefront of conflict management and assist the government machinery in tackling various issues in the region through continuous consultation and dialogue. This has become common practice especially in Isiolo where District Peace Committees are comprised of members of the community and various stakeholders for various organizations in the region that are working in tandem to prevent and manage conflict in the region. They do this through structures and institutions that promote dialogue and relationships in the communities that have been divided by conflict. Religious organizations in the region have also set up Faith Based organizations (FBOs) to aid in conflict prevention and resolution. FBOs also form part of the district peace committees in Isiolo.

3.3 The Role of CSOs, DPCs and NGOs

CSO's efforts in marginalized and pastoral areas have been aimed at conflict prevention and management. They focus on peace time activities as well as conflict prevention and management through the implementation of various strategies and approaches to conflict prevention and management. Organizations such as Oxfam, GB, APFO, Safer World, CJPC and others have been instrumental in assisting these communities work towards achieving peace/ Apart from efforts aimed at training the DPCs, NGOs have also worked with local organizations in developing early warning mechanisms.

CSOs have been funding peace dialogues, lobbying the government to be more responsive and liaise with the National Steering Committee to speed up the policy development process that will legitimize and fund DPCS.⁸⁷ However, due to their nature of operation, CSOs in Isiolo are not coordinated and up duplicating much of the work that they do in the region.

3.4 The Role of District Peace Committees

District Peace Committees play an important role on facilitating consultative peace dialogues, act as alert systems to prevent conflict before they happen and also raise awareness within and between warring communities. There are several concerns however which were raised touching on the role, the structure and capacity of these Peace committees. With regard to their roles, many

⁸⁷Ruto, P., Musoi, K., Tule, I., & Kirui, B. (2010). Conflict Dynamics in Isiolo, Samburu East, and Marsabit South Districts of Kenya. *Amani Papers*, 1, 1-19.

felt that the Peace Committees do not have defined roles and as a result their impact at the grassroots level where the actual planning and carrying out of conflict particularly by the Samburu Morans has not been realized. The structure of these Peace committees is also loosely organized, unrepresentative and not all-inclusive. They are also under-resourced both logistically and financially making their capacity and attempts to prevent and mediate conflicts less effective. The Peace Committees also lack enforcement mechanisms. They just have to rely on community goodwill in the process of implementing and enforcing peace agreements. Sometimes they are perceived as illegal outfits established mainly for the purposes of “eating” funding from NGOs. They have also been accused of taking sides during peace dialogues, exaggerating conflict situation in order to get funding and that some of them might be participating or benefiting from cattle rustling activities. The list continues to say that some of them have turned out to be point-men of political leaders with others using DPC as a stepping stone to politics. Still, others (members of DPCs) are accused as traitors whenever they try to perform their duties with cumulative effects being loss of morale and energy to perform their duties. These accusations mainly originate from a small section of the community but all in all DPCs work under extreme difficult situations, with threats to their lives increasingly lurking.⁸⁸

3.5 Religious Institutions

Conflict transformation through religious peace building is taking shape across local communities that are affected by conflict. It is still uncoordinated and in need of greater numbers of

⁸⁸Ruto, P., Musoi, K., Tule, I., & Kirui, B. (2010). Conflict Dynamics in Isiolo, Samburu East, and Marsabit South Districts of Kenya. *Amani Papers*, 1, 1-19.

adequately trained practitioners, more study and testing and theoretical elaboration.⁸⁹ Religious institutions have always been at the forefront of criticizing governments, militaries as well as those in the business arena. Religious institutions in Africa have always stood for peoples' rights and fought against the abuse of the people. In so doing, religious actors have always been mediators in conflict in Africa.⁹⁰

Many of these religious organizations encourage dialogue among the community in order to prevent and resolve conflict. Due to the fact that they are accepted by the communities, religious leaders have been able to gain the trust of individuals and groups and derive their authority from this. In regards to this, communication and dialogue are initiated in order to commence the healing process especially after violent conflict. These organizations also assist in setting up structures that encourage further dialogue in order to prevent the eruption of conflict in the future.⁹¹

Religious leaders often understand the conflicts intimately as they work at the grassroots levels with the communities in conflicts. This gives them the unique advantage of persuading those in conflict to find peaceful methods of conflict prevention and management in order to alleviate suffering. Due to their unique relationship with the communities, they are better equipped than the government in coming up with strategies and solutions to most conflicts at the grassroots level.⁹²

⁸⁹ Appleby, S. (2000) *The Ambivalence of the Sacred: Religion, Violence and Reconciliation*. New York: Rowman and Littlefield.

⁹⁰ Ibid

⁹¹ Nicholas, O. (2013). *Conflict Management and Disaster Risk Reduction: A Case Study of Kenya July, 2013* Feinstein International Center, Tufts University, KenyaRed Cross Society, Nairobi: Peace Initiative-Africa

⁹²Kangethe, M. (2008) Religious leader's peace initiative in the Horn of Africa Conference.

Religious leaders often act as mediators and negotiators due to their unique relationship with the community. Leaders of various religions can come together to end violent conflict through guiding their members and educating them on the dangers of conflict. These religious leaders are also able to guide communities in identifying and resolving the root causes of the conflict in order to look for peaceful means of prevention and resolution.⁹³

Religious leaders can pursue peace and harmony in the community by using their political and social legitimacy. Although they are also able to use this for negative gains, religion can be used as a tool to foster peace and prevent conflict in society. Religious leaders may use their political and social legitimacy to pursue peace or to incite division, conflict and violence.⁹⁴ Faith based approaches represent viable and often very effective alternatives to traditional and secular approaches. Religion has the capacity of cooling tempers and promoting reconciliation. This is underscored by the fact that the religious bodies are communities of believers. Religious bodies have unique attributes that are necessary for peace building.⁹⁵

Religious leaders can also influence society and change their attitudes and behaviors towards each other. Conflict is brought about by non-compatible interests and values and it is the role of religious actors to bring out the shared humanity in communities. Through breaking down

⁹³Kadayifci O. (2008) Religion and Peace Building. Hand Book on Conflict Resolution. London Sage Publications.

⁹⁴ Ibid

⁹⁵Tongerren, P. (2005). *People Building Peace II: Successful Stories of Civil Society*. London: Lynne Reiner Publishers.

negative ethnicity and stereotypes as well as fighting for peace and human rights, religious leaders are able to prevent and resolve violent conflict.⁹⁶

Isiolo Inter -faith Network is the devolved structure of Inter-Religious Council of Kenya. This network brings together members from different faith in using interfaith dialogue among other strategies in promotion of understanding and co-existence. In Isiolo, the Catholic Church Diocese has been at the forefront of helping the pastoral communities in the area to deal with conflict and prevent violence. Finn Church Aid as one of the many faith based organizations in the area has had various successful projects aimed at Peace and disarmament as well as dialogue and conflict prevention in Isiolo. Under the umbrella of the Inter-Faith Network, many of the FBOs, churches and mosques have worked together with members of the community as well as district peace committees in ensuring conflict prevention and management through advocacy and providing avenues for dialogue and participation.

3.6 Elders and Community Leaders

Traditional leaders are part of the cultural heritage in African society and derive their importance and authority from local traditional structures that exist within society. These leaders are important in promoting peace, cohesion and harmony in communities as well as preventing and resolving conflicts.⁹⁷ These institutions comprise of elders, opinion leaders and communal leaders who play a big role in conflict prevention and resolution. They are respected in the community and thus have the authority to make decisions as well as punish wrong doers. Elders

⁹⁶ Abu-Nimer, M. (1996). Conflict Resolution Approaches: Western and Middle Eastern Lessons and Possibilities, *American Journal of Economics and Sociology*, 55(1), 35–

⁹⁷ Department of Justice & Constitutional Development 2008. Report to the portfolio committee on justice and constitutional development

have a respectable status in society. They derive this authority from the traditional African structures that give authority to the elderly due to their knowledge, experience and wisdom and are thus equipped to make decisions. The dispute is understood as a problem between the offender and community.

However, the elders' authority has been undermined especially in dealing with the youth who have found a wide range of centers of power thus eroding the traditional systems of preventing and resolving conflicts.⁹⁸ Thus, traditional authority has been replaced by new structures that are not in tandem with the reality of communities. These new structures include the government that is not community based and neither do its decisions focus on relationships in society. Thus, this new society is marred with inequality and injustice and increased polarization between the rich and the poor. Conflict prevention and resolution has become harder do to the lack of instruments and mechanisms that bind communities together.⁹⁹

In Isiolo, the council of elders still remains one of the highest institutions of conflict prevention and management. Conflicts are often prevented, managed and resolved through the negotiations and activities of the elders. Dialogue is the main mechanism for resolving preventing and resolving conflict in Isiolo at all the aspects of communal life. Intervening and mitigating conflict in Isiolo is dependent on a lot of intra and inter-community peace dialogues. These dialogues have helped to transform relationships, promote empathy and inspire the solution of problems whenever they arise. The decisions are effective, durable and long lasting and are

⁹⁸ Duffield, M. R. (1997). *Evaluating conflict resolution: context, models and methodology*.

⁹⁹ Odhiambo, M. O. (1996). *Addressing Natural Resource Conflicts Through Co Forestry: The Case of Eastern Africa*.

affirmed in a ritual way. The community then follows up to confirm compliance with the agreement as they rely on consensus due to the fact that they create a win-win for all the parties in dispute thus creating stronger relationships and adherence to the agreement.¹⁰⁰

Elders from ethnic groups in Isiolo often come together to resolve conflict and prevent further violence. This can be seen for example through the pastoral communities. These communities often migrate from one region to another and some like the Samburu come into Isiolo from adjacent counties. However, elders from the communities in Isiolo have not restricted these visitors from seeking pasture in the county but have set out grazing routes and corridors that can be used. This is a viable means of conflict prevention and conflict only erupts when grazers neglect the laid-out routes. According to Modogashe, Garissa and Laikipia declarations, those seeking grazing resources in adjacent districts should first notify elders, District Peace Committee (DPC) members and authorities on their intention before moving in. To their dismay, the Rendilles and Samburu's from Laisamis and Samburu East districts have migrated with their livestock to Isiolo district without informing anybody. So, whenever the visitors are confronted regarding as to why they have not sought permission to graze in Isiolo district, they resort to force and violence leading to unending circle of conflict.¹⁰¹

3.7 Other Actors

The Conservancies and the Northern Rangeland trusts have assisted the Samburu, Isiolo and the Rendille communities in conflict management and the combating of the effects of drought. The

¹⁰⁰Muigua, K. (2012). *Settling Disputes through Arbitration in Kenya*. Glenwood Publishers. Pp 1-19

¹⁰¹Ruto, P., Musoi, K., Tule, I., & Kirui, B. (2010). *Conflict Dynamics in Isiolo, Samburu East, and Marsabit South Districts of Kenya*. *Amani Papers*, 1, 1-19.

Lewa Wildlife Conservancy in particular, has worked closely with the Meru Police in providing fuel and vehicles to track animals that have been stolen. The Conservancy has also provided demarcated grazing lands to the neighboring Samburu community. Some of the proceeds from tourism have also been channeled towards the establishment of schools, awarding of scholarships; sinking of boreholes amongst other positive developments. It is also a source of employment especially to the Samburu community. The Conservancies however have not raised sufficient awareness on the importance of conservancies. The Boranas in Isiolo district feel that the Conservancy is encroaching on their grazing lands. As a result, propaganda and negative political sentiments have taken center stage in the “triangle”.¹⁰²

¹⁰² Ibid

CHAPTER FOUR

DATA ANALYSIS, INTERPRETATION AND PRESENTATION

4.1 Introduction

Chapter four presents the data collected using a questionnaire illustrating the role of Alternative Dispute Resolution Mechanisms on Conflict Prevention in Isiolo. This Chapter presents and describes data in the form of tables and charts.

4.2 Demographic Characteristics of the Respondents

This chapter addresses itself to the demographic information of the respondents who constitute the respondent in Isiolo County.

4.2.1 Gender of Respondents

Table 4.2.1 shows that 65% of the respondents were Male and that women were 35% of the respondents. This was mainly due to the fact that the study focused on those working within the towns and in organizations.

Table 4.1: Showing gender of respondents

Gender	Frequency	Percent
Male	26	65
Female	14	35
Total	40	100

Source: Author

4.2.2 Age Distribution of the Respondents

Table 4.2.2 illustrates the age distribution of the respondents. 47.5% of the respondents were between 36-45 years old. Those between 18-25 accounted for 7.5% while those between 46-52 accounted for 15%. The questionnaire was not sent out to many elders in society accounting for 5% of the respondents.

Table 4.2: Showing age distribution of the respondents

	Frequency	Percent
18-25	3	7.5
26-35	10	25
36-45	19	47.5
46-52	6	15
53 and Above	2	5
Total	40	100.0

Source: Author

4.2.3 Education Level of Respondents

Table 4.2.3 shows that the education levels in Isiolo are low as a 32.5% had only reached Secondary school. Only 17.5% of the respondents had attained University education with 22.5% having left off at primary. 27.5% of the respondents had reached college.

Table 4.3: Showing education level of respondents

	Frequency	Percent
Primary	9	22.5
Secondary	13	32.5
College/ Tertiary	11	27.5
University	7	17.5
Total	40	100.0

Source: Author

4.2.4 Occupation of Respondents

37.5% of the respondents are self-employed and mostly business people. A small 2.5% are farmers while 30% hold jobs.

Table 4.4: Showing occupation of respondents

	Frequency	Percent
Farmer	1	2.5
Herder	4	10.0
Employed	12	30.0
Student	5	12.5
Self-employed	15	37.5
Others	3	7.5
Total	40	100.0

Source: Author

4.3 Born and Raised in the Area

This question was included in the questionnaire in order to ascertain whether the respondents were conversant with the conflicts in the area. 78% were born in the area, 12% were born in Isiolo but were raised elsewhere and 10% migrated into Isiolo from elsewhere. This is to show that a large number of the respondents are aware of the conflicts in Isiolo and have a grasp of the issues.

4.3.1 Time Lived in Isiolo

80% of the respondents had lived in Isiolo for more than 10 years. While 13% had lived there between 5-10 years. A small 7% had lived there for 5 years or less indicating that the respondents had lived there long enough to understand the issues in Isiolo as well as the people and culture.

4.4 Ethnic Groups in the Region

The respondents indicated that 45% of the population are Borana, making them the majority. 30% are Turkana making a large number. The Somali were 12% of the population with the Meru being 7%. The minority tribes at 4% include the Maasai and Rendile. This shows the domination of the Borana over the region and that they are largely affected by conflict in the region.

4.4.1 Between What Ethnic Groups have the Conflicts been Occurring

80% of the conflict in the region is mostly between the Borana and Turkana. These are conflicts over scarce natural resources as well as political dominance. 15% of the conflicts are agro-

pastoral in nature between the Somali and Meru over invasion of arable land. 5% includes conflicts between the Borana and Samburu as well as the Turkana and Somali.

4.5 Understanding of Peace

A large 30% of the respondents understood peace as the absence of violence while 25% considered it to be people living in unity and harmony. This was closely followed by 22.5% who believe peace in Isiolo is equity in use of shared resources.

Table 4.5: Showing understanding of peace

	Frequency	Percent
Absence of violence	12	30
People living in unity and harmony	10	25
Equity in use of shared resources	9	22.5
Freedom of movement and association	5	12.5
Others	4	10
	40	100.0

Source: Author

4.5.1 Current State of Peace in Isiolo

Table 4.6: Showing current state of peace in Isiolo

	Frequency	Percent
Good	13	32.5
Fair	22	55
Bad	5	12.5
	40	100.0

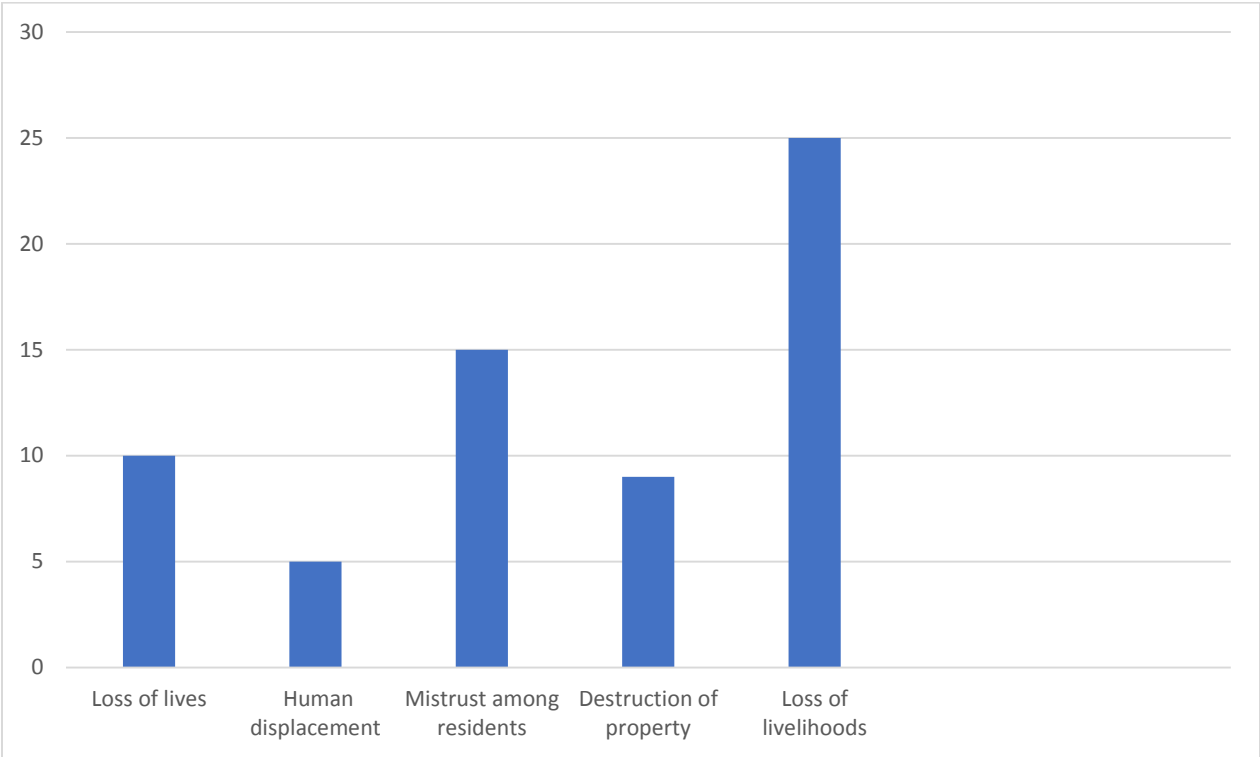
Source: Author

Isiolo is currently stable and fair according to 55% of the respondents. 32.5% indicate that there is still peace and stability while 12.5% that the state of peace in Isiolo is low.

4.6 What Forms of Conflicts are you Aware of and How Many Times have you Experienced Such Forms of Conflicts in the Last 12 Months

The respondents were aware of all the forms of conflicts tabulated below and had experienced each in one way or another. The conflicts in Isiolo have mainly led to a loss of livelihoods and has caused mistrust among residents. There has also been a significant number of deaths as well as destruction of property and human displacement.

Figure 4.1: Showing the number of times that these conflicts have been experienced

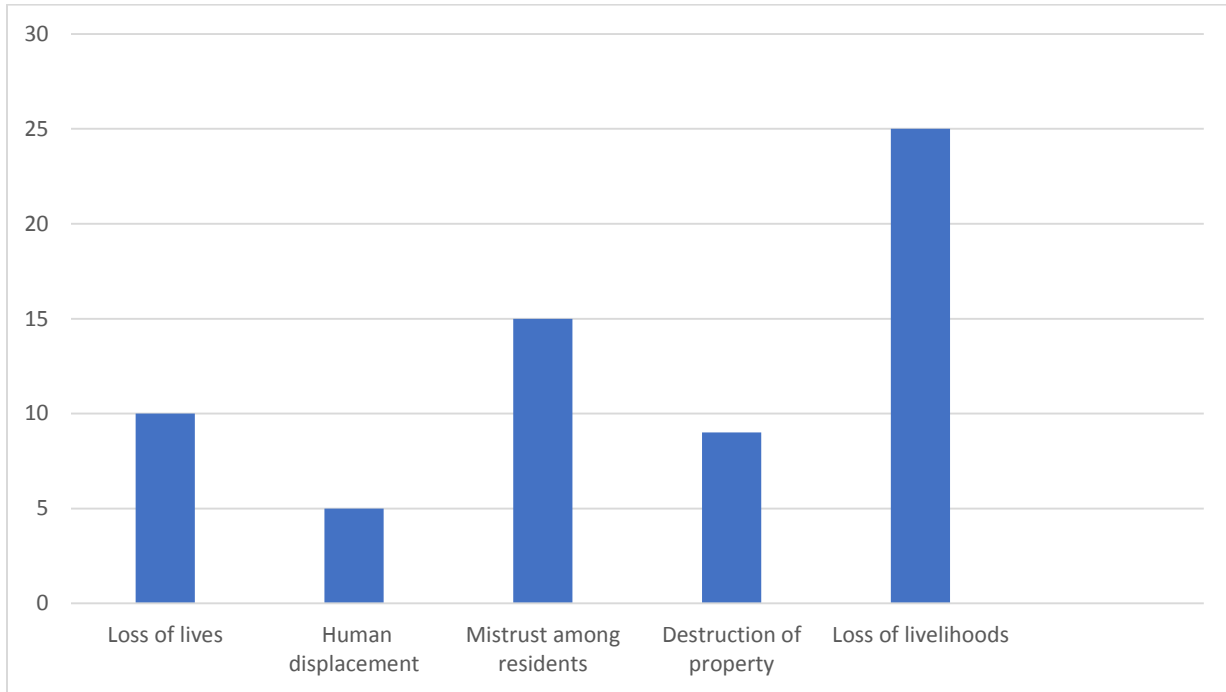


Source: Author

4.6.1 Major Causes of the Forms of Conflicts in Isiolo

A large number of respondents attribute the conflicts in to Political incitements. This politics has contributed to conflict in Isiolo. The conflict is also as a result of culture and limited grazing land. All these factors interact to cause violent conflict in Isiolo.

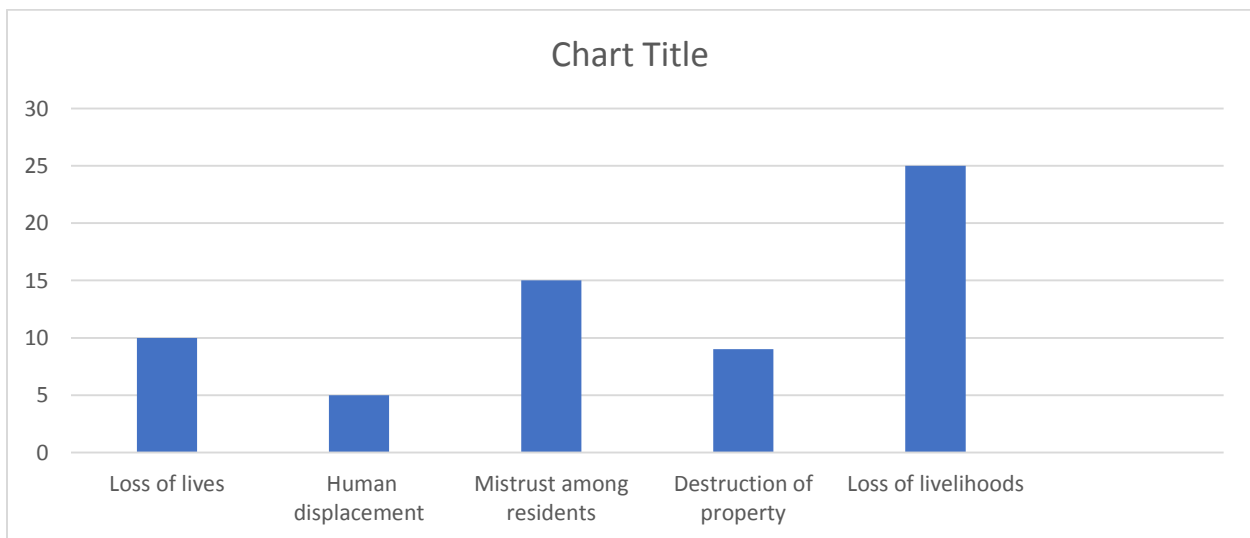
Figure 4.2: Showing the causes of the forms of conflict in Isiolo



Source: Author

4.6.2 Effects of Conflict in the Community

Figure 4.3: Showing the effects of conflict in the community



Source: Author

The main effect of conflict in the community is loss of livelihoods. This is because a majority of residents are pastoralists and thus lose out due to conflict. This has led to a lot of mistrust between neighbors and residents in the area. The conflict has continued to take the lives of a few while leading to displacement of some.

4.7 Alternative Dispute Resolution Mechanisms Used for Conflict Prevention by Communities

57.5% of the respondents ascertain that negotiation is widely used in Isiolo County. This is the case as conflict prevention is done through negotiations by elders in the community. 30% indicate that mediation is also used in conflict prevention. The mechanism least used is conciliation at 12.5%.

Table 4.7: Showing alternative dispute resolution mechanisms used for conflict prevention by communities in this region

	Frequency	Percent
Negotiations among community leaders	23	57.5
Mediation	12	30
Conciliation	5	12.5
Total	40	100.0

Source: Author

4.7.1 Satisfaction with Conflict Resolution Efforts Currently Taking Place

67.5% of the respondents are not satisfied with the current conflict prevention efforts taking place. Only 32.5% are satisfied with the conflict prevention efforts. Most indicate lack of good will and participation from those in warring communities. There is also lack of trust in the county and national government efforts in ensuring peace and stability in the area. A large number of respondents insist on community participation in order to ensure peace in the area. Also indicated is the need for a concerted and unified effort as opposed to conflict prevention being done by different entities at different times. This can streamline the issues and make sure they are all working towards one goal. Further participation is required on the part of the county government to ensure conflict is prevented.

Table 4.8: Showing satisfaction with conflict prevention efforts currently taking place

	Frequency	Percent
Yes	13	32.5
No	27	67.5
	40	100.0

Source: Author

4.8 The Use of Negotiation as a Mechanism in Conflict Prevention

4.8.1 Statement Depicting What Leaders normally does while using Negotiation in Dispute Resolution

Table 4.9: Showing the use of negotiation as a mechanism in conflict prevention

	Frequency	Percent
a) Communication is established between parties in conflict so as to arrive at a mutually agreeable solution	13	32.5
b) Back and forth communication is used to ensure the conflicting parties reach an agreement	3	7.5
c) Negotiators work to achieve their own goals	9	22.5
d) Negotiators use an array of tactics in the process between groups rather than individuals	10	25.0
e) Both parties come to the realization that they have a problem, and both are aware that by talking to each other, they can find a solution to the problem	5	12.5
	40	100.0

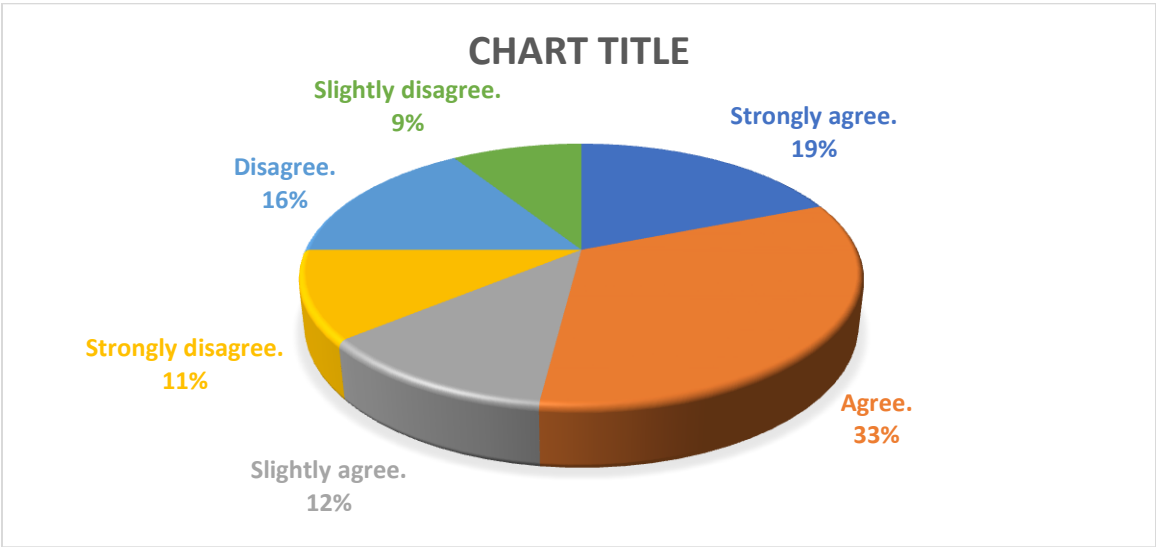
Source: Author

Negotiation is often used as a conflict prevention mechanism and 32.5% of the respondents indicate that communication is established between parties in conflict so as to arrive at a mutually agreeable solution. A further 25% show that negotiators use an array of tactics in the

process between groups rather than individuals. This indicates that the process of negotiation involves almost all members of the community. Only 7.5% indicate that back and forth communication is used to ensure that a consensus is arrived at by the parties the conflicting parties. This is often the main weakness of the negotiation process when proper lines of communication are not established and parties are not communicating. 12.5% of the respondents showed that both parties come to the realization that they have a problem, and both are aware that by talking to each other, they can find a solution to the problem. This is the only way the negotiation process can begin when both parties realize that they have something to lose and thus have to work together to come up with long term, agreeable and binding solutions.

4.8.2 Negotiation is Based on the Aggressive Pursuit of Interest by Parties and is Typically Adversarial and Competitive

Figure 4.4: Showing response to whether negotiation is based on the aggressive pursuit of interest by parties and is typically adversarial and competitive

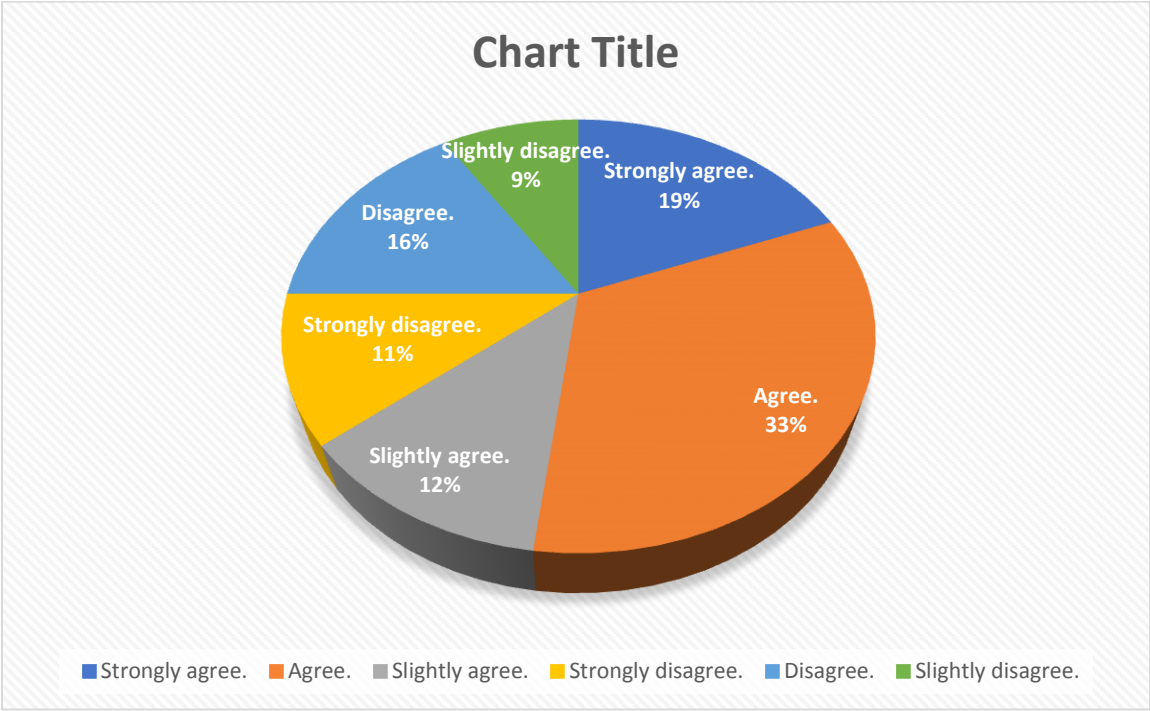


Source: Author

Figure 4.4 illustrates that a 32% of the respondents agree that negotiation is based on the aggressive pursuit of interest by parties and is typically adversarial and competitive. This is due to the fact that the issues and resources that are in dispute affect the livelihoods of the parties and thus cannot be taken lightly. Only 7% strongly disagree with this statement and 11% slightly disagree. 23% of the respondents slightly agree with it showing that a lot still needs to be done with regards to the negotiation process in order to prevent conflict.

4.8.3 Parties Tend to Stubbornly Adhere to Their Positions and One Side Seems to Dominate the Negotiation

Figure 4.5: Showing whether parties tend to stubbornly adhere to their positions and one side seems to dominate the negotiation

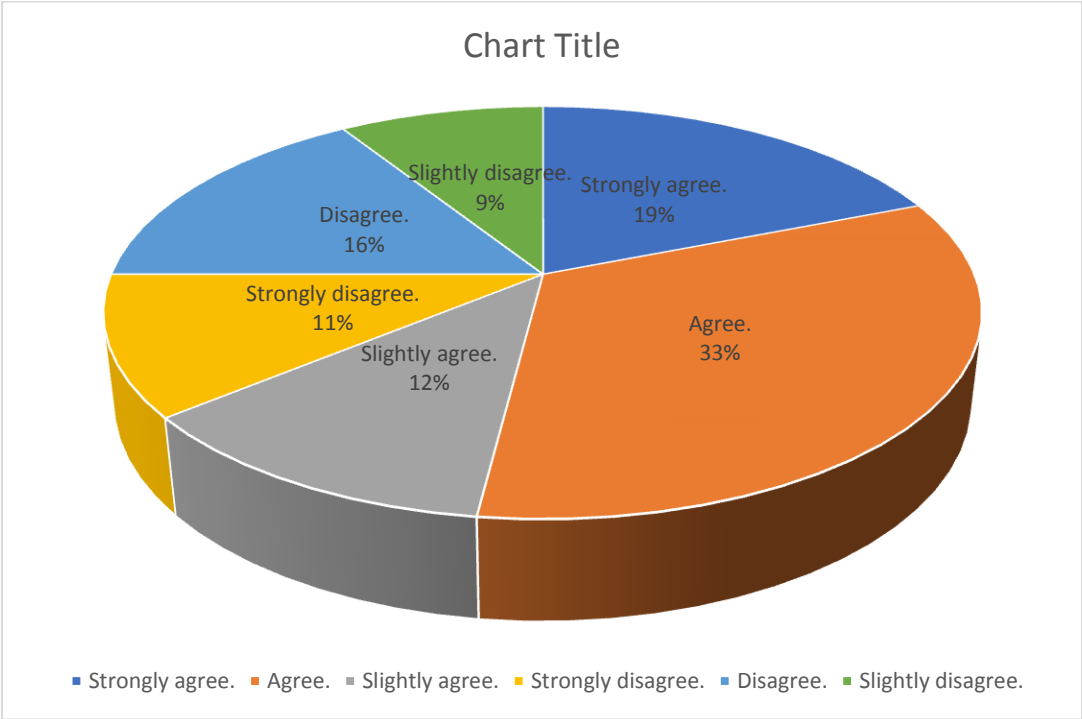


Source: Author

25% of the respondents strongly agree that parties tend to stubbornly adhere to their positions and one side seems to dominate the negotiation. 15 % agree while 18% slightly agree. The respondents also showed that 14% disagreed with the statement that parties tend to stubbornly adhere to their positions and one side seems to dominate the negotiation. A further 16% slightly agreed while 12% strongly disagreed.

4.8.4 In the Negotiation Process, the Disputants may Represent Themselves or they may be Represented by Agents and they have Control Over the Negotiation Process

Figure 4.6: Showing respondents view on whether in the negotiation process, the disputants may represent themselves or they may be represented by agents and they have control over the negotiation process



Source: Author

30% of the respondents strongly agreed that in the negotiation process, the disputants may represent themselves or they may be represented by agents and they have control over the negotiation process. Thus, there is full community participation in the negotiation process and parties unveil themselves for it. 18 % agree while 17% slightly agreed with the statement. This shows that parties have interests in the negotiation process. 9% of the respondents strongly disagreed while 15% disagreed. However, 11% of the respondents slightly disagreed.

4.8.5 What is the Level of Acceptability of the Negotiation Mechanism by the Parties in Dispute Resolution

The negotiation mechanism is highly accepted in the region as a mechanism for conflict prevention. 82.5% of the respondents highly accepted this while 17.5% indicated that negotiation is rarely used.

Table 4.10: Showing the level of acceptability of the negotiation mechanism by the parties in dispute resolution

	Frequency	Percent
Highly acceptable	33	82.5
Rarely used	7	17.5
	40	100.0

Source: Author

4.8.6 In Your Own Assessment, How Often Do the Disputes Addressed Through Negotiation Recur

A large number of respondents indicated that disputes often reoccur close to elections. This 72.5% are alluding to the fact that most of these disputes are political in nature or are as a result of political incitement or involvement. 8% responded that they occur spontaneously. This could be due to the spontaneous nature of disputes especially with regard to pastoral issues. This can be disputes due to cattle raids as well as raids on farms. 7.5% indicate that they rarely recur. This may show that disputes take different forms with new disputes occurring and not necessarily the previous disputes.

Table 411: Showing response to how often disputes addressed through negotiation recur

	Frequency	Percent
They rarely recur	3	7.5
They recur spontaneously	8	20.0
They recur every five years especially during elections	29	72.5
	40	100.0

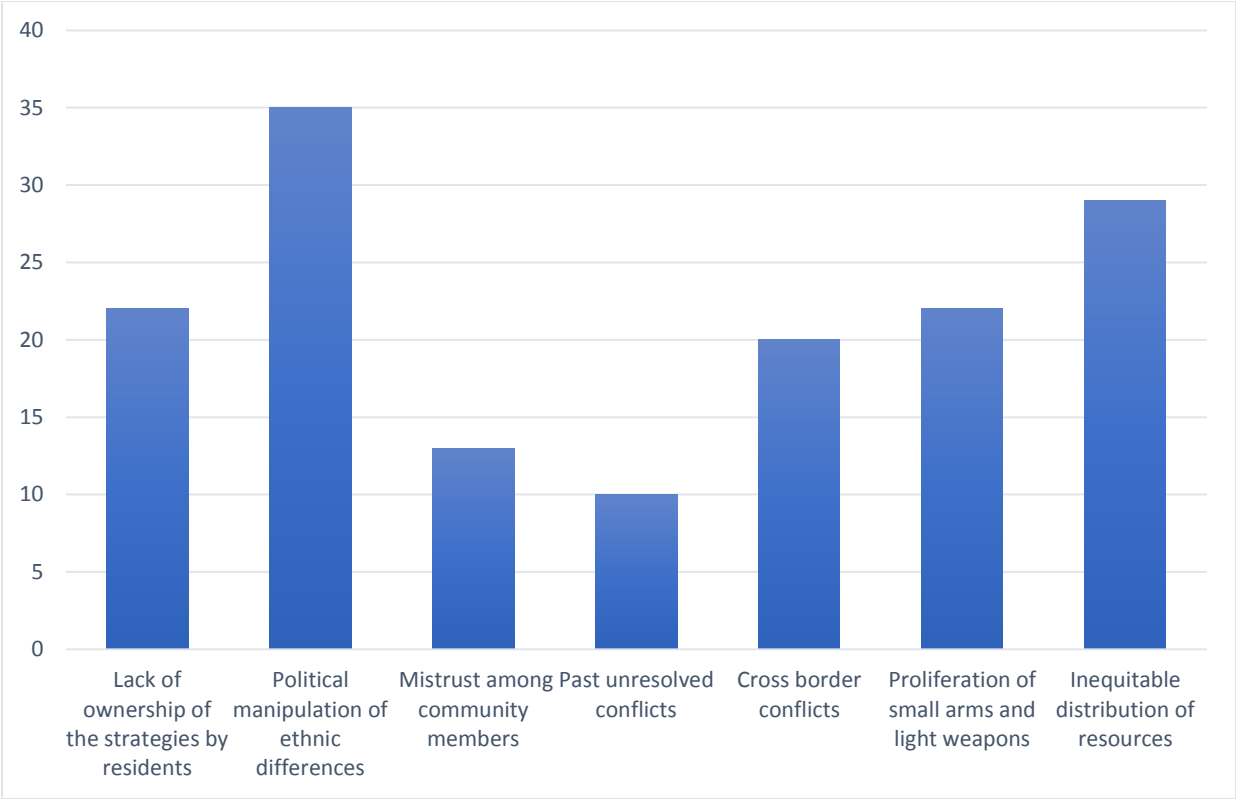
Source: Author

4.8.7 What Disputes Are Resolved Through Negotiation?

Negotiation can be seen to be largely used in the resolving of political issues. Through community participation, many of these conflicts can be prevented. Through custom and culture,

elders in the region have always negotiated on routes for their pasture as well as watering points. This shows that this practice is still there to this day. Cattle rustling as well as inter-ethnic conflict are also resolved through negotiation.

Figure 4.7: Showing what disputes are resolved through negotiation



Source: Author

4.9 The Use of Mediation as a Mechanism in Conflict Prevention

4.9.1 Is the Mediation Process Private and Confidential?

Table 4.12: Showing whether the mediation process is private and confidential

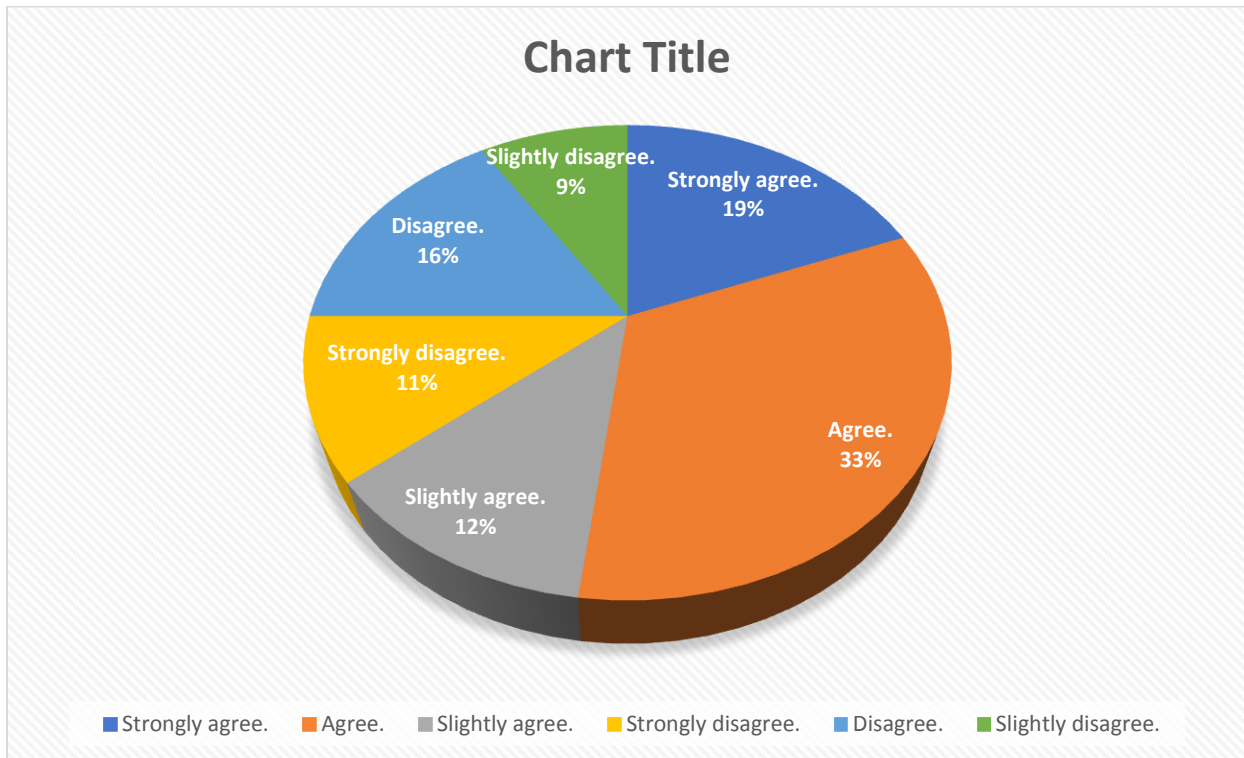
	Frequency	Percent
Yes	29	72.5
No	11	27.5
	40	100.0

Source: Author

The process of mediation is highly private and confidential. Also 82% of the respondents indicate that the mediation process is voluntary, consensual and flexible. However, 63% show that the main focus of the mediation process is on the interests that lead to conflict. This can be due to the nature of the interests and resources in dispute. Most political disputes focus on the personalities behind the issues and not necessarily the issue or issues themselves. Despite this, 85% agree that the neutral third party empower the parties to control all aspects of the dispute resolution process, including helping the parties in conflict clarifying their interests, goal and choices and to have a better understanding of the other party's perspective. Also, 77% indicate that the mediator often assists the parties in consensus building through bringing out the real underlying issues and finding resolutions.

4.9.2 Mediation is Based on the Aggressive Pursuit of Interest by Parties, and is Typically Adversarial and Competitive

Figure 4.8 showing response to whether mediation is based on the aggressive pursuit of interests by parties, and is typically adversarial and competitive

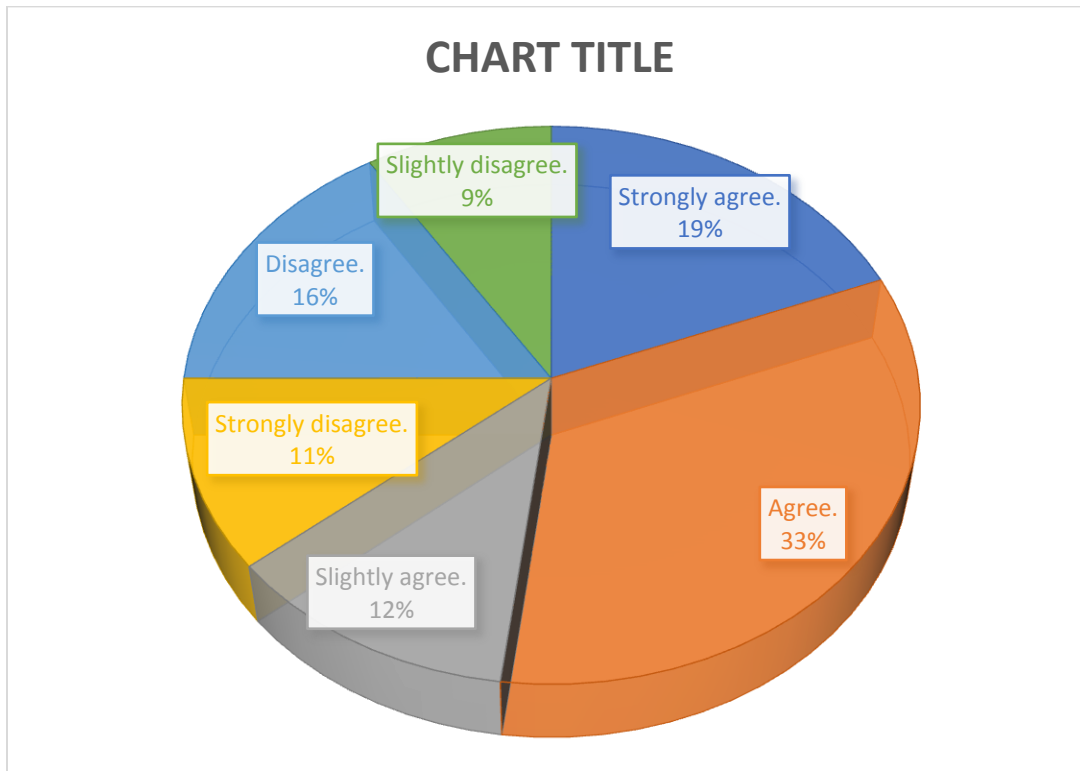


Source: Author

31% of the respondents agree that parties involved in the process are competitive and involved in the pursuit of their own interests. 16% strongly agree while 15% slightly agree. This is due to the type of issues and parties involved in the mediation process. Each side often has its own narrative as well as its own claim and thus tend to pursue their own interests. However, 17% of the respondents disagree with this statement, while 15% slightly disagree and 10% strongly disagree. This shows that in some instances, parties can come together to work on the mediation process in order to prevent conflict in the area.

4.9.3 Parties Tend to Stubbornly Adhere to their Positions and One Side Seems to Dominate the Mediation

Figure 4.9: Showing parties tend to stubbornly adhere to their positions and one side seems to dominate the Mediation

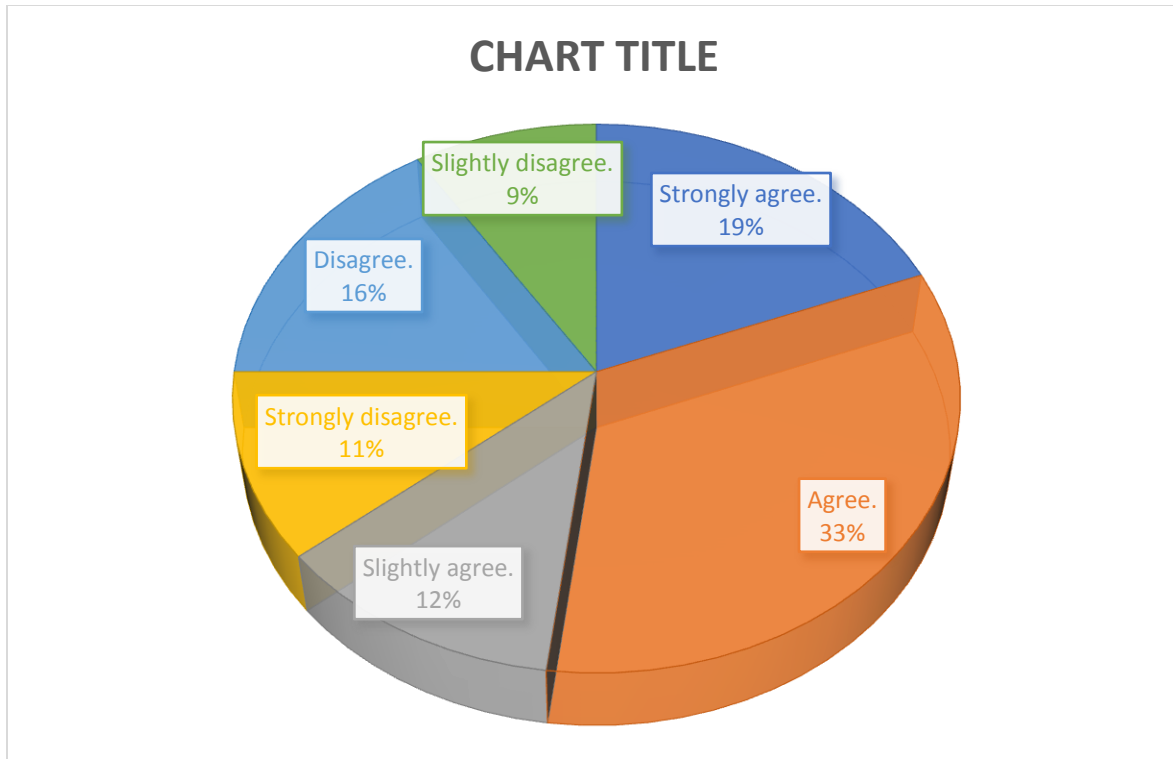


Source: Author

33% of the respondents agree that parties tend to stubbornly adhere to their positions and one side seems to dominate the Mediation. 15% strongly agree and 12% slightly agree. This is due to the fact that parties often want to further their interests especially if the mediation process is unable to produce a win-win situation. The fight for scarce resources as well as political power often hinders the mediation process. 15% of the respondents disagree while 13% strongly disagree and 12% slightly disagree.

4.9.4 In the Mediation process, the disputants may represent themselves or they may be represented by agents and they have control over the Mediation process

Figure 4.10: Showing whether In the Mediation process, the disputants may represent themselves or they may be represented by agents and they have control over the Mediation process



Source: Author

33% of the respondents agree that in the Mediation process, the disputants may represent themselves or they may be represented by agents and they have control over the Mediation process. 19% strongly agree and 12% slightly agree. This shows that members of the community are often willing and often take part in the mediation process. 16% disagree while 11% slightly disagree. 9% of the respondents strongly disagree that In the Mediation process, the disputants

may represent themselves or they may be represented by agents and they have control over the Mediation process.

4.9.5 The Level of Acceptability of the Mediation Mechanism by the Parties in Dispute Resolution

Mediation is a highly acceptable mechanism of conflict resolution.

Table 4.13: Showing the level of acceptability of the Mediation mechanism by the parties in dispute resolution

	Frequency	Percent
Highly acceptable	35	87.5
Rarely used	5	12.5
	40	100.0

Source: Author

4.9.6 In Your Own Assessment, How Often Do the Disputes Addressed Through Mediation Recur

A large number of respondents indicated that disputes often reoccur close to elections. This 67.5% are alluding to the fact that most of these disputes are political in nature or are as a result of political incitement or involvement. 7% responded that they occur spontaneously. This could be due to the spontaneous nature of disputes especially with regard to pastoral issues. This can be disputes due to cattle raids as well as raids on farms. 6% indicate that they rarely recur. This may

show that disputes take different forms with new disputes occurring and not necessarily the previous disputes.

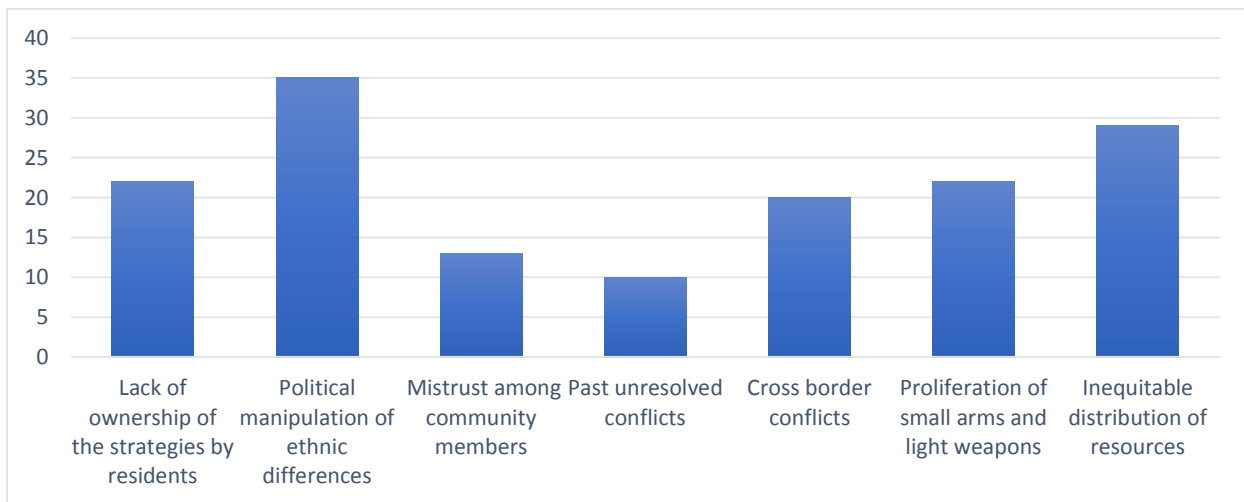
Table 4.14: showing response to how often disputes addressed through mediation recur

	Frequency	Percent
They rarely recur	6	15.0
They recur spontaneously	7	17.5
They recur every five years especially during elections	27	67.5
	40	100.0

Source: Author

4.9.7 What Disputes are Resolved Through Mediation?

Figure 4.11: Showing what disputes are resolved through mediation



Source: Author

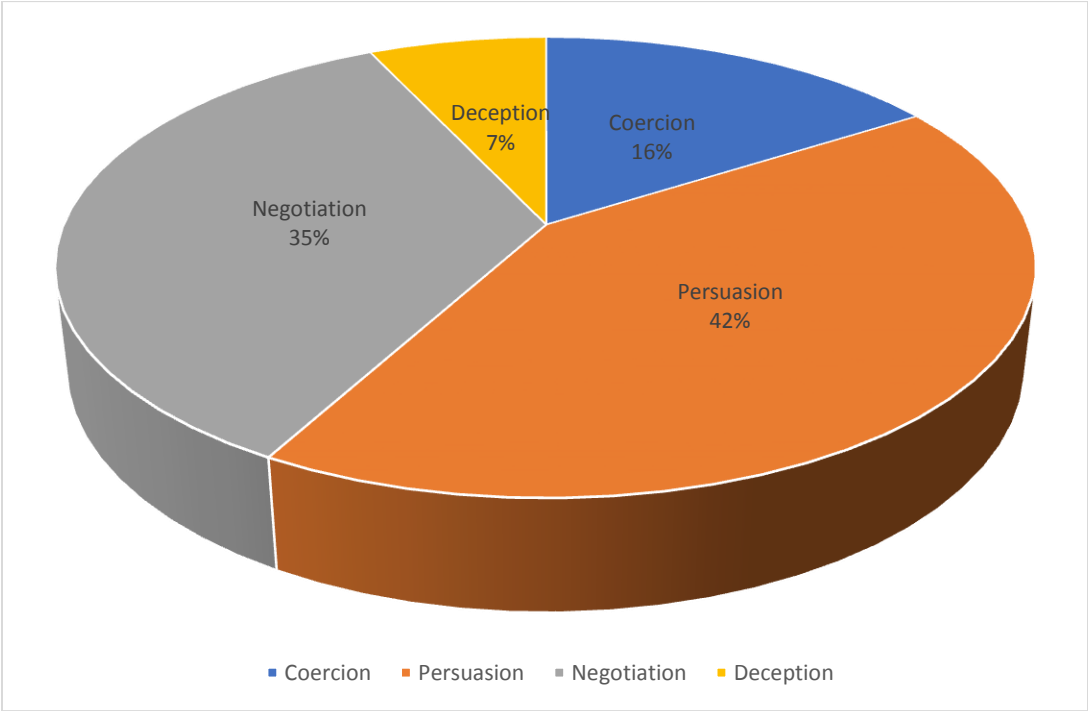
Mediation can be seen to be largely used in the resolving of political issues. Through community participation, many of these conflicts can be prevented. Land conflict is also highly resolved through mediation as the parties often tend to stand their ground as this is a win-lose situation.

4.10 The Use of Conciliation as a Mechanism in Conflict Prevention

In conciliation an independent person or group is selected by the parties in conflict due to their expertise or experience in the dispute and uses various techniques in order to bring parties to an agreement that is mutually acceptable

4.10.1 Techniques Employed By the Conciliators in Your Area

Figure 4.12: Showing the techniques employed by conciliators



Source: Author

Conciliators in the area are highly respected individuals. Thus, they have the power to negotiate, persuade and even coerce parties at times. 42% of the respondents indicate that persuasion is mostly used by conciliators. 35% show that negotiation is used while 16% indicate that coercion is used. Only 7% of the respondents indicated that conciliators used deception to resolve conflict. As an open and sincere process, conciliation could lead to conflict prevention. If parties are deceived and are aware of this deception the conflict may erupt.

4.10.2 What Conciliators Do in the Event of that the Parties are Unable to Reach a Mutually Acceptable Settlement

Table 4.15: Showing what Conciliators do in the event of that the parties are unable to reach a mutually acceptable settlement

	Frequency	Percent
They issue a non-binding recommendation	17	42.5
They refer the parties to the courts	12	30.0
They employ threats and sanctions to force the parties to strike an agreement	2	5.0
They impose a settlement	9	22.5
	40	100.0

Source: Author

Table 4.15 illustrates that 42.5% of the respondents indicate that conciliators often issue a non-binding recommendation that can be rejected. 30% indicate that conciliators refer the parties to the courts when unable to resolve issues while 22.5% indicate that they impose a settlement. Only 5% of the respondents indicate that conciliators employ threats and sanctions to force parties to reach a consensus.

4.10.3 Conciliation Process Adopted by Leaders in Your Area in Resolving Disputes

The third party in conciliation serves to intervene in the conflict and does not have to be fully neutral. Conciliation can be used when parties are unable, unprepared or not willing to bargain

4.10.4 The Level of Acceptability of the Conciliation Mechanism by the Parties in Dispute Resolution

Mediation is a highly acceptable mechanism of conflict resolution as it involves people who are experts in the issues of concern. However, it is also rarely used as some of the conciliators are clearly biased and can be on the opposing side. The bias often has a positive role by can be seen as a negative attribute.

Table 4.16: Showing the level of acceptability of the Mediation mechanism by the parties in dispute resolution

	Frequency	Percent
Highly acceptable	25	62.5
Rarely used	15	37.5
	40	100.0

Source: Author

4.10.5 In Your Own Assessment, How Often Do the Disputes Addressed Through Conciliation Recur

A large number of respondents indicated that disputes often reoccur close to elections. This 62.5% are alluding to the fact that most of these disputes are political in nature or are as a result of political incitement or involvement. 12% responded that they occur spontaneously. This could be due to the spontaneous nature of disputes especially with regard to pastoral issues. This can be

disputes due to cattle raids as well as raids on farms. 3% indicate that they rarely recur. This may show that disputes take different forms with new disputes occurring and not necessarily the previous disputes.

Table 4.17: Showing response to how often disputes addressed through conciliation recur

	Frequency	Percent
They rarely recur	3	7.5
They recur spontaneously	12	30.0
They recur every five years especially during elections	25	62.5
	40	100.0

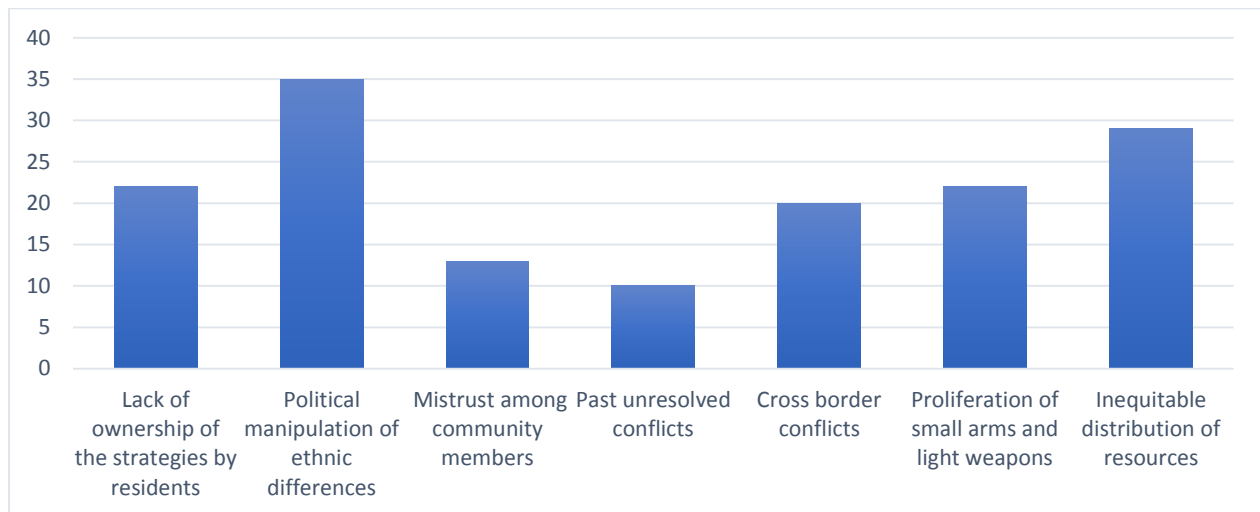
Source: Author

4.10.6 What Disputes Are Resolved Through Conciliation?

As conciliators are often experts in their field as well as members of the community, they are able to resolve matters such as land issues as well as political conflict because they are aware and

have vast knowledge about the issues. A large number of inter-ethnic conflicts are resolved through conciliation.

Figure 4.13: Showing what disputes are resolved through conciliation



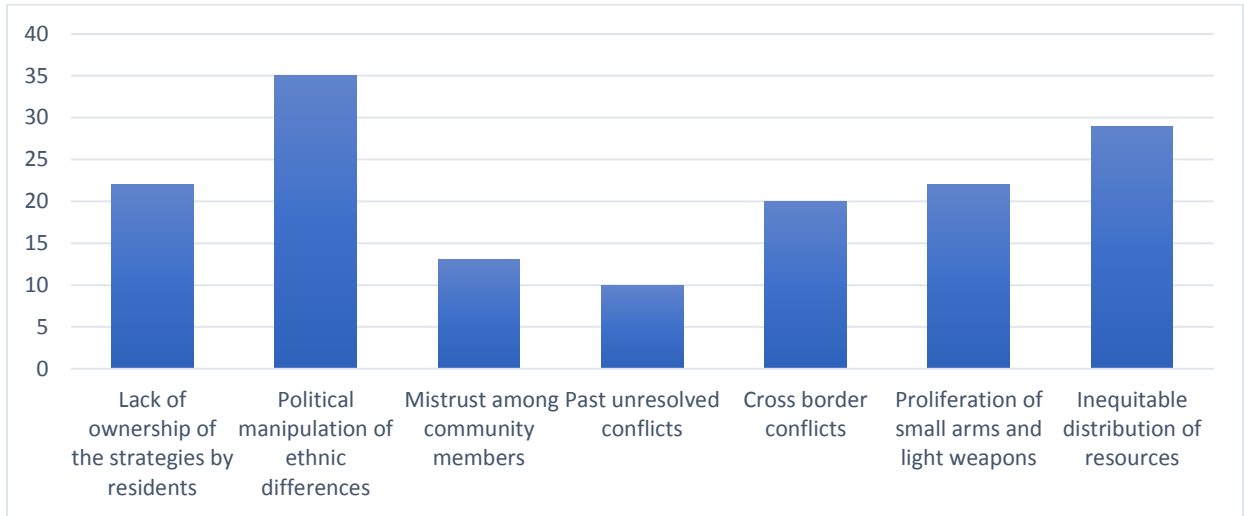
Source: Author

4.11 Do Alternative Dispute Resolution Mechanisms Face any Challenges

72% of the respondents indicated that there are often challenges when using these mechanisms of dispute resolution.

4.11.1 Challenges faced by alternative dispute resolution mechanisms

Figure 4.14: showing challenges faced by alternative dispute resolution mechanisms



Source: Author

The largest challenge to alternative dispute resolution is the political manipulation of ethnic differences. Conflict is often caused by politics in Isiolo and those in the political class often use ethnic narratives to garner support as well as to mobilize fellow kinsmen to fight. This deeply undermines all efforts in place to prevent conflict. Conflict often erupts due to availability of arms in the region and a lack of ownership strategy by residents.

4.12 Actors Involved in Alternative Dispute Resolution

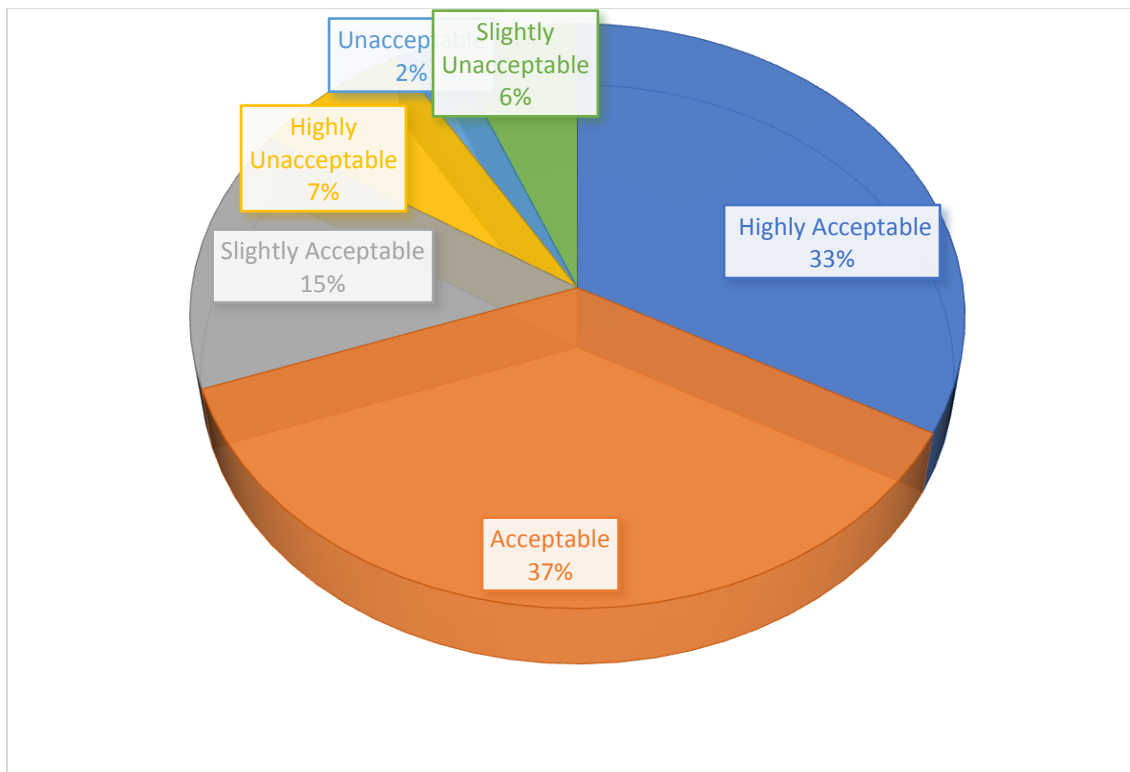
4.12.1 NGO'S, Faith Based Organizations or Community Based Organizations In Isiolo

All the respondents indicate that there are CSOs, NGOs, FBOs and Community based organizations in Isiolo and that they play an important role in preventing conflict. However, 69% of the respondents indicate that they do not have the machinery to act on or to address conflict in Isiolo. This is due to the vastness of the issues and uncoordinated nature of the various CSOs in Isiolo. All the respondents indicate that these organizations take part in negotiation, mediation and conciliation.

4.12.2 The Level of Acceptability of the Actions and Activities of these Organizations in Conflict Prevention

33.7% of the respondents indicated that these organizations are accepted by the communities in which they operate. They confidence in them is further boosted by 33% of them who show that they are highly accepted in the area. Only 7% show that they are highly unacceptable with 6% indicating that they are unacceptable.

Figure 4.15: Showing the level of acceptability of the actions and activities of these organizations in Conflict Prevention



Source: Author

4.12.3 Formal or Informal Independent and Impartial Structures that have Been Put in Place by the Government That Can Make a Binding and Enforceable Decision on the Dispute

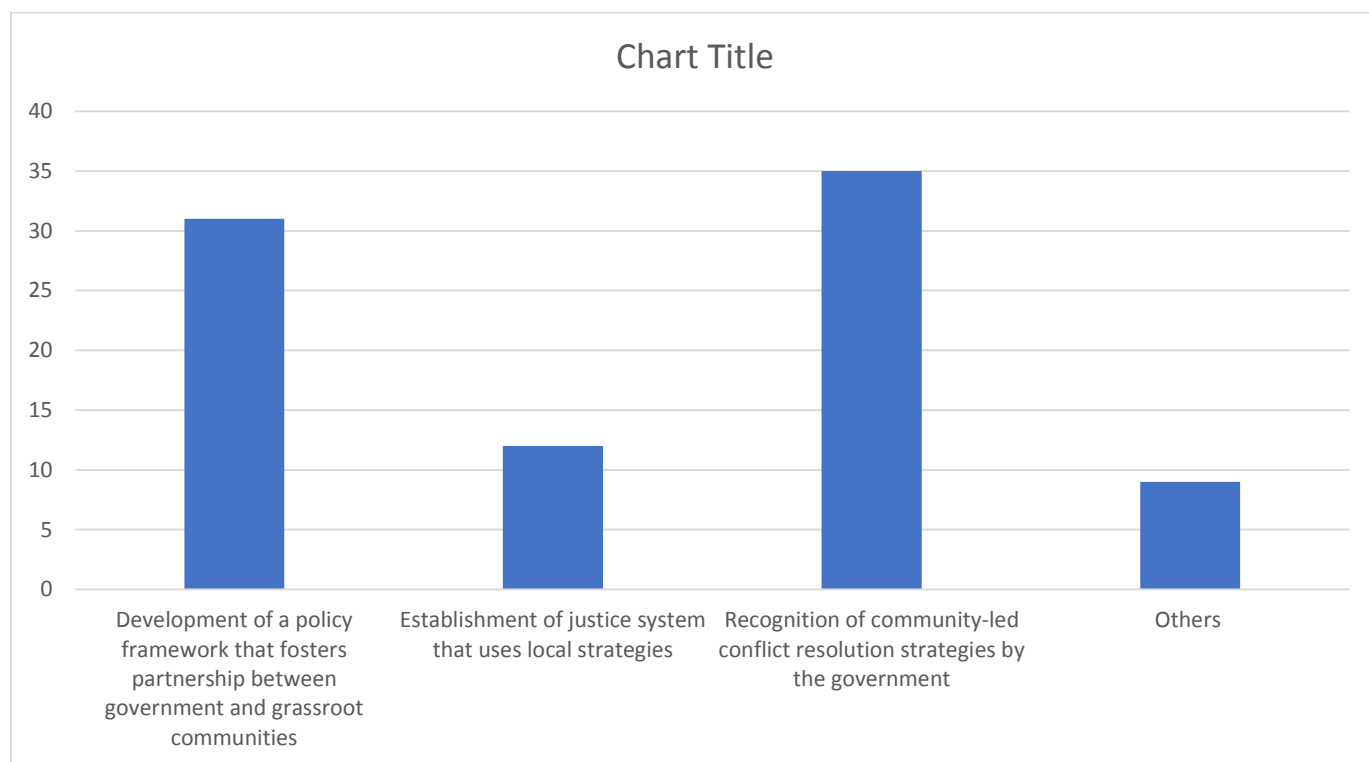
80% of the respondents indicated the government has strove to set up structures that can make an enforceable decision on the dispute. These mainly consist of clan elders from conflicting communities, religious leaders and civil society representatives.

4.12.4 Formal or Informal Independent and Impartial Structures That Have Been Put In Place by the Communities That Can Make a Binding and Enforceable Decision on the Dispute

76% of the respondents also indicated the communities have been able to make enforceable decisions to a dispute through structures that they have set up. They mainly constitute of clan elders from communities in conflict as well as religious leaders.

4.12.5 How Can Strategies Used For Conflict Prevention Be Made To Be Part Of Government Strategies?

Figure 4.16: Showing how can strategies used for Conflict prevention be made to be part of government strategies



Source: Author

The respondents indicated that the government should adopt many of these strategies by recognizing the community led conflict resolution strategies. The government should also put in place a policy framework that fosters partnership between itself and grassroots communities.

CHAPTER FIVE

SUMMARY OF THE FINDINGS, CONCLUSION AND RECOMMENDATIONS

5.1 Introduction

Throughout the study, the main theme of the study assessed the role of alternative dispute resolution mechanisms on the prevention of conflict. The main area of this study was Isiolo county in North Eastern Kenya. The study explored how these mechanisms are used to prevent conflict and to promote peace; assessed the level of recognition and acceptance of these mechanisms among members of the community; evaluated the impact of these mechanisms in preventing conflict and to explored the challenges faced when using these mechanisms and

determined how these strategies can be used by organizations working within the area together with the government in order to prevent conflict in Isiolo.

5.2 Summary of Findings

The research sought assess the role played by alternative dispute resolution mechanisms in the prevention of conflict, a case of Isiolo county.

5.2.1 Negotiation

Negotiation is widely used as an alternative dispute resolution mechanism. Due to its flexibility and allowance of participation, it has been used by several parties and members of the community in efforts to prevent conflict.

5.2.2 Mediation

Mediation is also employed in the region. Mediation takes on a more formal dimension and is often effective in preventing conflict. However, there are not many trained and skilled mediators in the region, therefore reducing the effectiveness and number of times in which mediation can be used. It is therefore underutilized in the region.

5.2.3 Conciliation

Conciliation is used to resolve and prevent conflicts in Isiolo. It is mainly utilized through well-known leaders who are authorities in various issues affecting the community. Its main challenge is with regards to the partiality of the conciliators as well as their inability to enforce decisions.

5.3 Conclusion

Alternative dispute resolution mechanisms are important for preventing conflict and ensuring peace and stability. They provide the opportunity and space for parties in conflict to resolve issue in contention amicably while avoiding the costs and delays associated with normal court processes. They ensure ownership of the process and of the outcomes by the community. This way, all the communities and parties in the region can find mutually acceptable solutions to their problems thus preventing conflict. These mechanisms need to be further entrenched into the justice system and practiced widely through the country. There needs to be further awareness of these mechanisms and the adoption of them by communities. Alternative dispute resolution provides a means to which communities, CSOs and the government can work together to ensure peace and prevent conflict.

5.4 Recommendations

1. Isiolo has been at the center of conflict for many years. Many of these issues are historical in nature and have not been resolved to this day. The particular land and boundary issues are still unresolved and are what are leading to a majority of the violent conflict. Ethnic groups in the region have historical claims to much of the land of Isiolo and these claims need to be heard and carefully resolved if the conflicts are to end.
2. The government should create a policy framework of working with communities and streamline activities in the area. The government has continued to work through the National Steering Committee that works with District Peace Committees in the region. Despite these efforts, there continues to be conflict. Close to this is the fact that there are CSOs in the region working towards ending conflict with no contact or coordination with

the government. Much of the work is duplicated and uncoordinated leaving the conflicts unresolved. Under its framework, the government should fully organize the activities of all government and private entities in the region in order to harmonize the peace efforts.

3. There is much needed support in terms of social capital. There aren't many skilled mediators and negotiators in the region that can continue to work on alternative dispute resolution. The government should continuously hold training sessions on these skills to locals who are aware of the issues and can thus handle them in a meticulous way. Further to this is the recognition of elders and experts in the region. They contribute a lot to the peace efforts in the region and thus should be incorporated into the government framework of conflict prevention.
4. More and more community participation should be encouraged in Isiolo. The Inter faith dialogue has carried out activities such as the sports for peace initiative. Such initiatives can only bring peace and prevent conflict in Isiolo. Those living in the area should be encouraged to come together to find solutions to their issues and prevent conflict.

5.5 Suggestions for Further Study

Based on the research done, the researcher suggests that further research continue to be done on the link between actors and dynamics that cause conflict in Isiolo. Contemporary issues such as climate change and drought have caused a myriad of new issues to emerge. Thus, more research should be done on the way forward for alternative dispute resolution in light of this. Finally, the role of county governments in conflict prevention and peace building requires further research as these devolved units are the first point of contact for communities in Kenya today as opposed to the national government.

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APPENDIX

APPENDIX 1: QUESTIONNAIRE

THE ROLE THAT ALTERNATIVE DISPUTE MECHANISMS PLAY IN PREVENTING

CONFLICT IN KENYA.

A CASE STUDY OF ISIOLO.

Dear respondents,

This is to kindly request you to take a few minutes to answer the following questions.

Note that the information given shall be used for Masters' Thesis being undertaken by the undersigned at the University of Nairobi.

Thank you for your cooperation,

MugambiKithamba

Background Information

Date: _____ Location: _____
County: _____ Sub-County: _____
Village: _____

Name of respondent (optional)

Sex of respondent
a) Male Age: 18-25.
b) Female 26-35.
Marital status: 36-45.
 46-52.
 53 and above.

Educational level: (click in the space) a. Primary Secondary College/ Tertiary
University

Occupation: a) Farmer b. Herder c. Employed d. Student e. Self- employed F.
others (specify)

Please indicate below which best describes your status

a) I was born and raised in this area.
b) I was born in this area but was raised away from this area.
c) I migrated into this area from elsewhere.

Kindly indicate how long you have lived here (click where appropriate)

- a) 0-5 years
- b) 5-10 years
- c) 10 years or more

What ethnic groups/sub-ethnic groups/clans reside within your area?

- a) Borana.
 - b) Turkana.
 - c) Meru.
 - d) Samburu.
 - e) Somali.
 - f) Any other (please specify)
-

Between what ethnic groups have the conflicts been occurring?

- a) Borana verses Turkana.
- b) Borana verses Samburu.
- c) Borana verses Meru.
- d) Turkana verses Somali.

e) Somali verses Meru.

d) Samburu verses Meru.

What is your understanding of peace?

(a) Absence of violence.

(b) People living in unity and harmony.

(c) Equity in use of shared resources.

(d) Freedom of movement and
association.

(e) Others (specify)

What is the current state of peace in the county of Isiolo?

a. Good.

b. Fair.

c. Bad.

What forms of conflicts are you aware of and how many times have you experienced such forms of conflicts in the last 12 months?

Type of Conflict	Number of times experienced						
(a) Cattle rustling.	<input type="checkbox"/>	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>	More (specify)
(b) Land dispute.	<input type="checkbox"/>	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>	More (specify)

- (c) Pasture disputes. 1 2 3 4 5 More (specify)
- (d) Watering points 1 2 3 4 5 More (specify)
dispute.
- (e) Clan conflict. 1 2 3 4 5 More (specify)
- (f) Inter-ethnic conflict. 1 2 3 4 5 More (specify)
- (g) Political Conflict. 1 2 3 4 5 More (specify)
- (h) Others (specify) 1 2 3 4 5 More (specify)

What are the major causes of the forms of conflicts in your area? (tick one or more)

- (a) Traditional customary
beliefs/culture.
- (b) Limited grazing land.
- (c) Low land productivity.
- (d) Drought /climate variability.
- (e) Political incitements.
- (f) Water scarcity.
- (g) Others (specify)
-

What are the effects of these conflicts in your community?

- (a) Loss of lives.
- (b) Human displacement.
- (c) Mistrust among residents.

(d) Destruction of property.

(e) Loss of livelihoods.

(f) Others (specify)

What alternative dispute resolution mechanisms are used for conflict prevention by communities in this region?

(a) Negotiations among community leaders.

(b) Mediation.

(c) Conciliation.

(d) Others (specify)

Are you satisfied with the conflict prevention efforts currently in place?

(a) Yes.

(b) No.

(ii) If no, what do you think should be done?

What are your suggestions on how to improve conflict prevention in Isiolo County?

The use of Negotiation as a mechanism in Conflict Prevention.

Which statement(s) below depicts what leaders normally do while using negotiation in dispute resolution.

- a) Communication is established between two or more parties in conflict for the purpose of arriving at a mutually agreeable solution.
- b) Back and forth communication is used to ensure the conflicting parties reach an agreement.
- c) Negotiators meet to work with or against each other for their own position or pre-determined, desired outcome.
- d) Negotiation proceedings take place between groups of people rather than individuals, and the list of tactics that negotiators may use is long and varied.
- e) Both parties come to the realization that they have a problem, and both are aware that by talking to each other, they can find a solution to the problem.

Negotiation is based on the aggressive pursuit of interest by parties and is typically adversarial and competitive.

- | | | | |
|--------------------|--------------------------|-----------------------|--------------------------|
| a) Strongly agree. | <input type="checkbox"/> | d) Strongly disagree. | <input type="checkbox"/> |
| b) Agree. | <input type="checkbox"/> | e) Disagree. | <input type="checkbox"/> |
| c) Slightly agree. | <input type="checkbox"/> | f) Slightly disagree. | <input type="checkbox"/> |

Parties tend to stubbornly adhere to their positions and one side seems to dominate the negotiation.

- | | | | |
|--------------------|--------------------------|-----------------------|--------------------------|
| a) Strongly agree. | <input type="checkbox"/> | d) Strongly disagree. | <input type="checkbox"/> |
| b) Agree. | <input type="checkbox"/> | e) Disagree. | <input type="checkbox"/> |
| c) Slightly agree. | <input type="checkbox"/> | f) Slightly disagree. | <input type="checkbox"/> |

In the negotiation process, the disputants may represent themselves or they may be represented by agents and they have control over the negotiation process.

- | | | | |
|--------------------|--------------------------|-----------------------|--------------------------|
| a) Strongly agree. | <input type="checkbox"/> | d) Strongly disagree. | <input type="checkbox"/> |
| b) Agree. | <input type="checkbox"/> | e) Disagree. | <input type="checkbox"/> |
| c) Slightly agree. | <input type="checkbox"/> | f) Slightly disagree. | <input type="checkbox"/> |

What is the level of acceptability of the negotiation mechanism by the parties in dispute resolution?

- a) Highly acceptable.
- b) Rarely used.

In your own assessment, how often do the disputes addressed through negotiation recur?

- (a) They rarely recur.
- (b) They recur spontaneously.
- (c) They recur every five years especially during elections.

What disputes are resolved through Negotiation?

- (a) Cattle rustling.
- (b) Land dispute.
- (c) Pasture disputes.
- (d) Watering points dispute.
- (e) Clan conflict.
- (f) Inter-ethnic conflict.

(g) Political Conflict.

(h) Others (specify)

The use of Mediation as a mechanism in Conflict Prevention.

Is the Mediation process private and confidential?

a) Yes

b) No

Is the Mediation process voluntary, consensual and flexible?

a) Yes

b) No

Does the Mediation process focus on interests and needs of the parties in conflict rather than the personalities behind the issues?

a) Yes

b) No

Does the neutral third party empower the parties to control all aspects of the dispute resolution process, including helping the parties in conflict clarifying their interests, goal and choices and to have a better understanding of the other party's perspective.

a) Yes

b) No

Does the Mediator use questions to bring out the parties' points of view; searches for interests underneath the positions taken by parties; and assists the parties in finding and analyzing options for resolution.

a) Yes

b) No

Mediation is based on the aggressive pursuit of interest by parties, and is typically adversarial and competitive.

a) Strongly agree.

d) Strongly disagree.

b) Agree.

e) Disagree.

c) Slightly agree.

f) Slightly disagree.

Parties tend to stubbornly adhere to their positions and one side seems to dominate the Mediation.

a) Strongly agree.

d) Strongly disagree.

b) Agree.

e) Disagree.

c) Slightly agree.

f) Slightly disagree.

In the Mediation process, the disputants may represent themselves or they may be represented by agents and they have control over the Mediation process.

a) Strongly agree.

d) Strongly disagree.

b) Agree.

e) Disagree.

c) Slightly agree.

f) Slightly disagree.

What is the level of acceptability of the Mediation mechanism by the parties in dispute resolution?

a) Highly acceptable.

b) Rarely used.

In your own assessment, how often do the disputes addressed through Mediation recur?

(a) They rarely recur.

(b) They recur spontaneously.

(c) They recur every five years especially

during elections.

What disputes are resolved through Mediation?

(a) Cattle rustling.

(b) Land dispute.

(c) Pasture disputes.

(d) Watering points

dispute.

(e) Clan conflict.

(f) Inter-ethnic conflict.

(g) Political Conflict.

(h) Others (specify)

The use of Conciliation as a mechanism in Conflict Prevention.

Does the process involve the use of one or more independent person(s) selected by the parties by mutual consent when a dispute has arisen between them, to bring about a settlement of their dispute through consensus?

a) Yes

b) No

Kindly indicate the techniques employed by the Conciliators in your area

a) Coercion

b) Persuasion

c) Negotiation

d) Deception

In the event of that the parties are unable to reach a mutually acceptable settlement, what do the Conciliators in your area do?

a) They issue a recommendation which is binding on the parties unless it is rejected by one of them.

b) They refer the parties to the courts.

c) They employ threats and sanctions to force the parties to strike an agreement.

d) They impose a settlement.

While addressing conflict in your area do the Conciliators play an advisory role on the content of the dispute or the outcome of its resolution?

a) Yes

b) No

Which of the following statements depict the Conciliation process adopted by leaders in your area in resolving disputes?

a) At the option of the parties, the process may be private.

b) The Conciliator helps the parties to look at the strengths and weaknesses of each other's arguments.

c) Usually, the Conciliator is an expert on the subject of the dispute and as a result, the Conciliator may have an advisory role on the content of the dispute or the outcome of its resolution.

What is the level of acceptability of the Conciliation mechanism by the parties in dispute resolution?

a) Highly acceptable.

b) Rarely used.

In your own assessment, how often do the disputes addressed through Conciliation recur?

(a) They rarely recur.

(b) They recur spontaneously.

(c) They recur every five years especially

during elections.

What disputes are resolved through Conciliation?

(a) Cattle rustling.

(b) Land dispute.

(c) Pasture disputes.

(d) Watering points

dispute.

(e) Clan conflict.

(f) Inter-ethnic conflict.

(g) Political Conflict.

(h) Others (specify)

Do these Alternative Dispute Resolution face any challenges in Isiolo?

a) Yes

b) No

If yes, what challenges do you face?

(a) Lack of ownership of the strategies by residents.

(b) Political manipulation of ethnic differences.

(c) Mistrust among community members.

(d) Past unresolved conflicts.

(e) Cross border conflicts.

(f) Proliferation of small arms and light weapons.

(g) Inequitable distribution of resources.

(h) Others (specify)

Actors involved in Alternative Dispute Resolution.

Are there any NGO's, Faith Based organizations or Community Based organizations in Isiolo?

a) Yes

b) No

Do these organizations play an important role in Conflict Prevention in Isiolo?

a) Yes

b) No

Do they have the machinery to act on and to address conflicts in Isiolo?

a) Yes

b) No

Do they take part in the processes of Negotiation, Mediation and Conciliation?

a) Yes

b) No

What is the level of acceptability of the actions and activities of these organizations in Conflict Prevention?

(a) Highly (d) Highly Unacceptable

Acceptable

(b) Acceptable (e) Unacceptable

(c) Slightly (f) Slightly Unacceptable

Acceptable

Are there any formal or informal independent and impartial structures that have been put in place by the government that can make a binding and enforceable decision on the dispute?

a) Yes

b) No

If yes, who constitutes such a structure?

- a) Clan elders from conflicting communities.
- b) Religious leaders.
- c) Civil society representatives.

Are there any formal or informal independent and impartial structures that have been put in place by NGOs that can make a binding and enforceable decision on the dispute?

- a) Yes
- b) No

If yes, who constitutes such a structure?

- a) Clan elders from conflicting communities.
- b) Religious leaders.
- c) Civil society representatives.

Are there any formal or informal independent and impartial structures that have been put in place by the communities that can make a binding and enforceable decision on the dispute?

- a) Yes
- b) No

If yes, who constitutes such a structure?

- a) Clan elders from conflicting communities.
- b) Religious leaders.
- c) Civil society representatives.

How can strategies used for Conflict prevention be made to be part of government strategies?

- (a) Development of a policy framework that fosters partnership between government and grassroots communities.
- (b) Establishment of justice system that uses local strategies.
- (c) Recognition of community-led conflict resolution strategies by the government.
- (d) Others (specify)