Building Peace in Africa through Alternative Dispute Resolution

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Abstract

The paper critically discusses the role of Alternative Dispute Resolution (ADR) mechanisms in peace building in Africa. It interrogates the need for peace in Africa and the efficacy of various initiatives adopted towards realizing this ideal. The paper argues that ADR mechanisms can play a fundamental role in building peace in Africa. The paper further posits that ADR mechanisms are able to enhance sustainable peace in Africa due to their focus on reconciliation and restorative justice. It proposes solutions towards building peace in Africa through ADR.

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1.0 Introduction

The term peace has a lot of definitions and often involves ideas such as the normal, non-warring condition of a nation, group of nations, or the world; an agreement or treaty between warring or antagonistic nations, communities and groups to end hostilities and abstain from further fighting or antagonism; and a state of mutual harmony between people or groups, especially in personal relations[1]. Peace has also been associated to the concepts of harmony, tranquility, cooperation, alliance, well-being, and agreement[2]. It has been pointed out that peace is not merely the absence of violence but it also entails other facets[3]. Consequently, the concept of peace has been classified into positive peace that entails attitudes, institutions and structures, that when strengthened, lead to peaceful societies and negative peace which entails the absence of violence[4].

Peace is one of the fundamental requirements for the realization of the Sustainable Development agenda[5]. The United Nations 2030 Agenda for Sustainable Development acknowledges that there can be no Sustainable Development without peace and no peace without Sustainable Development[6]. It seeks to foster peaceful, just and inclusive societies which are free from fear and violence[7]. Sustainable Development Goal 16 aims to achieve peaceful and inclusive societies for Sustainable Development, provide access to justice

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[1] Herath. O., 'A critical analysis of Positive and Negative Peace.' Available at http://repository.kln.ac.lk/bitstream/handle/123456789/12056/journal1%20%281%29.104-107.pdf?sequence=1&isAllowed=y (Accessed on 20/10/2023)

[2] Muigua. K., 'Achieving Sustainable Development, Peace and Environmental Security.' Glenwood Publishers Limited, 2021

[3] Ibid

[4] Herath. O., 'A critical analysis of Positive and Negative Peace.' Op Cit

[5] Muigua. K., 'Towards Effective Peacebuilding and Conflict Management in Kenya.' Available at https://kmco.co.ke/wp-content/uploads/2021/05/Towards-Peacebuilding-and-Conflict-Management-in-Kenya.docx-Kariuiki-Muigua-MAY-2021x.pdf (Accessed on 20/10/2023)

[6] United Nations., 'Transforming Our World: The 2030 Agenda for Sustainable Development.' Available at https://sustainabledevelopment.un.org/content/documents/21252030%20Agenda%20for%20Sustainable%20Development%20web.pdf (Accessed on 20/10/2023)

[7] Ibid

for all and build effective, accountable and inclusive institutions at all levels[8]. Peace is therefore vital in the realization of the Sustainable Development agenda.

It has been contended that Alternative Dispute Resolution (ADR) mechanisms can play a fundamental role in enhancing sustainable peace and strengthening peace building efforts[9]. ADR entails a set of mechanisms that are applied in managing disputes that may be linked to but function outside formal court litigation processes[10]. ADR has also been defined a set of processes that are applied to manage disputes without resort to adversarial litigation[11]. It encompasses various processes including negotiation, mediation, arbitration, conciliation, adjudication, expert determination, early neutral evaluation, and Traditional Dispute Resolution Mechanisms (TDRMs) among others[12]. These mechanisms are viewed as ideal in enhancing access to justice due to their attributes which include privacy, confidentiality, flexibility, informality, efficiency, party autonomy and the ability to foster expeditious and cost effective management of disputes[13].

The paper critically discusses the role of ADR mechanisms in peace building in Africa. It interrogates the need for peace in Africa and the efficacy of various initiatives adopted towards realizing this ideal. The paper argues that ADR mechanisms can play a fundamental role in building peace in Africa. The paper further posits that ADR mechanisms are able to enhance sustainable peace in Africa due to their focus on reconciliation and restorative justice. It proposes solutions towards building peace in Africa through ADR.

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[8] Ibid, Goal 16

[9] Muigua. K., 'Towards Effective Peacebuilding and Conflict Management in Kenya.' Op Cit

[10] Uwazie. E., 'Alternative Dispute Resolution in Africa: Preventing Conflict and Enhancing Stability.' *Africa Security Brief*, No. 16 of 2011

[11] Muigua. K., 'Alternative Dispute Resolution and Access to Justice in Kenya.' Glenwood Publishers Limited, 2015

[12] Ibid

[13] Muigua. K & Kariuki. F., 'ADR, Access to Justice and Development in Kenya.' Available at http://kmco.co.ke/wp-content/uploads/2018/08/ADR-access-to-justice-and-developmentinKenyaSTRATHMORE-CONFERENCE-PRESENTATION.pdf (Accessed on 20/10/2023)

2.0 ADR and Peace Building in Africa: Prospects and Challenges

Africa has been highly susceptible to intra and inter- state wars and conflicts for many years[14]. As a result, it has been contended that the history of Africa as a continent is replete with conflict[15]. There have been frequent conflicts across the African continent, which are fueled by various factors, including but not limited to natural resources, fight for political control, poverty, negative ethnicity, religion, environmental causes, and external influence, among others[16]. Numerous civil wars have occurred in Africa in several countries including Sudan, Chad, Liberia, Sierra Leone, Nigeria and the Democratic Republic of the Congo (DRC)[17]. These conflicts have resulted in deaths and displacement of people creating a crisis of internally displaced persons, refugees and asylum seekers[18]. The Rwandan genocide which is estimated to have resulted in the deaths of more than one million people demonstrates some of the severe impacts of conflict in Africa[19]. Some African countries such as Somalia have been caught in a vicious cycle of conflicts and wars making them dangerous and unstable, a situation that has resulted in them being labelled as 'failed states'[20]. Military coups have also been a common occurrence in Africa especially in the 20th century further fueling the incidences of conflict in Africa[21]. Such cases have fueled political instability, insecurity and social problems including the use of child soldiers in armed conflicts[22].

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[14] Olaosebikan. A., 'Conflicts in Africa: Meaning, Causes, Impact and Solution.' *African Research Review.,* Volume 4, No. 4 (2010)

[15] Ibid

[16] Muigua. K., 'Towards Effective Peacebuilding and Conflict Management in Kenya.' Op Cit

[17] Ibid

[18] Africa Center for Strategic Studies., 'African Conflicts Displace Over 40 Million People.' Available at https://africacenter.org/spotlight/african-conflicts-displace-over-40-million-people/ (Accessed on 20/10/2023)

[19] United Nations., 'Outreach Programme on the 1994 Genocide Against the Tutsi in Rwanda.' Available at https://www.un.org/en/preventgenocide/rwanda/historical-background.shtml (Accessed on 20/10/2023)

[20] International Committee of the Red Cross., 'Somali Conflict.' Available at https://www.icrc.org/en/where-we-work/africa/somalia/somalia-conflict (Accessed on 20/10/2023)

[21] Africa Center for Strategic Studies., 'Africa's Crisis of Coups.' Available at https://africacenter.org/in-focus/africa-crisis-coups/ (Accessed on 20/10/2023)

[22] Ibid

Conflicts over natural resources have also been prevalent in Africa[23]. Despite being endowed with abundance of natural resources, Africa has over the years suffered from resource-based conflicts which usually form a threat to Sustainable Development and has the potential of undermining economic development and sustainability[24]. It has been observed that the 'resource curse phenomenon' is widespread in Africa which refers to the paradox that countries endowed with natural resources tend be embroiled in conflicts and have incidences of poverty[25]. DRC and Nigeria are examples of African countries endowed in natural resources that suffer widespread poverty[26].

The prevalence of conflicts and wars has been a major hindrance in the achievement of Sustainable Development in Africa[27]. It has been contended that around Africa, social conflict has affected national and social development in unprecedented ways that have resulted in mass exodus of people to other areas, as refugees[28]. Conflicts have had adverse impacts on every aspect and corner of the African family, community and nation-state, with economic, cultural, political, social, and environmental costs[29]. As a result of the conflicts in Africa, peace has become more challenging to sustain and protracted and recurring conflict more difficult to prevent or resolve, often because their underlying causes are not well understood or addressed[30]. It has been observed that peace agreements, which are rarely fully implemented, typically cover proximate causes and seldom address the deep-rooted factors that cause or sustain conflict[31]. In addition, many countries in Africa continue to face multiple challenges to societal stability and national

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[23] Muigua. K., Wamukoya. D., & Kariuki. F., 'Natural Resources and Environmental Justice in Kenya.' Glenwood Publishers Limited, 2015

[24] Ibid

[25] Henri. A., 'Natural Resources Curse: A Reality in Africa.' *Resources Policy* , Volume 63, 2019

[26] Ibid

[27] United Nations., 'Promotion of Durable Peace and Sustainable Development in Africa.' Available at https://www.un.org/osaa/sites/www.un.org.osaa/files/docs/2109875_osaa_sg_report_web_new.pdf (Accessed on 20/10/2023)

[28] Muigua. K., 'Alternative Dispute Resolution and Access to Justice in Kenya.' Op Cit

[29] Uwazie. E., 'Alternative Dispute Resolution and Peace-building in Africa.' Available at https://www.cambridgescholars.com/resources/pdfs/978-1-4438-5707-9-sample.pdf (Accessed on 20/10/2023)

[30] United Nations., 'Promotion of Durable Peace and Sustainable Development in Africa.' Op Cit

[31] Ibid

cohesion thus threatening sustainable peace[32]. Building peace in Africa is therefore an imperative in the realization of the Sustainable Development agenda.

It has been contended that peacebuilding efforts aim at addressing the reasons that lead to conflicts and seek to support societies to manage their differences and conflicts without resorting to violence[33]. Building peace therefore entails a broad range of measures, either focusing on preventing, managing or addressing the effects of conflict[34]. Such measures can also be geared towards preventing the outbreak, escalation, continuation or reoccurrence of conflicts[35]. Building peace is vital in Africa in order to foster inclusive development, security and stability[36].

ADR mechanisms can play a pertinent role in building peace in Africa by preventing and managing conflicts and enhancing stability[37]. ADR mechanisms have been practiced in Africa for many centuries[38]. African communities were guided by values such harmony, togetherness, social cohesion and peace as expressed in phrases such as '*ubuntu'*[39]. Such values contributed to social harmony that ensured the stability of African societies and were subsequently incorporated in conflict management strategies[40]. African societies therefore developed conflict management strategies that were based on institutions such as the council of elders who ensured that the values and principles that guided African

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[32] Ibid

[33] Muigua. K., 'Achieving Sustainable Development, Peace and Environmental Security.' Op Cit

[34] Ibid

[35] Ibid

[36] United Nations., 'Root Causes of Conflicts in Africa Must Be Addressed beyond Traditional Response, Special Adviser Tells Security Council Debate on Silencing Guns.' Available at https://press.un.org/en/2023/sc15249.doc.htm (Accessed on 20/10/2023)

[37] Uwazie. E., 'Alternative Dispute Resolution in Africa: Preventing Conflict and Enhancing Stability.' Op Cit

[38] Muigua. K., 'Resolving Conflicts through Mediation in Kenya.' Glenwood Publishers Limited, 2nd Edition, 2017

[39] Muigua. K., 'Heralding a New Dawn: Achieving Justice through effective application of Alternative Dispute Resolution Mechanisms (ADR) in Kenya.' Available at http://kmco.co.ke/wpcontent/uploads/2018/08/Heralding-a-New-Dawn-Access-to-Justice-PAPER.pdf (Accessed on 20/10/2023)

[40] Ibid

societies were respected and upheld[41]. Conflicts were an undesirable phenomenon in Africa societies and were seen as a threat to the social fabric that holds the community together[42]. As a result, there was need for expeditious and efficient management of conflicts and for preventing their escalation into violence, a situation which could threaten the social fabric[43]. African communities therefore developed and embraced conflict management strategies that were aimed towards effectively dealing with conflicts in order to ensure peaceful co-existence within the community[44].

It has been pointed out that conflict management in African societies took the form of informal negotiation, mediation, reconciliation and arbitration among other techniques which were administered by institutions such as the council of elders[45]. These techniques fitted comfortably within traditional concepts of African justice, particularly its core value of reconciliation[46]. They were able to restore relationships and foster peace and social cohesion in African societies[47].

ADR mechanisms can therefore play a vital role in building peace in Africa. It has been contended that low-level disputes in Africa can spiral into violence and conflict due to the lack of effective judicial systems that can provide a credible and timely process for resolving differences[48]. Indeed, the judicial system in most countries in Africa faces problems such as costs, bureaucracy, complex legal procedures, illiteracy, corruption, distance from formal courts, backlog of cases in courts and lack of legal knowhow[49]. As

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[41] Kariuki. F., 'Conflict Resolution by Elders in Africa: Successes, Challenges and Opportunities.' Available at http://kmco.co.ke/wp-content/uploads/2018/08/Conflict-Resolution-by-Elders-successeschallenges-and-opportunities-1.pdf (Accessed on 20/10/2023)

[42] Awoniyi. S., 'African Cultural Values: The Past, Present and Future' *Journal of Sustainable Development in Africa* , Volume 17, No.1, 2015

[43] Ibid

[44] Kariuki. F., 'Conflict Resolution by Elders in Africa: Successes, Challenges and Opportunities.' Op Cit

[45] Ibid

[46] Uwazie. E., 'Alternative Dispute Resolution in Africa: Preventing Conflict and Enhancing Stability.' Op Cit

[47] Ibid

[48] Ibid

[49] Ojwang. J.B , "The Role of the Judiciary in Promoting Environmental Compliance and Sustainable Development," 1 *Kenya Law Review Journal* 19 (2007), pp. 19-29: 29

a result of these problems, it has been observed that many African countries are still struggling to establish functional, timely, and trusted judicial systems[50]. These problems hinder effective access to justice in Africa and can threaten peace and stability where disputes and conflicts are not managed in a timely and efficient manner[51]. ADR has emerged as an increasingly popular channel outside formal procedures to resolve disputes in timely manner, while restoring the parties' sense of justice and fostering peace[52]. It has been argued that ADR processes can strengthen dispute settlement systems and bridge the gap between formal legal systems and traditional modes of African justice[53]. These processes may have particular value in stabilization and state building efforts especially when judicial institutions are weak and social tensions are high[54].

Some African countries are characterized by conflict, post conflict and fragile contexts, where societal tensions are high and justice systems typically do not function efficiently[55]. In such contexts, the need for prompt and expeditious management of disputes is of critical importance since without timely, accessible, affordable, and trusted mechanisms to resolve differences, minor disagreements can degenerate into broader conflicts contributing to cultures of violence and vigilante justice in some instances[56]. ADR mechanisms can address this problem by providing an avenue for timely, accessible, affordable and efficient management of disagreements and disputes[57].

It has been argued that ADR processes can enhance efforts towards building peace in Africa through objectives such as decongestion of the court system, the creation of access

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[50] Uwazie. E., 'Alternative Dispute Resolution in Africa: Preventing Conflict and Enhancing Stability.' Op Cit

[51] Muigua. K & Kariuki. F., 'ADR, Access to Justice and Development in Kenya.' Op Cit

[52] Price. C., 'Alternative Dispute Resolution in Africa: Is ADR the Bridge Between Traditional and Modern Dispute Resolution?.' *Pepperdine Dispute Resolution Law Journal*, Volume 18, Issue 3

[53] Uwazie. E., 'Alternative Dispute Resolution in Africa: Preventing Conflict and Enhancing Stability.' Op Cit

[54] Ibid

[55] Kudonoo. E., 'The Peace Model: A Sustainable Approach to Conflict Prevention and Resolution in Africa.' *Current Politics & Economics of Africa*., Volume 9, No. 4 (2016)

[56] Ibid

[57] Ibid

to justice, promotion of peaceful out of court settlements, conflict prevention or de-escalation, and timely management of conflicts[58]. Further, it has been contended that for efficient peace building in Africa, the root causes of conflicts must be addressed beyond traditional responses[59]. Towards this end, it has been argued that addressing the internal and external root causes of conflicts in Africa beyond the traditional response, which only tackled their symptoms, would create the capacities that help African countries overcome the peace and security challenges they face, which have deep historical roots[60]. Some ADR mechanisms such as mediation are able to achieve this goal since they address the root causes of conflict resulting in mutually satisfying and long lasting outcomes thus creating a suitable environment for peace by eliminating the likelihood of conflicts reemerging in future[61].

ADR mechanisms can therefore be utilized in building peace in Africa. It has been asserted that ADR mechanisms are effective in leading to peace building and conflict resolution in both interpersonal and community levels[62]. There have been instances where ADR processes have been successfully utilized as instruments of peace building in Africa. For example, after the Rwanda Genocide, the Rwandan Government institutionalized *Gacaca* courts as a means to obtain justice and deal with a majority of the genocide cases that the formal Courts and International Criminal Tribunal for Rwanda (ICTR) could not handle[63]. The *Gacaca* was a form of ADR in traditional Rwanda which involved the use of elders to manage conflicts through restoration of social harmony, seeking truth, punishing perpetrators and compensating victims through gifts[64].ADR also plays a pertinent role in conflict management among the Kom People in Cameroon

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[58] Uwazie. E., 'Alternative Dispute Resolution and Peace-building in Africa.' Op Cit
[59] United Nations., 'Root Causes of Conflicts in Africa Must Be Addressed beyond Traditional Response, Special Adviser Tells Security Council Debate on Silencing Guns.' Op Cit
[60] Ibid
[61] Muigua. K., 'Resolving Conflicts through Mediation in Kenya.' Op Cit
[62] Price. C., 'Alternative Dispute Resolution in Africa: Is ADR the Bridge Between Traditional and Modern Dispute Resolution?.' Op Cit
[63] Kariuki. F., 'Conflict Resolution by Elders in Africa: Successes, Challenges and Opportunities.' Op Cit
[64] Ibid

where traditional institutions are still relevant[65]. The aim of conflict resolution among the Kom is to accommodate all parties involved in the conflict, through genuine collaboration by all, in the search for effective compromise[66]. In doing so, unnecessary competition is avoided, because the ultimate aim of conflict management is amicable resolution by persuasion, mediation, adjudication, reconciliation, arbitration and negotiation, not necessarily reverting to the use of force or coercion at all cost, or at any cost[67]. These strategies are vital in fostering peace and social harmony.

However, the efficacy of ADR mechanisms in building peace in Africa is often hampered by several challenges. The current form of ADR in Africa was adopted from Western nations where it is understood as 'alternative' to the formal legal systems in such countries[68]. This can be traced back to the colonial era where government-controlled dispute resolution replaced the customary law systems that were in place[69]. This resulted in subjugation of traditional and customary dispute resolution systems in favour of Western formal legal system[70]. In Kenya, the repugnancy clause was introduced. It curtailed the application of traditional and customary justice systems to the extent that they were not 'repugnant' to the western conception of 'justice and morality'[71]. This has hindered the growth of ADR mechanisms in Africa and their role in building peace since they are viewed as subservient to formal justice systems[72].

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[65] Accord., 'Traditional Methods of Conflict Resolution.' Available at https://www.accord.org.za/conflict-trends/traditional-methods-of-conflict-resolution/#:~:text=The%20major%20sources%20of%20conflict,customs%20and%20traditions%2C%20were%20upheld. (Accessed on 20/10/2023)

[66] Ibid

[67] Ibid

[68] Ogbaharya. D., 'Alternative Dispute Resolution (ADR) in Sub-Saharan Africa: The Role of Customary Systems of Conflict Resolution (CSCR).' Available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1612865 (Accessed on 21/10/2023)

[69] Price. C., 'Alternative Dispute Resolution in Africa: Is ADR the Bridge Between Traditional and Modern Dispute Resolution?.' Op Cit

[70] Ghebretekle. T., & Rammala. M., 'Traditional African Conflict Resolution: The Case of South Africa and Ethiopia' available at https://www.ajol.info/index.php/mlr/article/view/186176 (Accessed on 21/10/2023)

[71] Judicature Act, Cap. 8, Laws of Kenya, S 3 (2)

[72] Uwazie. E., 'Alternative Dispute Resolution and Peace-building in Africa.' Op Cit

In addition, it has been asserted that inadequacies in areas such as government support, human resources, legal foundations and sustainable financing may hinder successful implementation of ADR mechanisms in Africa[73]. Inadequate government support hinders the role of ADR in peace building since it affects institution building and ultimately constrains the development of personnel and effective legal framework on ADR[74]. In addition, the implementation of ADR may face opposition from the legal profession who may view it as threat to their careers and the judiciary since judges may view it as a threat to their control over non-litigation resolutions or out of court settlements[75]. It is imperative to address these concerns and embrace ADR mechanisms in order to build peace in Africa.

3.0 Way Forward

Several reforms are required in order to enhance the role of ADR in building peace in Africa. It has been pointed out that there is need to enact proper legislations in order to facilitate the institutionalization of ADR mechanisms[76]. The benefits of legitimizing ADR mechanisms include elevating the status of ADR in dispute management, fostering public confidence, increasing the application of ADR mechanisms and promoting ethical practice[77]. Further, it has been contended that legislation can enhance the appropriateness of ADR by providing a framework for reference, review and reform, as well as institutionalizing much needed education and professional training in ADR[78].

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[73] Price. C., 'Alternative Dispute Resolution in Africa: Is ADR the Bridge Between Traditional and Modern Dispute Resolution?.' Op Cit

[74] Ibid

[75] Ibid

[76] Muigua. K., 'Legitimising Alternative Dispute Resolution in Kenya: Towards a Policy and Legal Framework.' Available at https://kmco.co.ke/wp-content/uploads/2018/08/LEGITIMISING-ALTERNATIVE-DISPUTE-RESOLUTION-MECHANISMS-IN-KENYA.pdf (Accessed on 21/10/2023)

[77] Uwazie. E., 'Alternative Dispute Resolution and Peace-building in Africa.' Op Cit

[78] Ibid

Capacity building is also essential in enhancing the viability of ADR processes in building peace in Africa[79]. It is therefore imperative for all stakeholders in ADR including governments and international partners to invest in capacity building efforts including training and infrastructural support for ADR in order to advance best practice[80]. It has been contended that capacity building efforts should also involve the training of local and religious leaders, traditional authorities in African communities and chiefs, election officials, police and security personnel, human rights organizations, public complaints bureaus such as the office of the ombudsperson, and women and youth leaders[81]. Enhancing the ADR skills of these groups such as negotiation and facilitation skills will be of great value by increasing each country's conflict mitigation or prevention capacity[82]. There is also need to support ADR initiatives in conflict prone countries and communities in Africa in order to bolster conflict mitigation and efforts towards peace[83].

It is also necessary to foster synergies between formal institutions such as courts and ADR systems including informal or traditional justice systems through measures such as formulating clear referral systems providing for referral of disputes from courts to ADR and vice versa[84]. This has the potential to scale up access to justice and to create a sustainable system of peaceful, nonviolent conflict resolution and mitigation[85]. Such synergies will accelerate the use of ADR in both formal and informal settings. It has been contended that one of the great advantages of ADR is flexibility and thus ADR processes can adapt to the people and the dispute at hand, and are equally effective in formal legal systems, traditional disputing mechanisms and broad-based multiparty conflicts[86].

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[79] Ntuli. N., 'Africa: Alternative Dispute Resolution in a Comparative Perspective.' Available at https://www.csq.ro/wp-content/uploads/CSQ-22.pdf#page=36 (Accessed on 21/10/2023)

[80] Ibid

[81] Uwazie. E., 'Alternative Dispute Resolution and Peace-building in Africa.' Op Cit

[82] Ibid

[83] Ibid

[84] Muigua. K., 'Legitimising Alternative Dispute Resolution in Kenya: Towards a Policy and Legal Framework.' Op Cit

[85] Uwazie. E., 'Alternative Dispute Resolution and Peace-building in Africa.' Op Cit

[86] Ibid

Enhancing synergies between formal and informal justice systems can therefore enhance the use of ADR in both settings.

Further, it has been argued that there is need to monitor the growth and progress of ADR in Africa in order to maximize the efficiencies and complementarities of ADR with the official judicial process[87]. This includes inter alia measuring key qualitative and quantitative data such as ADR usage, number of cases filed and managed through ADR, the amount of time spent on each case, number of successful ADR settlements, number of qualified ADR institutions and practitioners and community acceptance and compliance with ADR outcomes[88]. Such initiatives can help in determining how ADR affects a country's conflict vulnerability and mitigation capability a move that can result in adjustments in the scope and focus of ADR efforts towards building peace[89].

Finally, it is pertinent to continue embracing ADR mechanisms for enhanced access to justice in Africa[90]. African countries should adopt and embrace effective ADR systems that are flexible in design and rooted in satisfying the interest of parties and in the administration of justice in a culturally sensitive manner[91]. ADR mechanisms have been hailed for their ability to promote peace building and conflict resolution at all levels and enhancing stabilization and state building efforts in Africa[92]. These mechanisms have been part and parcel of the African culture since time immemorial and were able to foster peace, cohesion and social harmony in African communities, reconciliation and restorative justice[93]. It is therefore necessary to view these mechanisms as 'Appropriate'

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[87] Uwazie. E., 'Alternative Dispute Resolution in Africa: Preventing Conflict and Enhancing Stability.' Op Cit

[88] Ibid

[89] Ibid

[90] Muigua. K & Kariuki. F., 'ADR, Access to Justice and Development in Kenya.' Op Cit

[91] Price. C., 'Alternative Dispute Resolution in Africa: Is ADR the Bridge Between Traditional and Modern Dispute Resolution?.' Op Cit

[92] Ibid

[93] Muigua. K., 'Preparing for the Future: ADR and Arbitration from an African Perspective.' Available at https://kmco.co.ke/wp-content/uploads/2023/10/Preparing-for-the-Future-ADR-and-Arbitration-from-an-African-Perspective.pdf (Accessed on 21/10/2023)

and not 'Alternative' in order to effectively embrace them towards building peace in Africa.

4.0 Conclusion

Building peace is a vital concern in Africa as a result of the frequent conflicts across the continent, which are fueled by various factors, including but not limited to natural resources, fight for political control, poverty, negative ethnicity, religion, environmental causes, and external influence, among others[94]. The prevalence of conflicts and wars has been a major hindrance in the achievement of Sustainable Development in Africa[95]. ADR mechanisms can play a pertinent role in building peace in Africa by preventing and managing conflicts and enhancing stability[96]. ADR processes are able to restore relationships and foster peace and social cohesion in Africa due to their focus on reconciliation and restorative justice[97]. However, the role of ADR mechanisms in building peace in Africa is hindered by several factors including the notion of them being 'Alternative' to formal justice systems, inadequacies in areas such as government support, human resources, legal foundations and sustainable financing[98]. Building peace in Africa through ADR therefore requires several reforms including enacting proper legislations in order to facilitate the institutionalization of ADR mechanisms, capacity building including training and infrastructural support, fostering synergies between formal institutions such as courts and ADR systems, monitoring the growth and progress of ADR in Africa and enhancing access to justice through ADR in Africa[99]. Building peace in Africa through ADR is achievable.

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[94] Muigua. K., 'Towards Effective Peacebuilding and Conflict Management in Kenya.' Op Cit

[95] United Nations., 'Promotion of Durable Peace and Sustainable Development in Africa.' Op Cit

[96] Uwazie. E., 'Alternative Dispute Resolution in Africa: Preventing Conflict and Enhancing Stability.' Op Cit

[97] Ibid

[98] Price. C., 'Alternative Dispute Resolution in Africa: Is ADR the Bridge Between Traditional and Modern Dispute Resolution?.' Op Cit

[99] Uwazie. E., 'Alternative Dispute Resolution in Africa: Preventing Conflict and Enhancing Stability.' Op Cit

References

Accord., 'Traditional Methods of Conflict Resolution.' Available at https://www.accord.org.za/conflict-trends/traditional-methods-of-conflict-resolution/#:~:text=The%20major%20sources%20of%20conflict,customs%20and%20traditions%2C%20were%20upheld.

Africa Center for Strategic Studies., 'Africa's Crisis of Coups.' Available at https://africacenter.org/in-focus/africa-crisis-coups/

Africa Center for Strategic Studies., 'African Conflicts Displace Over 40 Million People.' Available at https://africacenter.org/spotlight/african-conflicts-displace-over-40-million-people/

Awoniyi. S., 'African Cultural Values: The Past, Present and Future' *Journal of Sustainable Development in Africa* , Volume 17, No.1, 2015

Ghebretekle. T., & Rammala. M., 'Traditional African Conflict Resolution: The Case of South Africa and Ethiopia' available at https://www.ajol.info/index.php/mlr/article/view/186176 (Accessed on 21/10/2023)

Henri. A., 'Natural Resources Curse: A Reality in Africa.' *Resources Policy* , Volume 63, 2019

Herath. O., 'A critical analysis of Positive and Negative Peace.' Available at http://repository.kln.ac.lk/bitstream/handle/123456789/12056/journal1%20%281%29.104-107.pdf?sequence=1&isAllowed=y

International Committee of the Red Cross., 'Somali Conflict.' Available at https://www.icrc.org/en/where-we-work/africa/somalia/somalia-conflict

Judicature Act, Cap. 8, Laws of Kenya

Kariuki. F., 'Conflict Resolution by Elders in Africa: Successes, Challenges and Opportunities.' Available at http://kmco.co.ke/wp-content/uploads/2018/08/Conflict-Resolution-by-Elders-successeschallenges-and-opportunities-1.pdf

Kudonoo. E., 'The Peace Model: A Sustainable Approach to Conflict Prevention and Resolution in Africa.' *Current Politics & Economics of Africa*., Volume 9, No. 4 (2016)

Muigua. K & Kariuki. F., 'ADR, Access to Justice and Development in Kenya.' Available at http://kmco.co.ke/wp-content/uploads/2018/08/ADR-access-to-justice-and-developmentinKenyaSTRATHMORE-CONFERENCE-PRESENTATION.pdf

Muigua. K., 'Achieving Sustainable Development, Peace and Environmental Security.' Glenwood Publishers Limited, 2021

Muigua. K., 'Alternative Dispute Resolution and Access to Justice in Kenya.' Glenwood Publishers Limited, 2015

Muigua. K., 'Heralding a New Dawn: Achieving Justice through effective application of Alternative Dispute Resolution Mechanisms (ADR) in Kenya.' Available at http://kmco.co.ke/wpcontent/uploads/2018/08/Heralding-a-New-Dawn-Access-to-Justice-PAPER.pdf

Muigua. K., 'Legitimising Alternative Dispute Resolution in Kenya: Towards a Policy and Legal Framework.' Available at https://kmco.co.ke/wp-content/uploads/2018/08/LEGITIMISING-ALTERNATIVE-DISPUTE-RESOLUTION-MECHANISMS-IN-KENYA.pdf

Muigua. K., 'Preparing for the Future: ADR and Arbitration from an African Perspective.' Available at https://kmco.co.ke/wp-content/uploads/2023/10/Preparing-for-the-Future-ADR-and-Arbitration-from-an-African-Perspective.pdf

Muigua. K., 'Resolving Conflicts through Mediation in Kenya.' Glenwood Publishers Limited, 2nd Edition, 2017

Muigua. K., 'Towards Effective Peacebuilding and Conflict Management in Kenya.' Available at https://kmco.co.ke/wp-content/uploads/2021/05/Towards-Peacebuilding-and-Conflict-Management-in-Kenya.docx-Kariuiki-Muigua-MAY-2021x.pdf

Muigua. K., Wamukoya. D., & Kariuki. F., 'Natural Resources and Environmental Justice in Kenya.' Glenwood Publishers Limited, 2015

Ntuli. N., 'Africa: Alternative Dispute Resolution in a Comparative Perspective.' Available at https://www.csq.ro/wp-content/uploads/CSQ-22.pdf#page=36

Ogbaharya. D., 'Alternative Dispute Resolution (ADR) in Sub-Saharan Africa: The Role of Customary Systems of Conflict Resolution (CSCR).' Available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1612865

Ojwang. J.B , "The Role of the Judiciary in Promoting Environmental Compliance and Sustainable Development," 1 *Kenya Law Review Journal* 19 (2007), pp. 19-29: 29

Olaosebikan. A., 'Conflicts in Africa: Meaning, Causes, Impact and Solution.' *African Research Review.,* Volume 4, No. 4 (2010)

Price. C., 'Alternative Dispute Resolution in Africa: Is ADR the Bridge Between Traditional and Modern Dispute Resolution?.' *Pepperdine Dispute Resolution Law Journal*, Volume 18, Issue 3

United Nations., 'Outreach Programme on the 1994 Genocide Against the Tutsi in Rwanda.' Available at https://www.un.org/en/preventgenocide/rwanda/historical-background.shtml

United Nations., 'Promotion of Durable Peace and Sustainable Development in Africa.' Available at https://www.un.org/osaa/sites/www.un.org.osaa/files/docs/2109875_osaa_sg_report_web_new.pdf

United Nations., 'Root Causes of Conflicts in Africa Must Be Addressed beyond Traditional Response, Special Adviser Tells Security Council Debate on Silencing Guns.' Available at https://press.un.org/en/2023/sc15249.doc.htm

United Nations., 'Transforming Our World: The 2030 Agenda for Sustainable Development.' Available at https://sustainabledevelopment.un.org/content/documents/21252030%20Agenda%20for%20Sustainable%20Development%20web.pdf

Uwazie. E., 'Alternative Dispute Resolution and Peace-building in Africa.' Available at https://www.cambridgescholars.com/resources/pdfs/978-1-4438-5707-9-sample.pdf

Uwazie. E., 'Alternative Dispute Resolution in Africa: Preventing Conflict and Enhancing Stability.' *Africa Security Brief*, No. 16 of 2011