Traditional Dispute Resolution Mechanisms (TDRMs) and the Sacredness of Nature: Examining TDRMs Efficacy in Dealing with Climate Justice Disputes

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Table of Contents

Abstract....3

1.0 Introduction....3

2.0 Efficacy of Traditional Dispute Resolution Mechanisms (TDRMs) in Managing Climate Change Disputes and Conflicts....4

3.0 Utilising Traditional Dispute Resolution Mechanisms for Effective Management of Climate Change Conflicts and Disputes....8

4.0 Conclusion....9

References....11

Traditional Dispute Resolution Mechanisms (TDRMs) and the Sacredness of Nature: Examining TDRMs Efficacy in Dealing with Climate Justice Disputes

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Abstract

This paper discusses how Traditional Dispute Resolution Mechanisms (TDRMs) can be utilised for effective management of climate change conflicts and disputes. The paper notes that with climate change conflicts and disputes increasing across the world, TDRMs provide an appropriate forum for sound management of such conflicts and disputes towards climate justice for vulnerable communities. The paper discusses the key attributes and benefits of utilising TDRMs in dealing with climate change disputes. Despite their suitability in managing climate change conflicts and disputes, the paper notes that TDRMs are yet to be fully utilised towards this end. The paper posits that failure to embrace TDRMs in the management of climate change conflicts and disputes fuels climate injustices. Consequently, the paper suggests how TRDMs can be appropriately harnessed and utilised towards effective management of climate change conflicts and disputes for climate justice.

1.0 Introduction

Climate change is impacting people and planet across several dimensions. The world is already facing a climate emergency with adverse climatic and weather events including heatwaves, wildfires, floods, sea-level rise, tropical storms, droughts and hurricanes increasing in scale, frequency and intensity globally[1]. It has been observed that these events are causing dangerous and widespread disruption, depletion and degradation of nature while also affecting the lives, health, livelihoods and well-being of billions of people all over the world[2].

Another way through which climate change is impacting people and planet is by fuelling and worsening conflicts and disputes across the world. Climate change has been described as a threat multiplier which worsens existing tensions, fuels resource scarcity, and contributes to vulnerability thus creating conditions that trigger conflicts and disputes[3]. In particular, climate

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[1] World Health Organization., 'Climate Change' Available at https://www.who.int/news-room/fact-sheets/detail/climate-change-and-health#:~:text=Key%20facts,diarrhoea%20and%20heat%20stress%20alone. (Accessed on 02/11/2026)

[2] Intergovernmental Panel on Climate Change., 'Climate change: a threat to human wellbeing and health of the planet. Taking action now can secure our future' Available at https://www.ipcc.ch/report/ar6/wg2/downloads/press/IPCC_AR6_WGII_PressRelease-English.pdf (Accessed on 02/11/2026)

[3] International Committee of the Red Cross., 'Climate and Conflict' Available at https://www.icrc.org/en/law-and-policy/climate-and-conflict (Accessed on 02/11/2026)

change is linked to conflicts by increasing food insecurity, water scarcity, and competition for dwindling resources, while also disrupting livelihoods and triggering migration[4]. It has been observed that climate change can increase human security issues such as food and water scarcity while also leading to (violent) conflict in climate-vulnerable regions and countries[5].

With the impacts of climate change worsening, climate change conflicts and disputes are expected to grow. Such conflicts and disputes are undesirable since they undermine effective climate action while also contributing to injustices, inequalities and vulnerability. For instance, it has been observed that climate change conflicts and disputes affect the most vulnerable regions already experiencing tensions, instability and resource scarcity[6]. Countries and communities enduring conflict are among the most vulnerable to the effects of climate change which magnify existing conflict dynamics[7]. Effective management of climate change conflicts and disputes is therefore key towards ensuring climate justice by protecting the most vulnerable.

This paper discusses how Traditional Dispute Resolution Mechanisms (TDRMs) can be utilised for effective management of climate change conflicts and disputes. The paper notes that with climate change conflicts and disputes increasing across the world, TDRMs provide an appropriate forum for sound management of such conflicts and disputes towards climate justice for vulnerable communities. The paper discusses the key attributes and benefits of utilising TDRMs in dealing with climate change disputes. Despite their suitability in managing climate change conflicts and disputes, the paper notes that TDRMs are yet to be fully utilised towards this end. The paper posits that failure to embrace TDRMs in the management of climate change conflicts and disputes fuels climate injustices. Consequently, the paper suggests how TRDMs can be appropriately harnessed and utilised towards effective management of climate change conflicts and disputes for climate justice.

2.0 Efficacy of Traditional Dispute Resolution Mechanisms (TDRMs) in Managing Climate Change Disputes and Conflicts

TDRMs have been defined as community-based processes of conflict management and access to justice[8]. In addition, TDRMs have been defined as informal and culturally-appropriate justice

[4] International Crisis Group., 'Climate, Environment and Conflict' Available at https://www.crisisgroup.org/future-conflict/climate-environment-and-conflict (Accessed on 02/11/2026)

[5] Froese. R.,, & Janpeter. S, 'The Nexus of Climate Change, Land Use, and Conflicts' (2019)

[6] United Nations Climate Change., 'Conflict and Climate' Available at https://unfccc.int/news/conflict-and-climate (Accessed on 02/11/2026)

[7] International Committee of the Red Cross., 'Climate and Conflict' Op Cit

[8] Muigua. K., 'Traditional Dispute Resolution Mechanisms under Article 159 of the Constitution of Kenya., 2010' Available at https://kmco.co.ke/wp-content/uploads/2018/08/Paper-on-Article-159-Traditional-Dispute-Resolution-Mechanisms-FINAL.pdf (Accessed on 02/11/2026)

systems which are guided by the customary law of various communities[9]. It has been observed that TDRMs provide as a system of justice that usually follows customary law or an uncodified body of rules of behaviour[10]. These processes are often embraced by indigenous and local communities in managing conflicts through institutions such as community paralegals, local authorities, and elders[11]. Further, it has been observed that there may be a significant number of TDRMs within a given country since different communities often have their own customary laws and institutions[12].

TDRMs contain several features and provide numerous advantages that can strengthen access to justice. For instance, since they are governed by the customary laws of their respective communities and are administered by respected community institutions, TDRMs resonate more with local populations and are therefore well accepted and effective in providing a sense of justice and restoring community relationships[13]. TDRMs are well-designed to fit with the respective needs of communities and thus provide a culturally-appropriate platform of accessing justice[14]. It has been observed that these processes allow local needs, contexts, and priorities to be incorporated in dispute resolution towards holistic access to justice[15]. TDRMs in general provide a customary, informal and community-based approach that can strengthen access to justice especially for vulnerable indigenous and local communities who face hurdles in accessing justice through formal court processes[16]. These processes are highly respected and accepted among indigenous and local communities since they are usually conducted in local languages, are easily accessible thus bringing justice closer to the people, they focus on restorative justice at the expense of retribution, and are conducted by respected institutions including the council of elders[17].

Utilising TDRMs is therefore key towards strengthening access to justice especially for vulnerable communities who face hurdles in accessing justice through modern and formal justice systems. The United Nations notes that the use of community leaders, public participation by community members, respect for cultural and spiritual beliefs of communities, and proceedings that aim at

[9] Kariuki. F., 'Traditional Dispute Resolution Mechanisms in the Administration of Justice in Kenya' Available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3646995 (Accessed on 02/11/2026)
[10] United Nations., 'Human Rights and Traditional Justice Systems in Africa' Available at https://peacemaker.un.org/sites/default/files/document/files/2022/11/hrpub162hrandtraditionaljusticesystemsinafrica.pdf (Accessed on 02/11/2026)
[11] Lee. S., 'Multiple Doors to Justice in Kenya: Engaging Alternative Justice Systems' Available at https://cic.nyu.edu/wp-content/uploads/2023/11/Multiple-Doors-to-Justice-in-Kenya-2023.pdf (Accessed on 02/11/2026)
[12] United Nations., 'Human Rights and Traditional Justice Systems in Africa' Op Cit
[13] Traditional Justice Systems., Available at https://gsdrc.org/topic-guides/transitional-justice/concepts-and-mechanisms/mechanisms/traditional-justice-systems/ (Accessed on 02/11/2026)
[14] Ibid
[15] Ibid
[16] Traditional Justice Systems., Op Cit
[17] Kariuki. F., 'Traditional Dispute Resolution Mechanisms in the Administration of Justice in Kenya' Op Cit

reconciliation and communal harmony, are some of the key features that make TDRMs appropriate in strengthening access to justice[18]. These systems embody unique philosophies, values, rituals, and practices that have historically played a crucial role in preventing and resolving conflicts and fostering peace, harmony and cohesion within communities[19].

With climate change disputes and conflicts mounting all over the world, embracing TDRMs is key towards ensuring that such conflicts and disputes are effectively managed for climate justice. In particular, it has been observed that the effects of climate change disproportionately affect indigenous and local communities whose livelihoods, culture and spiritual well-being directly depend on local natural resources and ecosystems[20]. Climate change is fuelling conflicts and disputes at the local level by fuelling resource scarcity and displacing populations[21]. Climate change is worsening competition over scarce natural resources including water and pasture and disrupting the livelihoods of vulnerable communities especially in arid and semi-arid areas[22]. Further, it has been observed that climate change is displacing and forcing communities to relocate to neighbouring territories igniting resource disputes among communities[23].

Effective management of climate change conflicts and disputes is therefore necessary towards ensuring peace, security and development especially at local levels. TDRMs can ensure that climate change conflicts and disputes are effectively managed towards climate justice. For example, it has been observed that traditional justice systems including TDRMs can enable communities to find common ground on key issues and challenges in order to effectively confront climate change disputes and conflicts[24]. With the adverse impacts of climate change such as droughts and flood intensifying competition over scarce natural resources, community-based systems of justice can enable different stakeholders to agree and cooperate over access to resources including water, community land, and pasture towards addressing the drivers of conflicts[25]. Since climate change triggers conflicts and disputes especially at the local level,

[18] United Nations., 'Human Rights and Traditional Justice Systems in Africa' Op Cit
[19] Olawale. F.E., Hooi. K.Y., & Balakrishnan. K.S., 'The dynamics of African traditional justice systems: Perspectives and prospective' *African Security Review*., Volume 33, Issue 3 (2024)
[20] United Nations., 'The Effects of Climate Change on Indigenous Peoples' Available at https://www.un.org/development/desa/indigenouspeoples/climate-change.html (Accessed on 02/11/2026)
[21] United Nations Climate Change., 'Conflict and Climate' Op Cit
[22] United Nations., 'Finding Common ground to tackle climate change and conflict' Available at https://unsdg.un.org/latest/blog/finding-common-ground-tackle-climate-change-and-conflict (Accessed on 02/11/2026)
[23] Ibid
[24] United Nations., 'Finding Common ground to tackle climate change and conflict' Available at https://unsdg.un.org/latest/blog/finding-common-ground-tackle-climate-change-and-conflict (Accessed on 02/11/2026)
[25] Danish Institute for Human Rights., 'The beginning: How the changing climate is creating a human rights crisis in Kenya' Available at https://www.humanrights.dk/case-story/beginning-how-changing-climate-creating-human-rights-crisis-kenya (Accessed on 02/11/2026)

TDRMs have been identified as the most accessible, affordable, and culturally-sensitive method for resolving such disputes and conflicts[26]. With climate change conflicts and disputes disproportionately impacting vulnerable communities who usually face challenges in accessing modern justice systems, TDRMs and other community-based practices represent the most accessible, responsive, and socially legitimate platform for addressing conflicts and disputes towards peace, justice and development[27].

It has been observed that TDRMs operate as institutions for managing the risk of violence as climate change intensifies competition over scarce natural resources while also displacing individuals and communities[28]. By utilising TDRMs, it is possible to maintain peace and harmony, effectively resolve disputes among individuals, families and clans, and prevent conflicts and disputes from escalating into violence[29]. TDRMs can thus ensure that conflicts and disputes are effectively managed towards climate justice.

Despite their efficacy, the use of TDRMs in managing climate justice conflicts and disputes raises fundamental concerns. For instance, it has been observed that due to the patriarchal nature of most indigenous and local communities, the use of TDRMs in access to justice can potentially undermine constitutional and human rights standards[30]. In the context of climate change disputes, TDRMs can fuel gender injustices with women and girls who face unique risks and challenges as a result of climate change being excluded from decision-making processes[31]. The use of TDRMs may also be limited in some instances. For example, in the context of cross-border climate change disputes and conflicts involving multiple communities, the scope of TDRMs may be limited as a result of differences in customary laws among such communities[32].

In light of the foregoing concerns, there is need to effectively and appropriately harness TDRMs in order to ensure sound management of climate change disputes and conflicts towards promoting climate justice.

[26] Ibid
[27] International Organization for Migration., 'Justice under Pressure: Customary Justice Systems and their Adaptive Role in Conflict and Climate Responses' Available at https://peacerep.org/wp-content/uploads/2026/08/Justice-Under-Pressure.pdf (Accessed on 02/11/2026)
[28] Ibid
[29] Ibid
[30] Lee. S., 'Multiple Doors to Justice in Kenya: Engaging Alternative Justice Systems' Op Cit
[31] Intergovernmental Authority on Development., 'Climate Change, Human Mobility and Conflicts: The Role of Local Knowledge for Policy-Making' Available at https://www.adaptationcommunity.net/wp-content/uploads/2024/04/240321_GIZ_HMCCC_Study2-1.pdf (Accessed on 02/11/2026)
[32] United Nations., 'Finding Common ground to tackle climate change and conflict' Op Cit

3.0 Utilising Traditional Dispute Resolution Mechanisms for Effective Management of Climate Change Conflicts and Disputes

With climate change conflicts and disputes intensifying across the world, effective conflict management and dispute resolution is necessary towards securing climate justice for people and planet. Climate change conflicts and disputes, especially those that are violent in nature, can affect peace, security and development including through loss of human life, loss of livelihoods, forced displacements and social tensions with disproportionate impacts on vulnerable populations[33]. In particular, climate change conflicts and disputes are undermining peace, security and stability at the local level by worsening competition over scarce natural resources including arable land, water, and pasture, affecting livelihoods, and displacing populations with adverse effects on vulnerable indigenous and local communities[34]. Consequently, there is need to promote effective management of climate change conflicts and disputes in order to secure climate justice for people and communities living in extreme vulnerability.

TDRMs provide an effective platform for the management of climate change conflicts and disputes. TDRMs in general promote accessible, timely, affordable, appropriate, responsive and culturally-sensitive approach towards justice[35]. TDRMs are also widely accepted among indigenous and local communities since they give prominence to core communal values, and are conducted in indigenous and local languages under the auspices of respected institutions such as the council of elders. In the context of climate change conflicts and disputes, TDRMs can ensure effective conflict management and dispute resolution especially for indigenous and local communities in remote areas who face severe risks and challenges as a result of climate change[36]. Due to their focus on collaboration, participation, peace, and harmony, it has been observed that TDRMs and other community-based justice systems can empower the most climate-vulnerable people to realize their environmental rights and actively participate in decision-making processes towards climate justice[37].

It is therefore necessary to enhance the use of TDRMs in dealing with climate justice disputes. In particular, there is need for inclusive and participatory TDRMs in order to ensure effective

[33] United Nations Department of Political and Peacebuilding Affairs., 'The Implications of Climate Change for Mediation and Peace Processes' Available at https://peacemaker.un.org/sites/peacemaker.un.org/files/DPPAPracticeNote-TheImplicationsofClimateChangeforMediationandPeaceProcesses.pdf (Accessed on 02/11/2026)

[34] United Nations., 'Finding Common ground to tackle climate change and conflict' Op Cit

[35] Muigua. K., 'Traditional Dispute Resolution Mechanisms under Article 159 of the Constitution of Kenya., 2010' Op Cit

[36] Intergovernmental Authority on Development., 'Climate Change, Human Mobility and Conflicts: The Role of Local Knowledge for Policy-Making' Op Cit

[37] International Development Law Organization., 'Climate Justice: A Rule of Law Approach for Transformative Climate Action' Available at https://www.idlo.int/sites/default/files/pdfs/publications/climate_justice_policy_paper_-_climate_action_-_final.pdf (Accessed on 02/11/2026)

climate justice. For example, since women, girls and children are disproportionately impacted by the climate crisis, ensuring their effective and meaningful participation in TDRM proceedings is key towards securing their fundamental rights in the face of climate change including through equitable access to natural resources[38]. Promoting cross-border solutions is also key towards the effective use of TDRMs in dealing with climate change conflicts and disputes. For instance, collaboration among neighbouring communities facing climate vulnerability can strengthen local capacities to detect, prevent and manage conflict triggers towards strengthening climate justice[39]. Through collaboration, it is possible to promote socially responsible management of shared natural resources including water and pasture towards promoting climate justice[40].

The role of TDRMs in managing climate change conflicts and disputes and promoting access to justice in general can also be enhanced through legal, policy and institutional reforms. For example, it has been observed that by mainstreaming and integrating traditional and community-based justice practices with modernized statutory frameworks, it is possible to ensure that these processes find their rightful place in conventional judicial systems thus ensuring that they are meaningfully and actively utilized in facilitating access to justice especially for the marginalized, poor and underprivileged in the society[41]. Consequently, there is need for legal, policy and institutional reforms towards legitimising TDRMs for effective and appropriate access to justice in both the context of climate change and other nature of conflicts and disputes.

4.0 Conclusion

Climate change is having adverse and worsening impacts on people and planet. For example, climate change is increasingly driving conflicts and disputes with adverse effects on vulnerable and marginalized populations[42]. Effective management of climate change conflicts and disputes is therefore key towards securing climate justice. In particular, there is need to embrace and revamp TDRMs in order to effectively and appropriately deal with climate change conflicts and disputes towards securing climate justice for people and planet.

[38] Ibid
[39] United Nations., 'Finding Common ground to tackle climate change and conflict' Op Cit
[40] Ibid
[41] 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 02/11/2026)
[42] United Nations Climate Change., 'Conflict and Climate' Op Cit

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United Nations., 'Human Rights and Traditional Justice Systems in Africa' Available at https://peacemaker.un.org/sites/default/files/document/files/2022/11/hrpub162hrandtraditionaljusticesystemsinafrica.pdf

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