

Journal of Conflict Management & Sustainable Development



- | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------|
| Resolving Oil and Gas Disputes in an Integrating Africa: An Appraisal of the Role of Regional Arbitration Centres | Wilfred A. Mutubwa
& Eunice N. Ng'ang'a |
| National Environment Tribunal, Sustainable Development and Access to Justice in Kenya | Kariuki Muigua |
| Protection of Cultural Heritage During War Time | Kenneth W. Mutuma |
| The Role of Water in the attainment of Sustainable Development in Kenya | Jack Shivugu |
| Collective Property Rights in Human Biological Materials in Kenya | Paul Ogendi |
| Nurturing our Wetlands for Biodiversity Conservation | Kariuki Muigua |
| Investor-State Dispute Resolution in a Fast-Paced World | Oseko Louis D. Obure |
| Status of participation of women in mediation: A case study of Development Project Conflict in Olkaria IV, Kenya | Lilian N. S. Kong'ani
& Kariuki Muigua |
| The Business of Climate Change: An Analysis of Carbon Trading in Kenya | Felix O. Odhiambo &
Melinda L. Mueni |
| Critical Analysis of World Trade Organisation's Most-Favored Nation (MFN) Treatment: Prospects, Challenges and Emerging Trends in the 21 st Century | Michael O. Okello |

Volume 9

Issue 1

2022

ISBN 978-9966-046-15-4

Status of Participation of Women in Mediation: A case Study of Development Project Conflict in Olkaria IV, Kenya

By: *Lilian N.S. Kong'ani* *
&
Kariuki Muigua *

Abstract

Peace remains indispensable for a thriving development. Yet, development continues to be problematized by the discontented community of its potential negative effects resulting in conflicts whose impacts are largely felt by women. Women are the central custodians of their families and equally play an important role in neutralizing conflicts in communities. While mediation continues to be advocated as an effective strategy for managing natural resources conflicts, the participation of women in its processes and their significance remains rather questionable, including among the pastoral communities.

This paper reviews the status of participation of women in mediation that was successfully used between 2015 and 2016 to resolve conflicts between Kenya Electricity Generating Company (KenGen) and the community. The paper demonstrates a need for further democratization of the mediation processes to cater for more participation of women to enhance the mediation results and offer more sustainable resolutions. Further research is needed to determine the extent to which women are involved at every mediation phase, with a database on the challenges and solutions to their participation to improve mediation's effectiveness as an alternative dispute resolution mechanism in resolving natural resources conflicts beyond Kenya.

* *MSc (UoN), BSc. (KU), Tutorial Fellow, University of Nairobi, Department of Earth and Climate Sciences*

* *PhD in Law (Nrb), FCI Arb (Chartered Arbitrator), LL. B (Hons) Nrb, LL.M (Environmental Law) Nrb; Dip. In Law (KSL); FCPS (K); Dip. In Arbitration (UK); MKIM; Mediator; Consultant: Lead expert EIA/EA NEMA; BSI ISO/IEC 27001:2005 ISMS Lead Auditor/ Implementer; Advocate of the High Court of Kenya; Senior Lecturer at the University of Nairobi, School of Law.*

Key words: Natural resources and development conflicts, mediation processes, participation of women, pastoral communities, sustainable peace.

Introduction

While the world strives to tackle persistent and emerging challenges including climate change through investments in germane development such as exploration of renewable energy, these developments continue to be problematized by the community due to socio-economic and environmental impacts, resulting in conflicts whose largest brunt is borne by women.¹ Women constitute at least half of every community.² Women are the central custodians of their families, and they equally play an important role in neutralizing conflicts in community including among the pastoral communities.

Women and children are deemed as the greatest victims of conflicts largely because of the inequalities that exist between men and women in social, economic and political spheres. The Global Gender Gap Report 2020 ranked Kenya at 109 out of 153 countries with significant inequalities between males and females' health outcomes, representation in decision-making, labour force participation, and education attainment,³ rendering women

¹ Kong'ani and others, 'Variety and Management of Developmental Conflicts: The Case of the Olkaria IV Geothermal Energy Project in Kenya' (2021) 21 Conflict, Security & Development 781; Guangdong Wu, Xianbo Zhao and Jian Zuo, 'Effects of Inter-Organizational Conflicts on Construction Project Added Value in China' (2017) 28 International Journal of Conflict Management 695.

² Ester Boserup, Su Fei Tan and Camilla Toulmin, *Woman's Role in Economic Development* (0 edn, Routledge 2013)

<<https://www.taylorfrancis.com/books/9781134036981>> accessed 18 February 2022; Agbajobi Damilola, 'The Role of Women in Conflict Resolution and Peacebuilding', eds. R. Bowd and A. B. Chikwanha, *Understanding Africa's Contemporary Conflicts, African Human Security Initiative* (2010) <<https://gsdrc.org/document-library/the-role-of-women-in-conflict-resolution-and-peacebuilding/#:~:text=There%20are%20obvious%20reasons%20why%20women%20are%20important%20to%20the%20peacebuilding%20process.&text=Women%20are%20also%20advocates%20for,they%20have%20contributed%20as%20observers.>>>; Jyoti Jaggernath, 'Women, Climate Change and Environmentally-Induced Conflicts in Africa' (2014) 28 Agenda 90.

³ Klaus Schwab and others, *Global Gender Gap Report 2020 Insight Report* (World Economic Forum 2019).

more vulnerable to greater losses and suffering during conflicts.⁴ Similarly, to men, women have needs, priorities, and voices which ought to be considered and met to prevent them from being used to promote hatred and violence, often at their expense. Thus, including women at conflict resolution tables will grant them an opportunity to be heard and their needs and priorities met leading to more inclusive and sustainable resolutions.

Women have played important role in conflict resolution in communities since antiquity. The elderly women for instance were revered and acknowledged for giving insights on conflict resolution behind closed doors. They also employed their wisdom and creativity to solve disputes in their community.⁵ Women's central role as advocates for peace, peacekeepers and builders continues to be recognized worldwide.⁶ Accord Insight for instance, acknowledges the essential role that women played in lobbying elders to intervene and end conflicts resulting in peace conferences in Somaliland.⁷ This Insight also highlights women's key role in mobilizing funds e.g., through social groupings to convene women for peace initiatives.⁸

⁴ Kariuki Muigua, 'Mainstreaming the Role of Women in Peacemaking and Environmental Management in Kenya' <<http://kmco.co.ke/wp-content/uploads/2020/07/Mainstreaming-the-Role-of-Women-in-Peacemaking-and-Environmental-Management-in-Kenya-Kariuki-Muigua-July-2020.pdf>>.

⁵ Ernest E Uwazie, *Conflict Resolution and Peace Education in Africa* (Lexington 2003).

⁶ Damilola (n 2); Vicky Karimi, 'Securing Our Lives: Women at the Forefront of the Peace and Security Discourse in Kenya' <https://africanleadershipcentre.org/attachments/article/557/Vicky_Karimi%20_A_PN_Working_Paper.pdf>; Susan Mbula Kilonzo, 'Silent Peacemakers: Grass-Roots Transitional Justice and Peacebuilding by Women in Kenyas North Rift Conflicts' (2021) 9s2 *Journal of the British Academy* 53; Muigua (n 4); UNSC, 'United Nations Security Council (2020). Report of the Secretary-General on Women Peace and Security (S/2021/827), Para. 15. Data Come from the Council on Foreign Relations, Women's Participation in Peace Processes.' (United Nations Security Council 2020) S/2021/827 <<https://www.unwomen.org/en/what-we-do/peace-and-security/facts-and-figures#notes>>.

⁷ Accord Insight (ed), *Women Building Peace* (Conciliation Resources 2013).

⁸ Ibid.

Women in pastoralist communities are respected for persuading their men to negotiate with the antagonist parties on contentious issues. Such influence has been demonstrated through women's act of tying a belt around their waists suggesting a need for the conflicting parties to cease-fire, and promote a conducive environment for child bearing and nurturing.⁹ Also, women often discourage their men from pursuing their enemies by expressing fear to lose their men, and encourage them through meals preparations after a successful raid.¹⁰

Women's participation in peace talks enables them to share their daily experiences on matters related to inter alia, security, human rights, health care and employment which are essential components in promoting the relevancy and durability of peace and security plans.¹¹ Concerted efforts have been made in the implementation of the United Nations Security Council Resolution (UNSCR) 1325 call for the increased involvement of women at all levels of decision-making on conflict resolution and peacebuilding. This has resulted in the development of Action Plans at the country levels, Kenya included, amplifying women's vital role in responding to peace, conflict and security related issues.

Further, the Constitution of Kenya 2010 espouses the rights of women. Article 27 of the provides for the women and men's right to equal treatment including entitlement to enjoy equal opportunities in the political, social and economic spheres.¹² Moreso, Kenya has obligations to innumerable

⁹ Janpeter Schilling, Francis EO Opiyo and Jürgen Scheffran, 'Raiding Pastoral Livelihoods: Motives and Effects of Violent Conflict in North-Western Kenya' (2012) 2 *Pastoralism: Research, Policy and Practice* 25; Caleb Maikuma Wafula, 'Does Community Saving Foster Conflict Transformation?: The Debate and Evidence from Kenya's ASAL Counties of West Pokot and Turkana.' <<http://hdl.handle.net/10625/59483>>.

¹⁰ Schilling, Opiyo and Scheffran (n 9).

¹¹ Muigua (n 4); Mullen Michael and others, *Women on the Frontlines of Peace and Security* (National Defense University Press 2015) <<https://ndupress.ndu.edu/Portals/68/Documents/Books/women-on-the-frontlines.pdf>>.

¹² Constitution of Kenya, 'The Constitution of Kenya, 2010' [2010] National Council for Law Reporting with the Authority of the Attorney General 194.

international, regional and sub-regional instruments and commitments including the Universal Declaration of Human Rights and the Convention on the Elimination of all forms of Discrimination Against Women, all of which guarantee gender equality.

However, while the inclusion of women in peacebuilding processes and initiatives has accelerated in policy discussions over the past decade, the number of women in decision-making processes and conflict resolution remains rather minimal.¹³ Although it's worth noting that there is an improvement in women's representation in other public decision-making roles such as political positions, women's underrepresentation at the peace tables remains low.¹⁴ It is on this premise that this paper reviews the status of participation of women in mediation that was used successfully to resolve conflicts that emerged between Kenya Electricity Generating Company (KenGen) and the project affected persons (PAPs), during the establishment of Olkaria IV geothermal energy project to answer the following question:

To what extent were women involved in the Olkaria IV mediation processes held between 2015 and 2016 to resolve the conflicts between the KenGen and the PAPs?

The Feminist Conflict Resolution Theory

This review is based on the feminist conflict resolution theory¹⁵ which focuses on women's non-violent struggles for peace worldwide, and the theoretical frameworks considered to make sense of the relationship between women and peace, men and conflict, and sexism and militarism.¹⁶ The theory

¹³ Damilola (n 2); Karimi (n 6); Kilonzo (n 6); Louise Khabure, 'Committed to Peace or Creating Further Conflict? The Case of Kenya's Local Peacebuilding Committees' (December 2014)

<https://www.peaceinsight.org/en/articles/committed-peace-creating-conflict-case-kenyas-local-peacebuilding-committees/?location=kenya&theme=>>;

Deockary JF Massawe, 'Roles of Women and Young People in Initiating Culture of Peace-Building in Kenya' (2021) 3 *Journal of Sociology, Psychology & Religious Studies* 117; Muigua (n 4).

¹⁴ Karimi (n 6).

¹⁵ M Bailey J, 'Mediation as a "Female" Process' (1989).

¹⁶ *Ibid.*

seeks to establish elements of women input, observation and their understanding of reality which, could be critical ingredients at conflict resolution tables. This could be premised on the fact that women are the custodian of their families and also suffer the most from the consequences of conflicts including among the pastoral communities like in Olkaria IV area. Thus, the feminist conflict theory advocates for the incorporation of their experiences and ways of knowing as fundamental enablers to functional conflict management strategies and peacebuilding initiatives including mediation. Further, feminist scholars and activists suggest that there is need to approach a conflict from the weaker party's (like women) perspective to enable transform conflicts which involve unequal power relations. This includes in development activities among the pastoral communities where women are given equal status as children,¹⁷ thus more likely to be marginalized during the mediation processes compared to their male counterparts¹⁸. Yet, their contribution in conflict resolution is deemed to generate more sustainable resolutions.

Study area

The research was conducted at the Resettlement Action Plan land (RAPland) in the development area of Olkaria IV which encompasses 155 households with 1209 PAPs.¹⁹ RAPland is located in the Olkaria geothermal block in Naivasha-Sub-County, Nakuru County. The block was gazetted as a Geothermal Resource Area in 1971²⁰ and is situated on KenGen's land covering about 80 square kilometers in the Hell's Gate

¹⁷ Dorothy L Hodgson, 'Women as Children: Culture, Political Economy, and Gender Inequality among Kisongo Maasai' (1999) 3 *Nomadic Peoples* 115; WK Omoka., 'Briefing Paper No. 11: Climate Change, Lake Turkana and Inter-Communal Conflicts in the Ilemi Triangle Region.' <<https://shalomconflictcenter.org/briefing-paper-no-11/>>.

¹⁸ Bailey (n 15).

¹⁹ Gibb Africa, 'Updated Resettlement Action Plan for the Olkaria IV Power Station: Olkaria IV (Domes) Geothermal Project in Naivasha District' (Kenya Electricity Generating Company Ltd 2012) RP883v11 rev <<https://documents1.worldbank.org/curated/en/508361468046149605/pdf/RP8830v110P1030IA0IVORAPOJULY002012.pdf>>; Kong'ani, Wahome and Thenya (n 1); Kong'ani, Wahome and Thenya (n 2).

²⁰ Sena Kanyinke, *Renewable Energy Projects and the Rights of Marginalised* (International Working Group for Indigenous Affairs report, 21 2015).

National Park (HGNP). The HGNP lies at 0°54'57"S, 36°18'48"E, to the south of Lake Naivasha, approximately 120 km north-west of Nairobi. Development of Olkaria IV energy plant compelled the relocation of four villages namely Cultural Centre, OlooNongot, OlooSinyat, and OlooMayana Ndogo from the Olkaria IV site to RAPland²¹ located outside the park. The relocation aimed at protecting the community from the potential adverse impacts of the project, including disruption of their livelihood streams and noise pollution. However, PAPs raised complaints to project funders regarding KenGen's failure to translate some pledges like additional houses for those who had been left out resulting in conflicts between them. The PAPs complaint to the project financiers led to the recommendation of mediation of the conflicts.

Methodology

This study employed mixed approaches to collect qualitative data (the inception of mediation, its processes and the respondents' involvement) and quantitative data (respondents' demographics). Qualitative research enables a clear comprehension of the interviewee's opinions on subject under study and also enable researchers' access to information such as gender inclusion,²² which could be a thorny issue in a patriarchal system. Quantitative research puts emphasis on quantification in data gathering.²³ Secondary data sources included desk review of literature on journal articles and published books on natural resources, development, conflict and conflict resolution, project implementation and mediation reports which provided the foundation for the argument. A reconnaissance was conducted in May 2019, where four research assistants (three males and one female) were recruited from RAPland and trained on various features of the

²¹ Gibb Africa (n 19).

²² Quan Nha Hong and others, 'Mixed Methods Appraisal Tool (MMAT), Version 2018'

<http://mixedmethodsappraisaltoolpublic.pbworks.com/w/file/attach/127916259/MMAT_2018_criteria%C3%A2%E2%82%AC%20manual_2018%C3%A2%E2%82%AC%2008%C3%A2%E2%82%AC%2001_ENG.pdf>; David Silverman, 'Qualitative Research', *A guide to the principles of qualitative research* (3rd edn, Sage Publications 2011).

²³ Julia Brannen (ed), *Mixing Methods: Qualitative and Quantitative Research* (Paperback ed, repr, Ashgate 2000).

questionnaire and interview procedures and etiquette. The semi-structured questionnaire was pilot tested and adjusted to improve its validity, proceeded by the collection of primary data in the four villages in RAPland including Cultural Centre, OlooNongot, OlooSinyat, and OlooMayana Ndogo.

Primary data was collected through a complete enumeration. Sampling of the entire population in a small populations promotes attainment of the required precision.²⁴ Thus, this study targeted the entire population relocated to RAPland comprising of 155 households. This aimed at recording insights from individual households on gender participation in Olkaria IV mediation. But, the study surveyed 117 households, 24 homes were not occupied by the time of the study since their occupants had temporarily moved out of RAPland in search of greener pastures. The occupants of 14 more households were also inaccessible, reportedly because of work-related engagements outside RAPland.

Data was collected through three focus group discussions (FGDs) of elders, women and youth each comprising of eight participants purposively selected from the four villages. The sampling was based on the participants' experiences and participation in the Olkaria IV mediation process. The female elders were separated from males to facilitate free participation and discussions, especially among women. The researcher also conducted in-depth interviews with eight key informants purposively sampled that generated further qualitative data. The informants included two participants (complainants), two from the Resettlement Action Plan Implementation Committee (RAPIC), two village elders, one mediator and an informer from KenGen. The interviews and discussions were conducted with the aid of a guide and checklist designed in advance. The researcher also engaged the research assistants through casual talks to complement the information gathered.

²⁴ Ajay S Singh and Masuku B Micah, 'Sampling Techniques & Determination of Sample Size in Applied Statistics Research: An Overview' (2014) 2 *International Journal of economics, commerce and management* 1.

The completed questionnaires were checked for adequacy and clarifications, and coded. The quantitative data were organized into Microsoft Excel, imported into the R program,²⁵ and rigorously analyzed using a combination of descriptive statistics (frequencies and percentages). Qualitative data gathered through semi-structured questionnaire, FGDs, and informant interviews notes were typed, and the interview recordings transcribed. The transcripts were imported into qualitative research software, NVivo²⁶ for coding and content analysis through deductive and inductive approaches.

Results and Discussions

Awareness of mediation

The respondents were asked if they had heard of mediation's use in conflicts before the 2015 mediation, and if yes, to share their sources of knowledge about mediation? More than half (59%) of the respondents claimed that they had not heard of mediation before the one in which they got involved. The rest (41%) who had heard identified community conflict resolution (36%), government (21%), media (19%), school (17%), and friends/neighbors (7%) as their sources of information. Among those who were not aware, majority (60%) were women. A female FGDs participant noted, 'I can't really tell what mediation is since I'm a charcoal burner, I'm neglected because I am a Samburu and I don't have a husband.' Thus, the lack of knowledge of mediation among such women is not only attributable to work related engagements that prohibits them from access to important information and benefits that could improve their lives. This also reveals the thinkable

²⁵ Gentleman, Robert, *Computer Science and Data Analysis Series. R Programming for Bioinformatics*. (CRC Press, Tylor & Francis Group 2008) <[https://books.google.co.ke/books?hl=en&lr=&id=34Y6WjJy8zEC&oi=fnd&pg=PP1&dq=Gentleman,+Robert.+\(2008\).+Computer+Science+and+Data+Analysis+Series.+R+programming+for+bioinformatics.+CRC+Press.&ots=UjRe-r8fkO&sig=5bJrppECm9YPBtGBffTfx9ZHUUA&redir_esc=y#v=onepage&q=Gentleman%2C%20Robert.%20\(2008\).%20Computer%20Science%20and%20Data%20Analysis%20Series.%20R%20programming%20for%20bioinformatics.%20CRC%20Press.&f=false](https://books.google.co.ke/books?hl=en&lr=&id=34Y6WjJy8zEC&oi=fnd&pg=PP1&dq=Gentleman,+Robert.+(2008).+Computer+Science+and+Data+Analysis+Series.+R+programming+for+bioinformatics.+CRC+Press.&ots=UjRe-r8fkO&sig=5bJrppECm9YPBtGBffTfx9ZHUUA&redir_esc=y#v=onepage&q=Gentleman%2C%20Robert.%20(2008).%20Computer%20Science%20and%20Data%20Analysis%20Series.%20R%20programming%20for%20bioinformatics.%20CRC%20Press.&f=false)>.

²⁶ Bazeley, Patricia and Kristi Jackson Eds., *Qualitative Data Analysis with NVivo*. (2nd edn, SAGE publications limited 2013).

cultural discrimination in the community on the basis of women, who besides being a widow, and hails from a different community and therefore, forbidden to participate in important decision-making processes, like at peace tables in this case, issues that are likely to render such women more susceptible during conflicts.

Mediation has been used to resolve conflicts in traditional set-ups since antiquity although the community does not call it as so. It is therefore safe to say that perhaps the lack of awareness could have been because of the low application and lack of community exposure to formal mediation processes. This could also be linked to the technicality of the term, “mediation,” which could not be well comprehended by the majority (73%) of women who lacked any level of education. This findings aligns with Global Gender Gap Report 2020 which points out the inequalities between males and females in the country inter alia, education attainment,²⁷ which could be more pronounced among the pastoral communities and other marginalized groups, with women being disadvantaged. Yet, empowering women enables them to adequately participate and contribute not only in conflict resolution processes but also development.²⁸

However, whereas the empowerment of women is essential, this might not readily translate into meaningful inclusion and participation of women due to cultural issues that confine them to domestic duties. These traditional practices also bar women from speaking in the same public space with elders and men. This includes mediation of conflicts beyond natural resources use and development within the communities.²⁹ Other studies among the Pokot community³⁰ suggests that women’s low levels of literacy in the remote areas are exacerbated by the cultural and structural barriers results in their inability to access and benefit from technical information on conflict management among others, the likely case in Olkaria IV. Thus, the question would be,

²⁷ Schwab and others (n 3).

²⁸ Muigua (n 4).

²⁹ Angela Jill Lederach and others (eds), *Building Peace from within: An Examination of Community-Based Peacebuilding and Transitions in Africa* (AISA 2014); Muigua (n 4).

³⁰ Omoka. (n 17).

how do we penetrate such barriers to enhance women's participation in conflict resolution especially among the pastoral communities including in Olkaria?

The Pre-mediation phase

Ground setting

While the foundational meetings to mediation were held between European Investment Bank Complaints Mechanism (EIB-CM) designated mediator, KenGen and the PAPs in May 2015 to inform the scope of mediation and gather PAPs' views and expectations of mediation, only 15% of women inputted their views. Whereas, Article 27(8) of the Bill of Rights in the Constitution of Kenya 2010 provides for the State to take legislative and other measures to implement the principle requiring that not more than two thirds of the members of elective or appointive bodies shall be of the same gender," the 15% of women inclusion in Olkaria IV mediation inception meetings failed to meet this requirement. However, it would be safe to state that perhaps the promulgation of the Constitution of Kenya was still at its infancy stage in 2015, with little impact on gender inclusion.

Women are the main care takers of their families, and just like men, they have needs and priorities whose input in decision making processes including in conflict resolution would offer more sustainable outcomes, and deter them from being used to promote hatred and violence. Either, women's participation in peace talks enables them to share their daily experiences on security matters for instance as also advocated by the feminist conflict resolution theory.³¹ Women's insights on based on their experiences are essential components in promoting the relevancy and durability of peace and security plans,³² thus their inclusion at peace tables is paramount.

On the flipside, the study established that one female mediator aligned to the EIB-CM was involved in the mediation. The female mediator chaired the opening sessions of the mediation, where the mediator welcomed the

³¹ Bailey (n 15).

³² Michael and others (n 11); Muigua (n 4).

participants, took them through the itinerary of all mediation sessions, and officially opened the negotiations. The Olkaria IV mediation case advances the growing argument on the inclusion of female mediators in peace talks, positions that were previously dominated by male.³³ According to the report of the Secretary-General on women and peace,³⁴ only 13 per cent of negotiators were women, 6 per cent mediators and another 6 per cent of signatories in major peace processes worldwide between 1992 and 2019. This report also suggests that about seven out of every ten peace processes did not include any women mediators or signatories. However, women represented 23 per cent of conflict parties' delegations in UN supported peace processes in 2020, which would have been much lower without the UN's concerted efforts towards this end,³⁵ the likely case in Olkaria IV.

However, it is worth noting that although women representation at this "senior level," in the Olkaria IV mediation would have boosted the confidence of female participants in the mediation, facilitating the much-needed input, the process was largely conducted by the two male mediators. The female mediator only came in when there emerged thorny issues like the Cultural Center's occupation and the title deed concerns which could have possibly affected the final mediation agreement's results, perhaps to exert the financiers' positions. Generally, the acceptability of the female mediator in Olkaria IV mediation by the Maasai community is a stride towards penetrating the deeply rooted patriarch system among the pastoralist communities.

Selection of the representatives

PAPs and KenGen were the main parties to mediation. KenGen was represented by three participants. PAPs were represented by 17 participants where Resettlement Action Implementation Committee (RAPIC) nominated six members (two women, one youth, and three men) to represent resettled PAPs and the non-resettled PAPs nominated six participants (two women,

³³ Lederach and others (n 29).

³⁴ UNSC (n 6).

³⁵ UNSC, 'United Nations Security Council (2021). Report of the Secretary-General on Women Peace and Security (S/2021/827), Para. 19.' (United Nations Security Council 2021) S/2021/827 <<https://undocs.org/S/2021/827>>.

one youth, and three men) resulting in about a one-third representation of women. This result contradicts other mediation practices worldwide suffering from persisted conflicts and where most mediation teams do not include or encourage the voices and representation of women.³⁶

The one-third representation of women in the Olkaria IV mediation team contributes towards narrowing the women inclusion gap which is also aligned to the Constitution of Kenya 2010. Article 27 of the Constitution espouses the rights of women as being equal in law to men, and are entitled to among others, the right to equal treatment, including the right to equal opportunities in political, economic, cultural and social spheres.³⁷ However, some women suggested that their voices were suppressed, and views oppressed, thus, begging the questions on what is meaningful participation especially among the pastoral communities and other marginalized groups which are also mainly patriarchal. Perhaps, there is a need to redefine participation with concerted efforts to overcome the potential cultural barriers prohibiting women from meaningful involvement in important decision-making processes including in peace talks, should sustainable conflict resolution, peace and development be achieved beyond pastoral communities.

The election of representatives by the community was facilitated by the three mediators. While nearly two-thirds (65%) of the representatives were satisfied with the process of nomination the representatives to the mediation team, about one-third (35%) of the respondents were dissatisfied with the majority (70%), being women. They cited among other issues, nepotism and failure to use secret ballots. The latter could have contributed to the lack of fair participation by women, maybe due to the fear of reprisal.

Further, a participant in the FGDs with female indicated that, *'During the election, we were not involved fully, I remember I was working and the election was held.'* Another evidence of work-related engagements by women limiting their participation in conflict resolution processes. This

³⁶ Muigua (n 4).

³⁷ Constitution of Kenya (n 12).

result collaborates with the experiences among the Pokot community,³⁸ where the unequal gender norms are deemed to deny and further foreclose women's capacity for decision-making among the pastoralist communities. Women were traditionally excluded because of unequal division of labour that prohibits them from participation since they increasingly have less time given their labour-intensive household obligations and because of cultural restrictions³⁹ to their mobility, the likely case in Olkaria IV mediation, resulting in the dissatisfaction among (70%) of women.

In regards to community leadership and representation in the mediation process, the study established that four Council of Elders (CAC) members, all males, one each from the four villages (Olomayana Ndogo, Cultural Centre, Oloongonot and Oloosinyatti) were invited to participate as friends of the three mediators. The all-male dominated leadership among the PAPs' reflects a possible continued marginalization of women in similar settings in the country. This is a clear demonstration of the little change in the status of women in the study community, where women are accorded equal status with children,⁴⁰ with norms among the Pokot pastoral communities continuing to prohibit women from speaking in the same spaces where men are gathered.⁴¹

The absence of women in the community's leadership and the suppression of their voices resonates the findings recorded in the "Feeling the heat: responses to geothermal development in Kenya's Rift Valley"⁴², which suggested that women's leadership in the Maasai community was not yet fully recognized by the Maasai men, and that majority of the meetings at the village level were dominated by men who would shout down a woman leader

³⁸ Omoka. (n 17).

³⁹ Ibid.

⁴⁰ Hodgson (n 17); Blessing Nonye Onyima, 'Women in Pastoral Societies in Africa' in Olajumoke Yacob-Haliso and Toyin Falola (eds), *The Palgrave Handbook of African Women's Studies* (Springer International Publishing 2019) <http://link.springer.com/10.1007/978-3-319-77030-7_36-1> accessed 21 July 2022.

⁴¹ Omoka. (n 17).

⁴² Hughes Lotte and Rogei Daniel, 'Feeling the Heat: Responses to Geothermal Development in Kenya's Rift Valley' [2020] *Journal of Eastern African Studies* 1.

that spoke for her village women, demonstrating further challenges of patriarchal systems.

The Mediation phase

During the mediation phase which started in August 2015, the mediation team hosted at least three meetings before the negotiation of the issues. The mediation Chairperson and the team drafted the procedure for the mediation agreement. However, the study revealed that the mediation participants were left to read and sign the mediation agreement without mediator intervention or support. The pact was written in English, and it is not clear whether the community representatives understood the mediation rules since only 24% of them (4/17) – all male, were literate, further complicating the adequate participation of the women in this process.

Although the efforts could have been made by the mediation team to engage a Maasai lady to translate English to Maa and vice-versa to break the language barrier and enhance the participation of women, the respondents noted there were many issues that could have been inappropriately translated from English to Maa because Maa is loaded with varied nuances. This could have been further complicated by the possibility of the uneasiness among the PAPs' Elders who oversee the implementation of the Maasai cultural practices among which those that forbid women from speaking in the same public space with men.

While slightly more than half of the respondents (53%) were satisfied by the mediation process, those who were dissatisfied (47%) were mainly women (72%), citing the inadequate publicity of the process, little consultation at the initial stage, inadequate capacity building on the mediation process, poor coordination and limited public participation. Besides, the FGDs with women revealed that some of them were dissatisfied, since they were denied voice because of their sex, suppressed, and their views disregarded. Similarly, Hughes & Rogei,⁴³ recorded that the village representatives were predominantly middle-aged to elderly men (all Maasai males) over about 40 identify as elders and women complained that their grievances were ignored.

⁴³ Ibid.

The respondents in Olkaria mediation case also acknowledged that they had elected leaders who made decisions on their behalf, with which they had to abide irrespective of their feelings on the matters, another possible hindrance to adequate participation of women in the mediation processes.

Endorsement of the mediation agreement

The results established that the community was convened in June 2016 at the RAPland's Social Hall for a *Baraza* (meeting) where the mediators read out the 27 items in the agreement to both parties (PAPs and KenGen). Since the agreement was already signed, the community in general did not see the need to give input to it, talk less of women. They felt that they were denied an opportunity to react to the mediation resolutions. However, most of these community members including women endorsed the accord perhaps for fear of victimization. The endorsement of the agreement in an open forum could have further inhibited their freedom of voting especially among women who have a little say in decision-making processes among the pastoral communities.⁴⁴ Possibly, their honest decision would have been exercised if the secret ballots had been used. There could be a need to redefine public participation which is one of the central values of democracy enshrined in the Constitution of Kenya, 2010. Article 10 of the Constitution⁴⁵ provides for a right to all citizens to have a say in decisions affecting their lives, including among the marginalized communities like in Olkaria IV.

It is worth noting that the mediation resulted in the reaching of consensus on contentious issues between KenGen and the PAPs with subsequent reduction in conflicts, mended and improved relationships between parties and improved PAPs' livelihoods. However, while the majority of the respondents (83%) suggested they would recommend mediation of any other community development project conflicts, only (35%) of the women held this view, a further demonstration of their dissatisfaction that could have been linked to their minimal participation. A likely threat to the sustainability of the resolutions. Sustainable Development Goals (SDGs) recognizes the need to promote peaceful and inclusive societies (inclusive of women and

⁴⁴ Omoka. (n 17).

⁴⁵ Constitution of Kenya (n 12).

descending/minority voices) that provides for access to justice for all and build effective, accountable and inclusive institutions at all levels. Thus, much work is needed towards adequate inclusion of women in conflict resolution beyond Olkaria IV mediation case.

Conclusion and recommendations

The Olkaria mediation processes yielded an agreement on contentious issues, reduced conflicts, mended relationships and oiled the project operations. However, the adequate inclusion of women in such processes as advocated for also by the feminist conflict resolution theory as enablers to functional conflict resolution processes and the legal frameworks around Women Security and Peace still has a long way to go. Limited knowledge and exposure to formal mediation processes, cultural and structural barriers remain a hindrance to women's adequate participation at peace tables. While there is need to redefine meaningful participation in peace talks among the pastoral communities, and build women's capacity to enhance their participation and inclusion, much effort should also be geared towards addressing the traditional practices that prohibit women from this meaningful participation through co-designing of conflict resolution processes. Further research is needed to determine the extent to which women are involved at every mediation phase, with a database on the challenges and solutions to their participation to improve mediation's effectiveness as an alternative dispute resolution mechanism in resolving natural resources conflicts beyond Kenya.

References

- Accord Insight (ed), *Women Building Peace* (Conciliation Resources 2013) 4700
- Bailey M J, 'Mediation as a "Female" Process' (1989)
- Bazeley, Patricia and Kristi Jackson Eds., *Qualitative Data Analysis with NVivo*. (2nd edn, SAGE publications limited 2013)
- Boserup E, Tan SF and Toulmin C, *Woman's Role in Economic Development* (0 edn, Routledge 2013)
<<https://www.taylorfrancis.com/books/9781134036981>> accessed 18 February 2022
- Brannen J (ed), *Mixing Methods: Qualitative and Quantitative Research* (Paperback ed, repr, Ashgate 2000)
- Constitution of Kenya, 'The Constitution of Kenya, 2010' [2010] National Council for Law Reporting with the Authority of the Attorney General 194
- Damilola A, 'The Role of Women in Conflict Resolution and Peacebuilding', eds. R. Bowd and A. B. Chikwanha, *Understanding Africa's Contemporary Conflicts, African Human Security Initiative* (2010)
<[https://books.google.co.ke/books?hl=en&lr=&id=34Y6WjJy8zEC&oi=fnd&pg=PP1&dq=Gentleman,+Robert.+\(2008\).+Computer+Science+and+](https://gsdrc.org/document-library/the-role-of-women-in-conflict-resolution-and-peacebuilding/#:~:text=There%20are%20obvious%20reasons%20why%20women%20are%20important%20to%20the%20peacebuilding%20process.&text=Women%20are%20also%20advocates%20for,they%20have%20contributed%20as%20observers.></p><p>Gentleman, Robert, Computer Science and Data Analysis Series. R Programming for Bioinformatics. (CRC Press, Tylor & Francis Group 2008)
<<a href=)

Data+Analysis+Series.+R+programming+for+bioinformatics.+CRC+Press.&ots=UjRe-

r8fkO&sig=5bJrppECm9YPBtGBffTfx9ZHUUA&redir_esc=y#v=onpage&q=Gentleman%2C%20Robert.%20(2008).%20Computer%20Science%20and%20Data%20Analysis%20Series.%20R%20programming%20for%20bioinformatics.%20CRC%20Press.&f=false>

Gibb Africa, 'Updated Resettlement Action Plan for the Olkaria IV Power Station: Olkaria IV (Domes) Geothermal Project in Naivasha District' (Kenya Electricity Generating Company Ltd 2012) RP883v11 rev <<https://documents1.worldbank.org/curated/en/508361468046149605/pdf/RP8830v110P1030IA0IVORAP0JULY002012.pdf>>

Hodgson DL, 'Women as Children: Culture, Political Economy, and Gender Inequality among Kisongo Maasai' (1999) 3 Nomadic Peoples 115

Hong QN and others, 'Mixed Methods Appraisal Tool (MMAT), Version 2018'

<http://mixedmethodsappraisaltoolpublic.pbworks.com/w/file/attach/127916259/MMAT_2018_criteria%20manual_2018%202008%2001_ENG.pdf>

Hughes Lotte and Rogei Daniel, 'Feeling the Heat: Responses to Geothermal Development in Kenya's Rift Valley' [2020] Journal of Eastern African Studies 1

Jaggernath J, 'Women, Climate Change and Environmentally-Induced Conflicts in Africa' (2014) 28 Agenda 90

Karimi V, 'Securing Our Lives: Women at the Forefront of the Peace and Security Discourse in Kenya' <https://africanleadershipcentre.org/attachments/article/557/Vicky_Karimi%20APN_Working_Paper.pdf>

Khabure L, 'Committed to Peace or Creating Further Conflict? The Case of Kenya's Local Peacebuilding Committees' (December 2014)

Status of Participation of Women in Mediation: A case Study of Development Project Conflict in Olkaria IV, Kenya: Lilian N.S. Kong'ani & Kariuki Muigua (2022) *Journal of cmsd Volume 9(1)*

<<https://www.peaceinsight.org/en/articles/committed-peace-creating-conflict-case-kenyas-local-peacebuilding-committees/?location=kenya&theme=>>

Kilonzo SM, 'Silent Peacemakers: Grass-Roots Transitional Justice and Peacebuilding by Women in Kenyas North Rift Conflicts' (2021) 9s2 *Journal of the British Academy* 53

Kong'ani LNS, Wahome RG and Thenya T, 'Variety and Management of Developmental Conflicts: The Case of the Olkaria IV Geothermal Energy Project in Kenya' (2021) 21 *Conflict, Security & Development* 781

Kong'ani LNS, Wahome RG and Thenya T, 'Managing Geothermal Project Implementation Conflicts through Mediation: A Case of Olkaria IV Project, Nakuru County, Kenya' (2022) 5 *Journal of Sustainability, Environment and Peace* 96

Lederach AJ and others (eds), *Building Peace from within: An Examination of Community-Based Peacebuilding and Transitions in Africa* (AISA 2014)
Massawe DJF, 'Roles of Women and Young People in Initiating Culture of Peace-Building in Kenya' (2021) 3 *Journal of Sociology, Psychology & Religious Studies* 117

Michael M and others, *Women on the Frontlines of Peace and Security* (National Defense University Press 2015)

<<https://ndupress.ndu.edu/Portals/68/Documents/Books/women-on-the-frontlines.pdf>>

Muigua K, 'Mainstreaming the Role of Women in Peacemaking and Environmental Management in Kenya' <<http://kmco.co.ke/wp-content/uploads/2020/07/Mainstreaming-the-Role-of-Women-in-Peacemaking-and-Environmental-Management-in-Kenya-Kariuki-Muigua-July-2020.pdf>>

Omoka. WK, 'Briefing Paper No. 11: Climate Change, Lake Turkana and Inter-Communal Conflicts in the Ilemi Triangle Region.' <<https://shalomconflictcenter.org/briefing-paper-no-11/>>

Onyima BN, 'Women in Pastoral Societies in Africa' in Olajumoke Yacob-Haliso and Toyin Falola (eds), *The Palgrave Handbook of African Women's Studies* (Springer International Publishing 2019) <http://link.springer.com/10.1007/978-3-319-77030-7_36-1> accessed 21 July 2022

Schilling J, Opiyo FE and Scheffran J, 'Raiding Pastoral Livelihoods: Motives and Effects of Violent Conflict in North-Western Kenya' (2012) 2 *Pastoralism: Research, Policy and Practice* 25

Schwab K and others, *Global Gender Gap Report 2020 Insight Report* (World Economic Forum 2019)

Sena Kanyinke, *Renewable Energy Projects and the Rights of Marginalised* (International Working Group for Indigenous Affairs report, 21 2015)

Silverman D, 'Qualitative Research', *A guide to the principles of qualitative research* (3rd edn, Sage Publications 2011)

Singh AS and Micah MB, 'Sampling Techniques & Determination of Sample Size in Applied Statistics Research: An Overview' (2014) 2 *International Journal of Economics, Commerce and Management* 1

UNSC, 'United Nations Security Council (2020). Report of the Secretary-General on Women Peace and Security (S/2021/827), Para. 15. Data Come from the Council on Foreign Relations, Women's Participation in Peace Processes.' (United Nations Security Council 2020) S/2021/827 <<https://www.unwomen.org/en/what-we-do/peace-and-security/facts-and-figures#notes>>

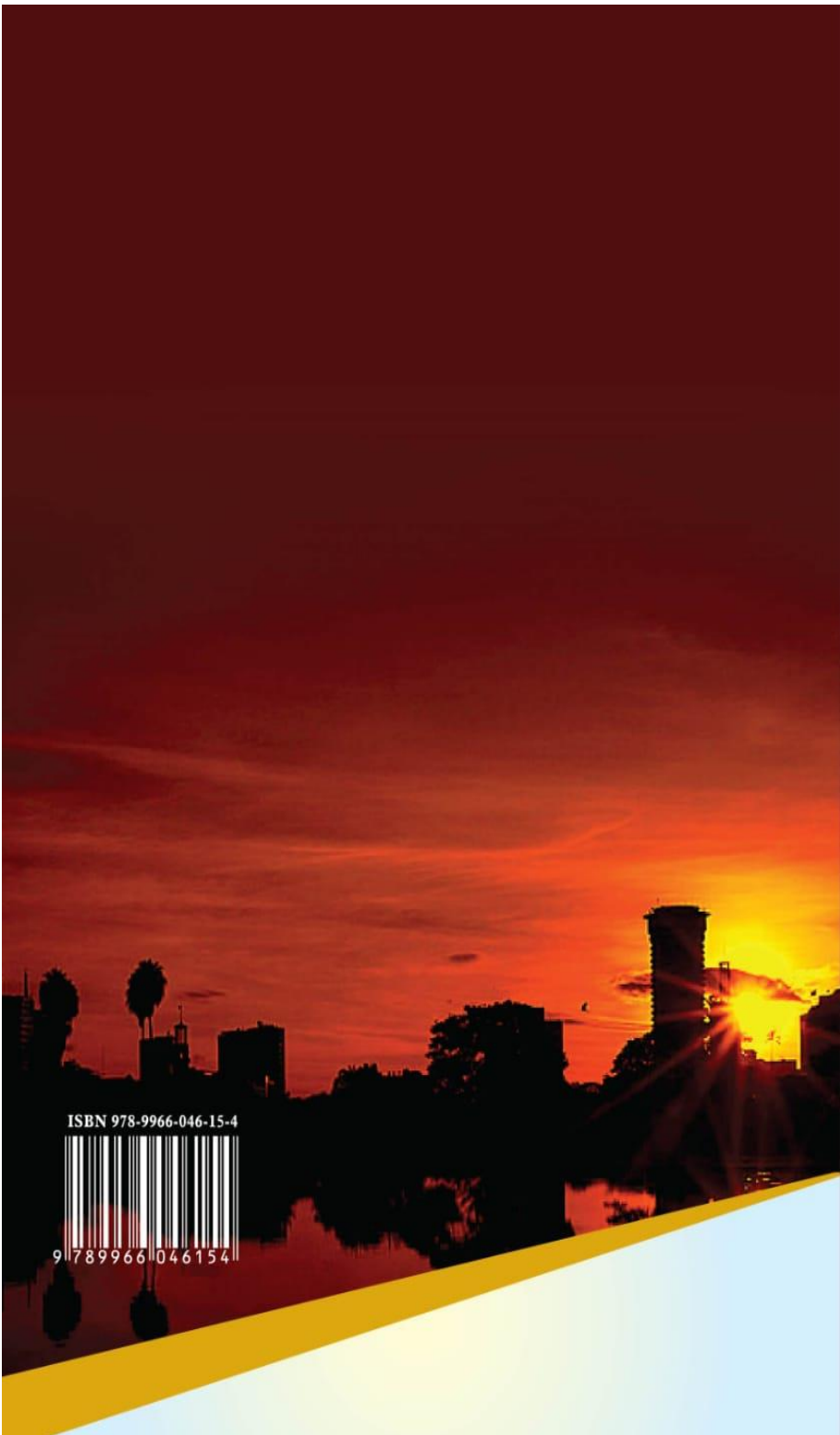
—, 'United Nations Security Council (2021). Report of the Secretary-General on Women Peace and Security (S/2021/827), Para. 19.' (United Nations Security Council 2021) S/2021/827 <<https://undocs.org/S/2021/827>>

Uwazie EE, *Conflict Resolution and Peace Education in Africa* (Lexington 2003)

Status of Participation of Women in Mediation: A case Study of Development Project Conflict in Olkaria IV, Kenya: Lilian N.S. Kong'ani & Kariuki Muigua (2022) *Journal of cmsd* Volume 9(1)

Wafula CM, 'Does Community Saving Foster Conflict Transformation?: The Debate and Evidence from Kenya's ASAL Counties of West Pokot and Turkana.' <<http://hdl.handle.net/10625/59483>>

Wu G, Zhao X and Zuo J, 'Effects of Inter-Organizational Conflicts on Construction Project Added Value in China' (2017) 28 *International Journal of Conflict Management* 695



ISBN 978-9966-046-15-4



9 789966 046154