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Judicial Reforms' Implementation Influence on Management of Community Conflicts: A Case of Kenyan Criminal Justice System in Kakamega County

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Abstract

Community peaceful is an important element to a country's socio-economic and political growth and development. In Kenya like in other world states the Judiciary has the legal mandate to maintain law and order and thus justice. This necessitated the judiciary's rethinking on justice delivery hence the Judicial Transformation Framework –JTF- (2012-2016) that is anchored to the Kenya constitution (2010). The study objective was to assess the effects of judicial reforms' implementation influence on the management of community conflicts in Kakamega County between 2012-2016 as far as: organizational restructuring, improved case management strategies and enhanced public participation initiatives were concerned. Descriptive survey research design method was adopted with both primary and secondary quantitative and qualitative data being obtained through questionnaires, interviews, FGDs, Participatory Learning Action Technique (PLAT) and observation techniques. The target population (1020) from which a sample size of (100) categorised respondents were selected. Data analysis was done via coding, themes and tabulated using SPSS version 20 to generate frequencies and percentages. The study established that community offences visually demonstrated in criminal acts had a natural resource- based (80%) or cultural-based causation dimension; the male youth were most vulnerable perpetrators (70%) while education had insignificant (0.228) correlation. The judicial reforms had been adopted and on course with average positive influence on the judiciary's performance in justice delivery Kakamega County, Kenya but challenges still existed and required concerted efforts to sustain the transformation and management of community conflicts. The study recommends that policy formulation, resource availability and capacity building of judicial officers should be given priority to facilitate the implementation of their legal mandate and that there should be purposive continuous monitoring and evaluation of the judiciary performance to inform policy on emerging conflict trends.

Key words: *Judicial Reforms, Community conflicts, Justice Delivery*

1. Introduction

Conflict is in our minds; it is natural, inevitable, necessary and normal and can only become a problem depending on how a community handle it (Mayer, 2012). There exists invisible structural violence embedded in underperforming systems that are manifested in coercive, oppressive and exploitative services only to motivate conflict rather than peace. The Kenyan judicial system therefore not exempted from these structural challenges while discharging its constitutional mandate as well as citizen's expectations in managing community conflicts. While Peace is an enabling condition for sustainable development; conflict has become the greatest obstacle to attaining sustainable peace with structural violence motivating family and community conflicts.

According to the UN minimum conflict management and corrections standard rules in reference to the existing protocols and declarations, access to fair and effective justice is dependent on just systems. The conflict resolution and management systems are a basis for just societies, a measure of humanity and an assurance of a safe and secure environment that is anchored on respect for international human rights and standards that promote growth and development (UN 2013). Each society in this case has set up rules, systems and institutions that are mandated to ensure social justice only that their exist shortcomings that hinder the achievement of sustainable peace. The justice systems globally vary from one country to the other and have diverse structures and mandates with common denominator being ensuring equitable and affordable peace or justice to all. In order to ensure functional justice systems exist for their purpose continuous transformational initiatives or reforms are vital (Rodríguez-Garavito, 2010). Judicial reform has therefore become a prime programme in development assistance in many countries with the 21st Century expanding the scope that was earlier limited to piecemeal reforms to a bigger picture spectrum reform framework. Ogari, (2014) argues that the African countries are more in need of the reforms as their performance still fall short of the much needed accessible and affordable and expeditious justice delivery.

Re-engineering the Kenyan judiciary roadmap dates back in the late 1980s but is accelerated by the on-set of tribal community clashes experienced after the disputed electoral process in 2007 resulting from failed attempt to initiate constitutional review in 2005 (Ougo, 2009). The realization of the Kenyan constitution 2010 therefore meant mandatory judicial transformation. New possibilities like it has been the case in states like South Africa where arguments on improvement of court management and efficiency have been centre stage the rationale of systems' operations, independence and efficiency to counter emerging trends of community conflicts have been on the forefront. The slow dispensation, case backlog, delayed justice with the inherent piecemeal constitutional reforms for a long time in Kenya had not assisted the agitators of constitutional change in Kenya. This then meant new institutional structures, the integration of case management procedures and practices that facilitate regular seamless case flow and above all offer open court options as a means managing community conflicts.

Kenyans believed that the answers lay in the new constitution and above all in the judiciary's four pillars outlined in the JTF-2012-2016 much referred to as the blue print as a reference (Kramon and Posner, 2011). The values and principles of justice delivery were anchored on this framework whose actualization lay in the reforms' agenda. In actualizing the JTF pillars, one would want to understand what entailed the transformation? What expected change was in the waiting in terms of enhancing justice dispensation, who were the actors and would they cope with the change and how would this process be made possible and sustainable for community justice?. Kakamega County judicial system adopted the reforms as early as 2011 yet five years down on the line the case backlog issue, bulging penal institutions, public complains on delay and crime rates remain high hence need for the assessment of the reforms' implementation process on management of community conflicts.

2. Statement of the Problem

The judicial reform agenda is to ensure equitable access to and expeditious delivery of justice for all in Kenya. Despite the increased court divisions and jurisprudence, improved case management system strategies, enhanced public participation and harnessing of modern technologies initiatives in the Kakamega County courts since 2011, the reform impact on management of community conflict is insignificant as evidenced by increased crime prevalence (67%), slow dispensation rate (17%) vis-à-vis new conflict intake (65%), delayed justice, case backlog (78%) and prison congestion precipitating public and stakeholder out cry for a re-think on conflict interventions for sustainable peace in Kakamega County.

3. Objective of the Study

The objective of this study was to assess the implementation of judicial reforms' influence on the management of community conflicts between 2012 to 2016 in Kakamega County, Kenya. Specifically the study focused on the increased courts' divisions, improved case management strategies and public involvement initiatives influence on justice delivery.

4. Significance of the Study

A number of studies carried out in the past in the area of conflict resolution points out gaps in the legal system to address underlying drivers of community conflicts and point at the magistrates' and judges' unregulated unconscious decisions skewed to marginal courtroom negotiations (Alberstein, 2006).

The study will help legal conflict resolution systems to evaluate inclusion of traditional justice systems in conflict resolution as provide a basis for further research in re-thinking the implementation of the judicial reforms in managing community conflict for sustainable peace, growth and development across the country

5. Review of Literature

5.1 Theoretical Review

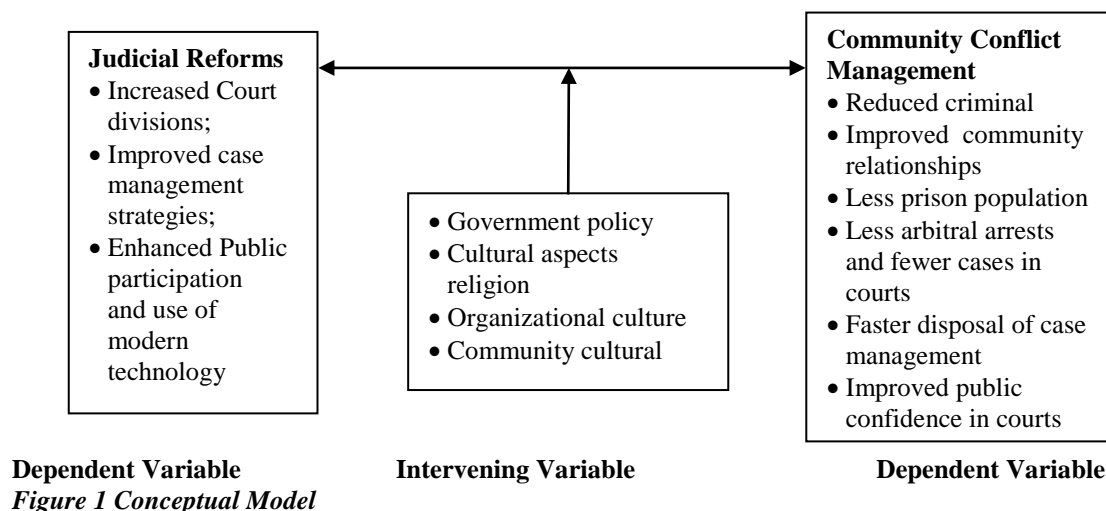
Achieving world sustainable peace requires understanding of the dynamism of violence, human needs, power and functions of social systems (Demmers, 2014). In cognizance that poor governance in developing countries can be drivers to violence continuous transformation of governance systems informs the managers on the necessary intervention strategies and mode of implementation process. In most cases people's choices in conflict are determined by their power (Mayer, 2012). The delay in justice dispensation where both civil and criminal acts involving community members remain unresolved for a long period influences community anarchy and retaliation is likely to manifest in visible violent acts.

The model is anchored on the organizational and management theories that stress the interrelations as explanations of human behavior as individuals or groups to perform the activities intended to accomplish a common goal (Mulder, 2017). The conceptualized judicial model in the organizational theory is that the government policies must be flexible, simple, and clear and appreciated to foster good governance resulting into healthy community relationships and high productivity. Nevertheless, the organizational theory may fail to meet its objectives of efficiency, consistency and linkages given the fact that the judiciary derives its mandate from legal and traditional sources that demand strict adherence to policies, one's duties and responsibilities

without due influence. The reforms thus other than improving service delivery may lead to creation of more paper work, sustained office cultures, communication breakdown and poor interpersonal relationships that work against the intended purpose of managing community conflicts. The change management theory developed by Kotter (1995) on the other hand in the model explains the influence of the judicial structured approach which ensures thorough and smooth implementation processes that guarantee positive change in an organization (Auguste, (2013) The eight-step model demystifies change management through the need to embrace the overlapping responsibilities as well as results in order to understand and sustain the change management techniques effective justice delivery and for sustainable community peace.

5.2 Conceptual Model

The following model represented the conceptual framework for the study.



6. Research Methodology

The study adopted descriptive survey research design method where both quantitative and qualitative data was obtained from secondary and primary sources through questionnaires, interviews, FGDs, Participatory Learning Action (PLAT) and observation techniques Mugenda & Mugenda, (2008). The target population of 1020 respondents from Kakamega County included key justice sector actors directly involved in the implementation of the judicial reforms and the beneficiaries of the judiciary services.

The sample size was selected through purposive sampling based on technical know-how and involvement in conflict and justice process using the N/Response rate formula:

$$n = N/\text{response rate}$$

Where,

N is the minimum sample size

$$n = 100$$

Therefore,

$$n = 100/0.9$$

$$= 112$$

The study area was Kakamega County, that is, Kakamega County Court stations: Kakamega, Butali, Mumias and Butere Law Court with the respective probation department. The Study population was 1,361 comprising inmates/offenders, court officials, community members, probation officers and court users committee (lawyers, police, prosecution and others). The community in the study area is culturally patrilineal, which dictates property ownership and favours male inheritance practices, and values land as an economic entity and a culture that motivates community conflicts.

Data Collection Methods and instruments included Primary and secondary data through interview schedules, questionnaires, Focus group discussions-FGD, Participatory Learning Action Technique- PLAT and observation. The data was edited for correctness and completeness given themes and codes, tabulated in pie charts, tables, percentages and frequencies using the newest version of SPSS Version 22.0.

Table 1 Distribution of study population, sampling methods and Instruments

Respondents	Target Population (N)	Accessible Population	Sample size (n)	Sampling Technique	Data Collection Methods
Court officials	14 (JSC, 2017)	14	6	Purposive	Interview Schedule
Probation officers	21 (PSC,2017)	21	6	Purposive	Questionnaire
Community members	500 (JCCD,2017)	240	24	Simple Random	Questionnaire
Male Offenders	659 (Kakamega Judiciary Register, 2017)	480	48 (4/12)	Cluster/quota sampling	Interview and Participatory Learning and Action Techniques-PLA GD Guide
Female Offenders	132 (Kakamega Judiciary Register, 2017)	120	12 (1/12)	Cluster /quota sampling	FGD Guide Participatory Learning and Action Techniques-PLA
Court Users Committee	35 (JSC,2017)	35	4	Purposive sampling	Questionnaire/Participatory Learning and Action Techniques-PLAT GD Guide
Total	1361	910	100		

7. Research Findings

7.1 Assessing the Effects of Judicial Reforms on the Management of Community Conflicts

7.1.1 Increased Court Divisions and Management of Community Conflicts

Court divisions refer to judiciary structural organization in terms of number of courts and court divisions with their specific roles. In the reform agenda the increase would be realized by establishing the supreme court, more court of appeals and more divisions at high and subordinate court levels with an increase in court officials (judges and magistrates) in form of Criminal, Family & Admiralty, Land & Environment, Labour & Industrial, Commercial and civil divisions to manage specific community conflicts.

From the empirical, observation and primary data from the various categories of respondents –offenders, CUC & community members, probation officers and court officials, it was evident that there was an increased number of high court divisions (1-3) though only two (criminal & family/Admiral) were operational while at the subordinate levels courts had increased from Kakamega 3-8 while Butere, Mumias and Butali each had 1-2 between 2012-2014(Judiciary Data bank 2014) This then meant that the increased number of courts had significant influence to the citizens' equitable access to and expeditious justice delivery hence a community free of conflicts. (JNCAR, 2012-2016). There were however contradictions in the findings that the eight courts at Kakamega existed on paper since only four courts were operating on a daily basis for lack of court officials and sometimes the officials were out on training leaving courts unattended. The high court the land and succession matters remained pending for lack of a judge thus enhancing the criminal acts that arose from land or resource inequity. The limited number of court officials and court divisions was an obstacle to timely justice dispensation in the County.

7.1.2 Conflict Resolution Timeframe and Conflict Management

In order to understand the effect of more court officials and conflict management, the study sought to know the timeframe a court official used in dispensing and disposing a single dispute or case. Timely conflict resolution is essential in managing community conflicts and enhances peaceful co-existence in the community. Figure 1 and 2 illustrates the impact of the increased courts in terms of time taken to dispense a matter in court hence the expeditiousness of the courts and community justice.

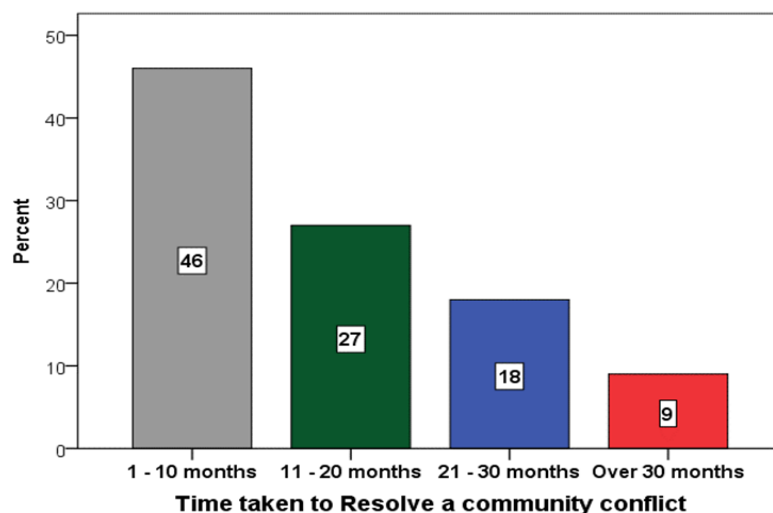


Figure 1 Increased court divisions and case management timeframe

Figures 1 and 2 shows that majority (46%) and (67%) felt that there was timely justice delivery resulting from the increased court officials. The increased number of courts had positive influence on dispensation of conflicts though the time for processing conflicts remained a challenge as shown in Figure 1 except for the matters that were referred for intervention by the probation department through community involvement that lasted 1-10 months, the later formed the bulk (11> 30 months) of the court case backlog and the bulk of the prison remand inmate congestion. The rate of dispensation and disposal of cases is still slow where a single court ably heard only 29 disputes in a week while the disposal rate per month stood at 33 disputes.

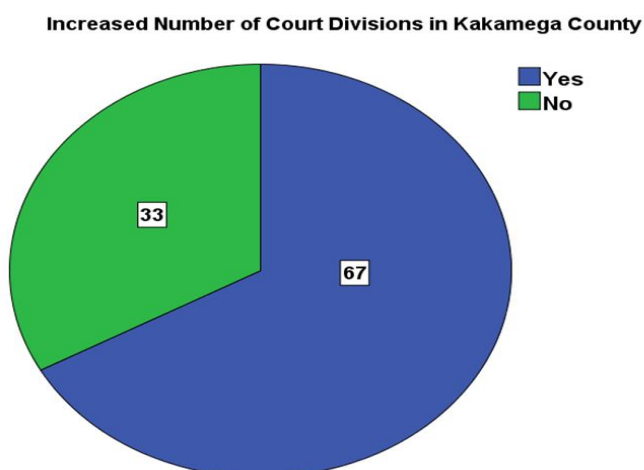


Figure 2 Increased courts and case management process

Figure 2 further shows that majority of respondents 67 (67%) opined that there was significant improvement while 33 (33%) thought otherwise. Not only did increased court divisions, court officials and infrastructure improve justice delivery but also human, financial and material capacities were push essentials on service delivery. These findings were in tandem with the existing statistics at the Kakamega court station where of the 41 murder cases filed, 21 had been finalized within a period of one year (JNCAR, 2013-2014). The capital remandee court attendance had improved from once in six months to once a month since 2014. The levels of improvement stood at 15 (44.12%) improvement with 11 (32.35%) satisfaction levels while 8 (23.53%) felt that the judicial reforms had not made any impact. The results appreciated the fact that change is gradual and the judiciary was gradually picking up pace in the reform agenda implementation as attested to by 11 (32%) amid the challenges.

The study sought to determine further how far the reforms had gone in the management of community conflicts in Kakamega County.

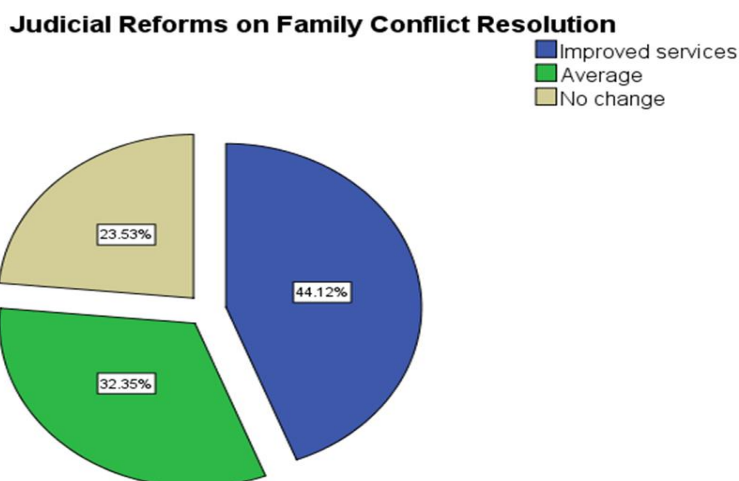


Figure 3 Level of Improvement and Management of Community Conflicts

Figure 3 indicate that service delivery had improved by (44%) due to the increased court divisions and adoption of other community alternative dispute resolution mechanisms like referral to probation department. Nevertheless the descending voices from discussion groups observed that there were still many inmates in remand awaiting hearing of their cases and the matters had taken more than a year since registration. This confirmed the current situation as highlighted in the media and judicial annual case audit reports that showed case backlog in the County courts 924 criminal and 4299 civil matters at the high court pending 2014/15up from 799 and 3138 in 2013/2014 with 451 children committed to the County juvenile penal institution awaiting trial formulation (Daily Nation 2011 & JNCAR (2013-2014 & 2014-2015).

It emerged that there were limitations in terms of court numbers and court officials. In Kakamega court station, only four courts had magistrates after the transfer of four others in 2014 without replacement. This gap affected timely dispensation of justice. At high court level only three divisions had been created but two divisions were operational: family and admiralty and criminal hence the case backlog at the LEC unlike Milimani station in Nairobi where 8 divisions had been operationalized (Judiciary, 2014).

7.2 Improved Case Management System Strategies and Management of Community Conflicts

The case management strategies as outlined in the ten Key Result Areas-KRAs JTF (2012-2016) included: Case processing duration, automation of cases, communication system, enhanced public participation forums, organization's culture or norms , financial and human capacity and infrastructure. The goal for these strategies meant less case backlog, increased public trust in the court system, faster dispensation, decongested prisons and other benefits that would guarantee community peaceful co-existence.

Case backlog refers to any pending matter lasting 12 months before completion from the time of registration at the courts. Case backlog has been a major challenge in Kenyan court systems (JNCAR, 2012-2016) that necessitated the reform agenda. The study sought to understand the timeframe of case dispensation on a daily basis per court in the wake of the initiated reforms. Case backlog refers to those conflicts or disputes that remain pending for over a year from the time of registration. Case backlog has been a major challenge in Kenyan court systems (JNCAR, 2012-2016). The trend of case hearing mostly stood at 1 – 5 matters heard per day by one judicial officer yet the disposal rate was 33 matters per court in a month. This meant that fewer matters were being processed.

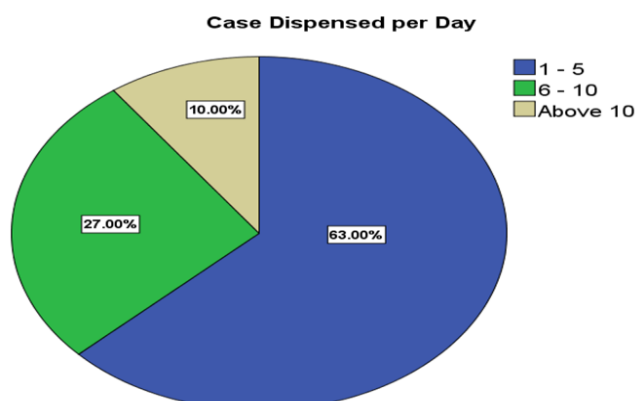


Figure 4 Case Dispensed per Court Daily

The results in figure 4 indicate that the trend of case hearing mostly stood at 1 – 5 (63%) matters heard per day, 29 in a week against the slow disposal rate of 33 case disposal in a month. Thus for the judiciary to be able to dispense off existing case backlog it requires 3.12 years (magistrate's) 12.52 years (high) court levels in the current system without admitting or registering new conflicts which is not viable. The case backlog at the Kakamega courts was 3937 of which 799 were criminal acts. The 3138 civil disputes in most cases with resource-based causation required 2.46 years to be concluded with the current functional 8 courts.

This indicates other than internal improvements, the external and other factors like unpreparedness of prosecution to avail witnesses or exhibits and witness statements to accused persons, absentee lawyers, magistrates and other key CJS actors coupled with limited financial and human resources across the board were impediments to the reforms' implementation process and thus a pointer to increased community conflicts.

7.2.1 Open Court Case Management Strategies on Justice Delivery

They court officials, probation officers and CUC members are key players in implementing the identified case management system strategies in the Kakamega County courts. Information was sought un-pre-determined one-on one discussion on the court operations.

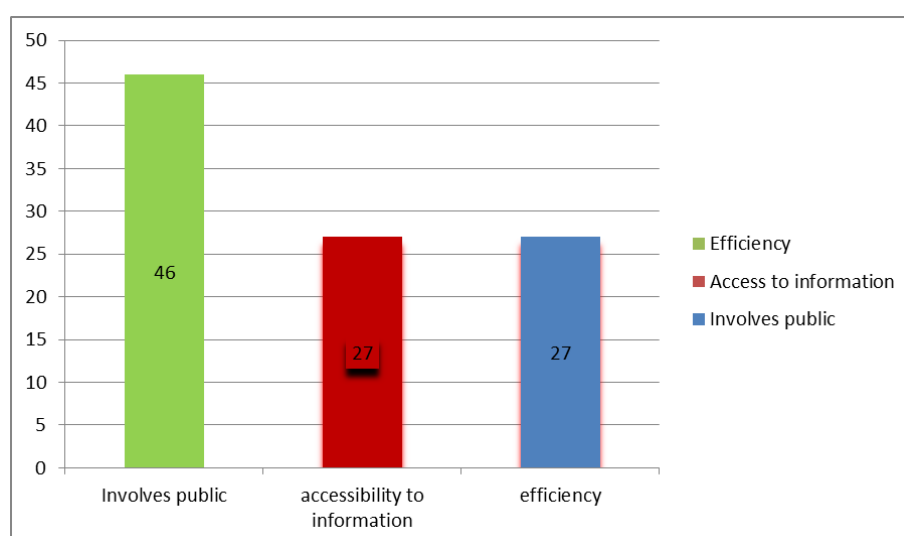


Figure 5 Levels and Mode of Stakeholder Involvement in Management of Community Conflicts in Courts

Figure 5 indicate that 10 (46%) of the 20 key respondents opined that service delivery had improved since courts were involving the public in decision making through ADR mechanisms and non-custodial sentences. Access to information by other stakeholders irrespective of the service sort at the courts had significantly improved as supported by 5 (27%) of the respondents through the establishment and vibrant operations of customer care desk, increased representation of the community on the CUC platform and public open and road show education campaigns as a contributory factor that enriched public access to justice. This called for a re-thinking in modeling court systems on the famous comprehensive services “Huduma Centre Model” in Kenya coined to satisfy the customer need on the “now and here” ideology for effective justice delivery (Mohan, 1998).

7.2.3 Effects of Acquisition of Information by Court Users

In the advent of modern technology as a fast hand tool of communication, the judiciary vouches for need to purpose to harness modern technology strategies as an enabler of other case management strategies. Automation and establishment of a national judiciary data base as well as have live audio-visual court proceedings are among the initiatives that could spearhead effective justice delivery since effective communication is recorded the world over as a tool that enhances interaction (Judiciary, 2012-2016). The study sought to find out how communication channels had impacted on justice delivery amongst the service consumers in Kakamega County. Figure 6 shows the channels of acquiring information in the Kakamega County Courts.

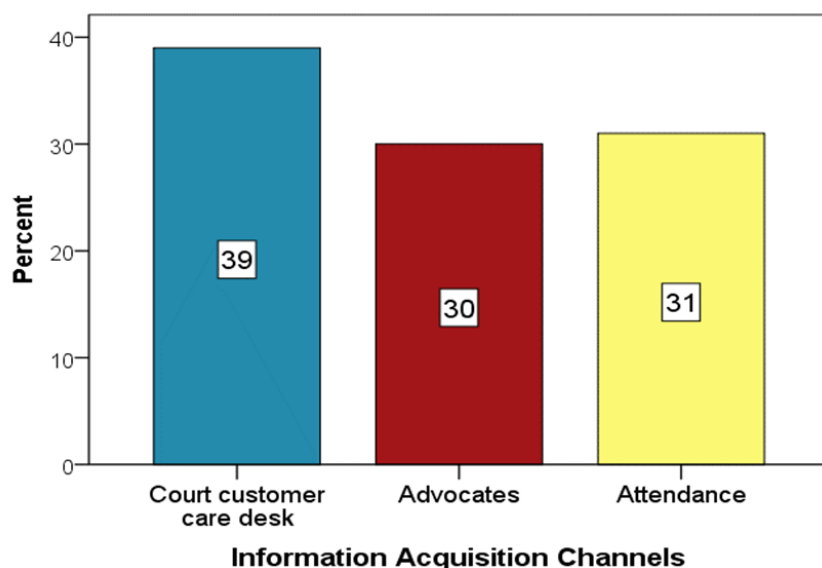


Figure 6 Avenue of Accessing Information from Courts in Kakamega County

Figure 6 indicate the stakeholder means of acquisition of information from courts improvement index of 39 (39%) court's customer care desk, advocates as means of dissemination at 30 (30%) and personal court attendance 31 (31%). Generally use of modern communication technology had positive impact on delivery of justice since advocates' court attendance had gained momentum with the short message line and the existence of the members of the bar Facebook forum. Litigants had ease in locating court rooms where their respective matters were earmarked for mention from either the notice boards or morning briefs and guidance from the court staff. Though harnessing modern information technologies had been adopted there was concern that other setbacks like non-production of witnesses and exhibits, court file shifting due to absentee magistrates impacted negatively on justice dispensation timeliness. This observation was well pronounced in the numerous prison inmates memorandum to the visiting CUC members (2013, & 2016 and JNCAR, 2014).

7.3. Public Participation and Management of Community Conflicts

Public participation a concept recognized in the Kenya constitution (2010) and it purposes to implement the requirements of the Human Rights legal instruments and as pillar 1 of reforms: a people-focused justice system. Recognition of an individual's autonomy as well as being part of the system (community) fosters the sense of belonging and thus healing at all levels (Zehr, 2014).The involvement entails participatory decision –making in court processes and creating space for disputants to voice their concerns in court rooms and in community and considering other voices in the community through use of traditional dispute resolution mechanisms. It also means the judiciary being accountable to the citizens and sustaining an effective communication system that is open and understood by all members of the public.

A people-centred judicial system measurement was vested in the establishment and role of Court Users Committees, customer care desks, communication avenues and courtroom mannerisms (language, sitting arrangement and client courtroom participation space The study sought to establish whether the public was involved in the justice dispensation strategies and processes since inception of the reforms in Figure 7.

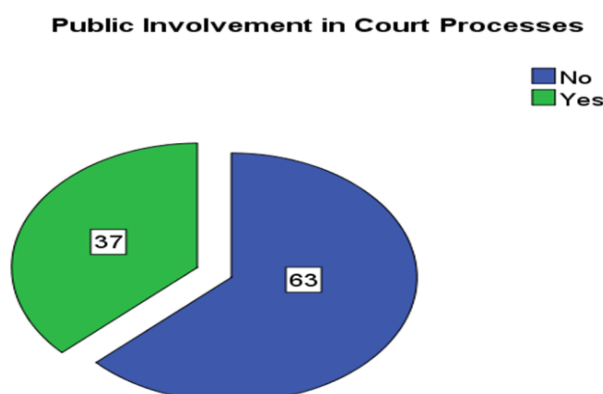


Figure 7 Whether the Public Involved in Court Processes

Results in Figure 7 indicate that public involvement in court processes was limited (63%) against (37%) who thought the public was involved in justice delivery processes. This means that a people-centred judicial system was in place within the County courts. The customer care desks and CUCs were operational and the public and other stakeholders communicated through online short message systems as well as mounting information on posters within the court premises. While public participation process helps in decision-making by the courts in, during and after conclusion of the conflict the open court mannerisms and procedures hardly changed as expected. In as much as public participation is essential, it was only utilized as a case management strategy when courts deem fit to prefer use of community-based rehabilitation programs or bail assessment.

Proponents of restorative justice argue that public participation enhances victim's healing and offender's responsiveness and acceptance of behaviour. And that this aspect fosters peace as it restores broken relationships not only among individuals but also in communities (Zehr, 2014). The inmates vouched for community involvement in the resolution process and thus courts need to fully implement. To further understand whether public participation had positive impact on justice dispensation, the study sought to know the court and other stakeholder experiences during in as far as expeditious justice dispensation. Figure 8 shows the court experiences.

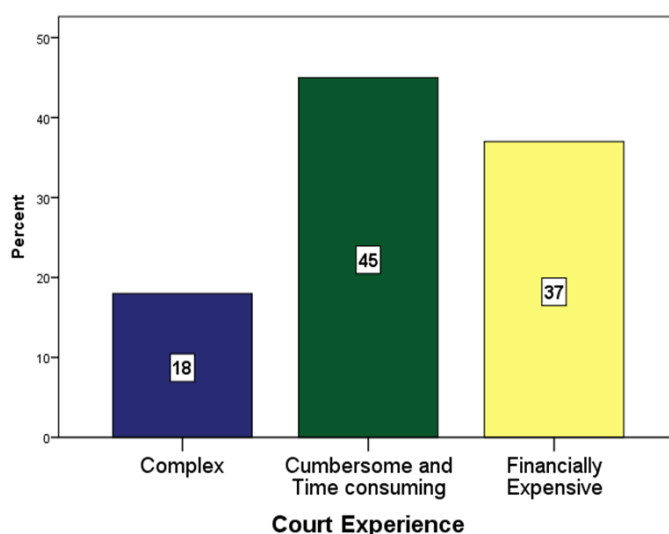


Figure 8 Court Experiences with Other Stakeholders and Justice Delivery

The results in Figure 8 indicated that the process was cumbersome and time consuming (45%); justice was expensive (37%) and complex (18%) as well despite the adoption of the people-centred approach justice system. Notably was that expeditious delivery of justice had been hampered by the lone decision-making processes by court officials, language barrier and limited space if any given to the disputants while in court to express their needs. It was observed that a number of offenders would seek for forgiveness from their victims failure to which had delayed hearing of cases in court and increased the congestion in penal institutions.

The study went further to establish whether the people-centred approach through Traditional Conflict Resolution (ADR) mechanisms had been adopted and accepted in the County modern court system. Table 2 shows the frequency use of ADR.

Table 2 Choice of conflict resolution methods

Conflict Resolution Methods	Frequency
Traditional Justice system	45
Modern court system	36
Both traditional Justice and modern court systems	19
Total	100

The results in Table 2 indicate that ADR methods had been adopted and were in use (45%) by both legal systems in resolving conflicts. The results corroborates existing knowledge that globally there are countries that encourage parties to adopt mediation as a fast means of conflict resolution before reverting to the adversarial modern ways (Sander, 2000). It is in this faith that the Kenyan justice system is keen on fully applying ADR as stipulated in the constitution chapter 10 article 159 (Kenya Constitution, 2010). It is important to note that where the community was involved, disputes were resolved within a period of 1 to 10 months

and relationships restored unlike when courts solely relied on the modern legal methods. Thus courts should be encouraged to uniformly embrace and implement the public participation at all levels of conflict management (Kariuki, 2013).

The study further sought to establish the entry and levels of participation in justice dispensation within Kakamega County. Figure 9 illustrates the results.

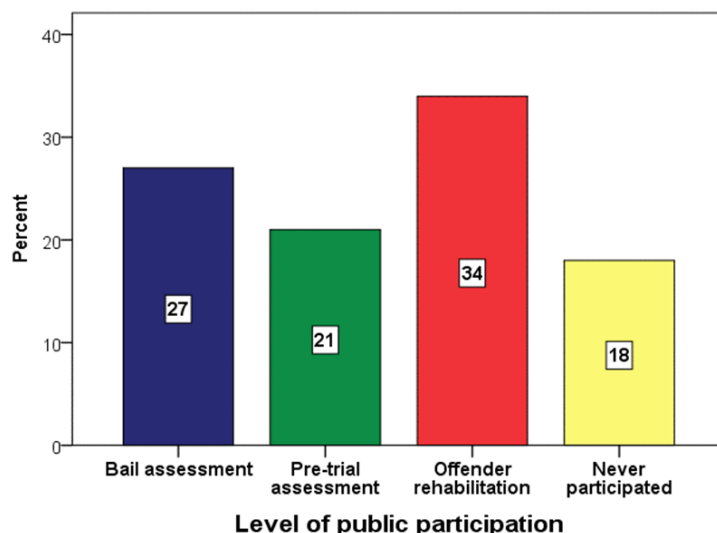


Figure 9 Levels of Public Participation in Justice Delivery

The results in Figure 9 indicate that public participation is utmost used (34%) at the offender rehabilitation stage. This is after pre-sentence assessment on court referral basis to probation department to assist in determining the best treatment option. Other levels were at pre-bail stage or plea stage when the matters are once again referred to assess the suitability bail or bond options. It emerged that community participation in justice dispensation in Kakamega County was enabled by another key stakeholder in the CJS (64%) yet the referral trend was as low as 15% of the entire day's or court's workload. The strategy of using the community in conflict resolution improves the quality of the decision making process and may help in dealing with public mistrust of the judiciary and mitigate conflict that is endemic in community (Mokaya, 2012).

Table 3 Avenues of Public Involvement in Management of Community

Avenues of Public Engagement	Frequency	Percentage
Decision-making	5	18
Reform implementation	14	50
Monitoring & evaluation	5	18
Transparency & accountability	4	14
Total	28	100

Table 3 established that the respondent's avenue of involvement in justice delivery was 14 (50%) at reform implementation, 5 (18%) at decision-making and during monitoring and evaluation and 4 (14%) on accountability issues. The results therefore contradict the assertion that in order for any community to manage the vicious cycle of community conflicts, transformative systems' approach that upholds responsiveness and accountability is necessary (Brubaker & Zimmerman, 2009). The results indicate that the people-centred approach justice system at decision-making and supervisory of the institution was questionable and that the judiciary was still keen maintaining their independence free from public interference.

The public participation concept is believed to be the base for democratic systems as the avenue provides for fair and free decision-making space to disputants. In this faith the legal provisions not in vain as far as community peace is concerned (Kenya Constitution, 2010). This had been realised through the operationalization of Court Users Committees-CUCs with a multi-spectrum of stakeholders who performed the oversight role on the judiciary in affection of justice delivery. Customer care desk and daily morning briefs to litigants and outreach programmes had improved the public understanding of the judicial processes as well as coordination and communication services. These initiatives however had minimal significance in the management of

justice delivery and community conflicts yet if embraced fully it would empower local leaders in resolving conflicts at grassroots level hence mitigate the influx of new registered disputes in the County courts (Gartner & Molly, 2009).

8. Discussion of Key Findings

The overall finding on the objective: to assess the judicial reforms' implementation influence on the management of community conflicts in Kakamega County; Kenya. It was established that though the courts had adopted the reforms with visible positive results more efforts in actualizing the reform agenda goal was required. The courts had increased in number from (7-20) subordinate and high courts (1-3) between 2011 and 2016 as well as their jurisprudence hence fast access to and expeditious dispensation of justice. Thus time taken by the judicial officers in resolving an isolated conflict lasting more than one year 67 (67%) hence persistent case backlog. The study further established that case management strategies initiated though visible had insignificant influence on daily processing and determination of conflicts per court. A court on daily basis heard averagely 1-5 13 (63%), while hearing or trial proceedings stood at between 6-10 5 (27%) and only 2 (10%). Public involvement in management of community conflicts in the legal system was still elusive. The next chapter (6) discusses the findings on the factors that influence the implementation of judicial reforms in Kakamega County.

The assessment of the effects of judicial reforms' on management of community conflicts was anchored on the Kenya constitution (2010) and the JTF (2012-2016). The results showed that there was significant effect emanating from the increased court divisions'; improved case management strategies and enhanced public participation with use of modern technology as an enabling catalyst. 37 (37%) of the respondents were aware and in support of the on-going reform initiatives against 18 (18%) and that there was average positive influence 67 (67%) in justice delivery against 33 (33%) who felt otherwise. It emerged that most respondents 45 (45%) viewed the judicial reform implementation as a precursor to improved judiciary performance index on justice delivery that guaranteed a resilient and just community. On the contrary, of the 60 offender respondents 46 (58%) were not satisfied with the improvement while 34 (42%) felt satisfied. The improvement in justice delivery was measured through timeliness of case disposal by a magistrate within 1-10 months 46 (46%) no case backlog thus rated effective abated by enhanced use of community alternative conflict management methods with referral rate 13 (64%). Delayed case disposal above 1-3 years was 54% and comprised of respondents who did not benefit from the alternative community-based conflict management mechanisms used by the courts.

Studies and reports indicate that institutional restructuring in any developing society is inevitable as it sets the premise for enhanced access to and expeditious justice dispensation for community peace UNDP *et al.*, (2013). Based on this notion, the former chief justice set out a robust JTF to actualize the Kenya 2010 judicial constitutional mandate through decentralization of courts, timely services and leadership. In the study the increase in court numbers and divisions with role specification influenced timely delivery of justice with 46 (46%) cases having been finalized within 1-10 months in Kakamega County, Kenya judiciary. Nevertheless this was observed in matters where the court involved other stakeholders in conflict resolution like asking probation department for pre-assessment social inquiry reports before, during or at the end of trial and after sentence. An indication that an open-all inclusive conflict management system was most appropriate compared to the lone-ranger court system that delayed justice 1-3 years (54%) contributing to case backlog.

On division of labour and devolution De wit & Meyer (2004) propeane that division of labour in any institution influences implementation of tasks and performance while adjusting to both internal and external environmental challenges. In this case, the judiciary flexibility and resilience to mitigate and withstand the challenges was required to foster the reform implementation agenda. It is observed that while the decentralization through divisions, role specifications has been initiated to enhance judiciary performance, the institution is adversely still centralized with only Milimani court Nairobi station having all divisions established. All other stations across the country in which Kakamega is included remain with only three court divisions at high court levels while the lower courts multi-task roles thus case management hampered.

In this study the case management strategies included but were not limited to the court operational mannerisms, means and modes of communication, caseload allocation and processing period, integrity issues, use of alternative conflict resolution methods and avenues of public engagement. Secondary results showed that averagely hearing and processing of matters was at a slow pace 13 (63%); 5 (27%) and 2 (10%) where a magistrate handled 1-5 ; 6-10 and above 10 disputes per day respectively resulting into high number of dissatisfied respondents 46 (58%) and 34 (42%) satisfied in justice delivery and management of community conflicts in Kakamega County, Kenya. Depicted were the increased public involvement avenues where the referral system for alternative conflict management strategies like bail, pre-sentence, pre-release assessment was mostly preferred 13 (64%). Similarly, non-existent public outreach forums and stakeholder engagement through CUCs quarterly and litigant daily morning meeting briefings, staff identification batches, daily notice board cause list posting and salutation in court rooms were established and sustained across all the Kakamega County court stations. This later reform initiative and the establishment of an ICT centre improved communication and coordination of court operations hence customer satisfaction 39 (39%) in relation to court attendance and less adjournment of matters before courts. Despite these positive influence and change in the management of community conflicts, continuous implementation and sustainability was hampered by limited resources and the archaic, inflexible colonial-adopted policies that guided the daily operations of the judiciary.

Case management system reform initiatives were meant to address organizational cultures and mannerisms that were an obstacle to the effective reform implementation that guaranteed a conflict free community. These initiatives arguably influence leadership, interpersonal relationships and decision-making processes in any given organization Miner, (2005). Case management improvement according to the judicial transformation framework was influenced by staff competency and integrity, availability of resources, adequate infrastructure, role specification and an enabling modern information technology system rooted to an open court system. While it appeared that the case management reform initiatives were on course, the systemic cyclic challenges, stakeholder's attitudes and behaviours dictated by existing laws remained an impediment to the significance realization a free-crime community Demmers, (2014). It is in this spirit that practitioners, policy makers and all stakeholders in the justice sector are called upon to remain vigilant and focused to ensure the judicial reforms achieve the intended goal of a free-conflict community (Judiciary, 2012).

A visionary people-centered approach initiative is yet another judicial reform in the second objective that was meant to effect the management of community conflicts in Kakamega County, Kenya. The envisaged public engagement avenues included: decentralization of services through community committees (CUC, integrity, children protection, ADR etc.), mobile courts, customer care desks and increased judicial public outreach forums through which members of the public will be fully engaged in community conflict management decisions and accountability. The study results established that public involvement in community conflict management was still a challenge in the County 53 (63%) of the respondents and while 31 (37%) agreed that public engagement was being used and had positively influenced justice delivery in the community. Court user experiences was viewed as complex 18 (18%), cumbersome and time consuming 45 (35%) and finally costly 37 (37%) of the respondents. In this respect therefore the study results showed that most respondents 45 (45%) preferred public involvement in the justice process through invocation and adoption of the court users would prefer traditional justice system (constitution 2010, chapter 10, article 159). The judiciary adversarial system was support by 36 (36%) while 19 (19%) preferred inbred model that had both as complimentary. Other avenues of public involvement included open outreach sensitization forums 56 (56%), ADR utilisation at 32 (32%) and finally family 12 (12%). The level of public participation was therefore more felt at offender community-based rehabilitation 34 (34%) followed by at pre- bail assessment 27 (27%), pre-trial 21 (21%) 18 (%) were not engaged in any way. Observations, records, and participants responses revealed that public involvement in justice delivery had been initiated through public open multi-sectorial outreach forums, daily morning litigant forums, CUC meetings, increased communication channels like short messages, and weekly posted court cause listing notices.

Public participation as KRA 2 in the JTF Judiciary (2012-2016) calls for enhanced involvement of the public in decision making processes by the judiciary through open forums, publicity, and language and in accountability issues. This is possible if the environmental factors that influence performance are adhered to adequately Thompson et al, (2007). Through responses and observation, the study established that while the Kakamega County courts were implementing the reform initiatives like sensitization of litigants on daily morning briefs, publicity, a robust customer care unit etc. the inadequate infrastructure, resources, disjointed and pluralistic policies as well unstable modern technology inhibited the people-centred initiative. For instance, a member representing the public on the CUC lamented that the public outreach forums had ceased and the mobile court once established in Navakholo in 2015 had closed due to non-availability of resources. The relationship existing between traditional justice system and modern legal application was good as supported by 46 (46%) of the respondents with 27 (27%) who thought otherwise.

Public participation approach in decision making at any level of society or organization has in the recent past received global overwhelming support since it is believed to influence positive change Gartner & Molly, (2009). The study findings acknowledge the arguments fronted by Robert Merton's crime strain theory that is bend toward society's role in influencing a person's perception and behaviour as he or she strives to meet societal expectations and goals. Notably is that a person is able to learn, unlearn and re-learn depending on existing strengths or weaknesses in his/her environment and thus members of the community should not be wished away in efforts geared toward managing community conflicts. Unity does involve cultivating healthy relationships through sense of belonging and sharing in order to mitigate unending life challenges. Public participation enhances community peace as it creates win-win situations, uses the locally available resources that are understood by the disputants. It is probably from this thinking that the Kakamega County residents' propane the use of ADR is people-centred therefore an enabler of sustainable peace.

9. Conclusions and Recommendations

9.1 Conclusions

The overall conclusion of the study is that the judicial reforms had been adopted and were being implemented with average positive influence registered on the judiciary's service delivery performance and management of community conflicts in Kakamega County, Kenya. Nevertheless, there still existed gaps that required concerted efforts and vigilance of all the stakeholders in sustaining the reforms momentum and achievements in order to win the war on the community inherent conflicts.

Notable were the increased court divisions and number of competent court officials that had affected justice delivery. The courts however experienced limited number of court officials and not all divisions had been established to address the case backlog.

The case management strategies initiated were visible and included open communication channels, online data management, customer care services as well as daily morning briefs to litigants, transformative leadership but these had insignificant influence on daily processing and determination of conflicts per court. Public involvement in management of community conflicts in the legal system was still elusive in the legal justice practice except when the courts invoked their discretion by referring matters to probation department for social inquiry assessment reports.

9.2 Recommendations

In order to address structural violence on family/community conflict resolutions, the study made up the following recommendations based on the results:

- i. Based on the study findings there should be more decentralization of court divisions at both high and subordinate court levels with expanded court jurisprudence countrywide unlike the current case where only Milimani court station in Nairobi enjoys this privilege. The judiciary should also invest more in recruitment and capacity building of staff, in modern technologies and enhance the open-door court system through public engagement to improve case management, build community resilience to sustain community peace in Kakamega County, Kenya.
- ii. There should be continuous assessment of the transformation agenda and research on emerging community conflicts that may inform policy formulation in the justice sector.

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