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Cultural Perceptions and Acceptance of Mediation in Tanzanian Communities. A Qualitative Study from Mbogwe District.

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Abstract: *This qualitative study investigated the cultural perceptions and acceptance of state-sponsored mediation in Mbogwe District, Tanzania, to understand the gap between national ADR policy and its low local uptake. Employing a phenomenological design with a sample of 106 participants, data collected through interviews and focus groups revealed a profound cultural incompatibility as the primary barrier. Findings showed an overwhelming preference for traditional, restorative justice systems (71%) over formal mediation, which suffered from a significant trust deficit (53% low trust in state mediators). A major clash (66%) was identified between the systems' core objectives: relational repair versus legal settlement. Community trust was vested in the moral authority of embedded elders, not the procedural neutrality of state appointees, and legitimacy was conferred through symbolic rituals rather than written agreements. The study's originality lies in its ground-level, qualitative analysis of these cultural determinants in a specific rural context. While its context-specific nature limits generalizability, the research offers significant practical implications, suggesting the development of hybrid mediation models, cross-cultural mediator training, and community sensitization. Socially, it shows that effective justice must affirm local cultural identity to avoid alienation and strengthen social cohesion. Ultimately, without addressing this cultural misalignment, formal mediation will remain an underutilized and peripheral justice mechanism in the community.*

Keywords: Cultural Perceptions, Mediation, Traditional Conflict Resolution, Legal Pluralism, Access to Justice, Mbogwe

1.0 INTRODUCTION

Conflict is inevitable, but resolution mechanisms are culturally shaped. As overburdened judicial systems spur global interest in alternative dispute resolution (ADR), mediation is praised for being accessible, restorative, and relationship-preserving. In Tanzania, justice exists at the intersection of a formal legal system and deep-rooted traditional practices. The government actively promotes ADR to enhance justice access[1]. However, implementing formal mediation is not just a legal challenge but a cultural one. Its success depends on alignment with local worldviews, values, and pre-existing conflict resolution paradigms[2]. This study therefore moves beyond policy to investigate cultural perceptions and acceptance of mediation within Mbogwe District. It qualitatively explores how community members, leaders, and potential disputants perceive both state-sponsored and traditional mediation. The research aims to illuminate the cultural dynamics that facilitate or hinder adoption. The findings are critical for designing culturally sensitive and sustainable dispute resolution systems, ensuring accessible justice becomes a lived reality in Tanzanian communities.

Tanzania operates a pluralistic legal system, a legacy of its colonial history and subsequent post-independence reforms [3]. This system comprises a formal structure, based on English common law and including courts from the Court of Appeal down to subordinate levels, and a traditional or customary system, which is the indigenous framework for justice. While the formal system is comprehensive, it is often characterized by significant delays, high costs, and physical inaccessibility for rural populations, which can foster a sense of alienation and distance from the state's conception of justice [4].

The traditional system, in contrast, is deeply rooted in the social and cultural norms of Tanzania's over 120 ethnic groups and is typically administered by family elders, clan leaders, or village councils [5]. Its core principles are fundamentally restorative rather than retributive, emphasizing reconciliation, social harmony, and the reintegration of the disputant into the community over the assignment of blame and punishment. The ongoing tension and interaction between these two systems form the critical backdrop against which any modern alternative dispute resolution (ADR) initiative, including state-sponsored mediation, must be understood[6].

Long before the establishment of formal courts, Tanzanian communities possessed sophisticated and culturally embedded mechanisms for managing conflict. Among groups such as the Sukuma, Haya, and Chagga, including those in the Mbogwe District, processes akin to mediation were the standard practice [7]. Key characteristics of these traditional practices include a foundation in collectivism, where disputes are seen as affecting the entire family or community rather than being a private matter between individuals, and a primary focus on restorative justice aimed at repairing fractured relationships and restoring social equilibrium.

The role of the mediator is also culturally distinct. These are not neutral professionals in the Western sense but are respected elders who wield significant moral authority and

possess deep knowledge of custom (*milaa*), history, and the families involved [8]. Furthermore, the process is often concluded with symbolism and ritual, such as ceremonies, shared meals, or the payment of symbolic compensation (*fidia* or *masaa*), which serve to formally signify the closing of the dispute and the renewal of communal solidarity.

Recognizing the profound limitations of the overburdened formal court system, the Tanzanian government has made significant strides in institutionalizing ADR. Key legislative efforts, such as the Labour Institutions Act (2004) which established the Commission for Mediation and Arbitration, and amendments to the Civil Procedure Code to provide for court-annexed mediation, demonstrate a clear policy commitment [9].

These governmental efforts are primarily aimed at decongesting the courts, reducing case backlogs, and providing a quicker, more affordable path to justice for citizens[10]. The promotion of formal mediation is thus positioned as a strategic solution to enhance access to justice and improve the overall efficiency of the legal system in Tanzania[1].

Despite the strong policy push for formal mediation, there is a scarcity of in-depth, qualitative research exploring how these structures are perceived *culturally* at the local level [11]. Key questions remain unanswered: How do communities conceptualize "mediation," and do they see it as a new version of their traditional practices or as an alien, state-imposed process? What are the cultural determinants of trust in a mediator, and is a state-appointed officer viewed with the same authority as a community elder?

By focusing on the unique socio-cultural dynamics of Mbogwe District, this research will provide a significant understanding of the cultural perceptions that either facilitate or hinder the acceptance of formal mediation, thereby contributing valuable insights for bridging the gap between law and culture in Tanzania.

1.1 Related studies.

1.1.2 Functionality of Traditional Conflict Resolution Systems

The functionality of Traditional Conflict Resolution (TCR) systems refers to their active operation and relevance in managing disputes within communities, distinct from formal state law. Globally, these systems demonstrate remarkable resilience and adaptation. In Europe and America, indigenous and community-based models, such as the Nordic mediation traditions rooted in restorative justice or Native American peacemaking circles, emphasize collective responsibility and healing over punishment [12]. Similarly, across Asia, non-adversarial systems like the Japanese *jidan* (settlement) and village-level *panchayats* in South Asia continue to function as primary dispute resolution forums, prioritizing social harmony and reconciliation [13].

In Africa, TCR systems form the bedrock of social cohesion. Scholars like An-Na'im [14] argue that these mechanisms are not relics of the past but dynamic systems that offer "viable and legitimate forms of justice" for the majority of the population, often operating in a symbiotic yet tense relationship with post-colonial state structures. The core principles of restorative justice, the central role of elders, and the use of ritual are well-documented across the continent.

Focusing on Tanzania, the functionality of these systems is particularly pronounced. Research indicates that in rural areas, up to 80% of disputes are first resolved through traditional mechanisms led by elders (*viongozi vya jadi*) before ever reaching formal courts [15]. The process is deeply embedded in cultural norms, utilizing restorative principles and symbolic acts, such as the payment of *fidia* (compensation) among the Hehe or reconciliation ceremonies among the Chagga, to restore communal balance [7].

While the existence and general principles of TCR in Tanzania are acknowledged, there is a significant lack of contemporary, granular data on the specific processes, evolving rituals, and the exact identity and legitimacy of key actors within these systems in specific localities like Mbogwe District. Existing studies often provide broad overviews, leaving a gap in understanding how these systems are currently functioning, adapting to modernity, and interacting with local power dynamics today.

1.1.2 Community Perception and Legitimacy of Formal Mediation

The perception and legitimacy of formal, state-sponsored mediation are highly contingent on cultural context. In Western nations, formal mediation is often integrated into the legal fabric and is generally perceived as a legitimate and efficient alternative to litigation, underpinned by a cultural value on individualism and neutral third-party intervention [16].

In contrast, across Asia, the legitimacy of such processes is often judged by their alignment with communal harmony; for instance, in China, court-annexed mediation is viewed more favorably when it incorporates local community values rather than adhering strictly to impersonal legal standards [17].

Throughout Africa, the legitimacy of formal mediation is frequently measured against the benchmark of deeply entrenched traditional systems. As Duursma [18] notes, across the continent, "the efficacy of imported legal mechanisms is often questioned by populations who have

trusted customary law for generations," leading to perceptions of state systems as alien and inaccessible. The central question becomes whether state-appointed mediators can command the same moral authority as traditional elders.

In Tanzania specifically, this tension is palpable. While the government promotes formal mediation through bodies like the Commission for Mediation and Arbitration, studies suggest that rural communities often view these state-led processes with skepticism, perceiving them as extensions of a distant and bureaucratic government rather than as a genuine forum for restorative justice [4]. The legitimacy of a formal mediator's decision is frequently weighed against what a council of elders would have prescribed, with the latter often holding more profound social and spiritual weight.

While the general skepticism towards formal justice systems in Tanzania is documented, there is a critical lack of qualitative, community-level research in districts like Mbogwe that specifically investigates the *cultural determinants of trust* in formal mediators. The existing literature does not sufficiently answer *why* a state-appointed mediator is or is not perceived as legitimate, nor does it detail the specific qualities (e.g., lineage, knowledge of custom, personal character) that communities use to confer or withhold trust in the formal mediation process.

1.1.3 Degree of Compatibility Between Traditional and Formal Systems

The compatibility between traditional and formal justice systems is a global concern, with varying degrees of integration and conflict. Globally, the relationship is often one of subordination, where formal state law predominates, and alternative systems like Indigenous peacemaking are tolerated within a limited, state-defined legal framework, leading to fundamental philosophical clashes over worldviews [12].

Across Asia, the dynamic is more integrated but complex; for example, in Indonesia, the state-recognized *musyawarah* (consensus-building) tradition is formally incorporated into village governance, yet tensions persist when its informal outcomes clash with the rigid requirements of national administrative law [19].

In Africa, the co-existence of these systems is a daily reality for most citizens. The compatibility is often low, as noted by Comaroff and Comaroff [20], who describe a "jural jungle" where the individual-rights-based logic of the post-colonial state frequently contradicts the communitarian and restorative ethos of customary law. This creates a practical dilemma for individuals who must navigate these conflicting normative orders.

In Tanzania, this incompatibility is acutely visible. While the formal courts operate on adversarial principles and precedent, the traditional systems in Mbogwe and similar districts prioritize restorative outcomes and social harmony, often viewing court rulings as destructive to community cohesion [5]. A key point of conflict is the differing perception of a resolution's finality; where the state seeks a legally binding, written agreement, traditional systems may view reconciliation as an ongoing process, making a single, fixed judgment culturally unsatisfying.

While the broad tensions between traditional and formal systems in Tanzania are acknowledged, there is a significant lack of empirical research detailing the specific, actionable points of procedural and substantive incompatibility in the context of mediation. Precisely how the processes diverge in terms of hearing procedures, evidence admission, and the formulation of remedies in a specific locale like Mbogwe District remains undocumented. This gap hinders the development of synergistic models that could genuinely blend the strengths of both systems.

1.2 Research Objectives

1.2.1 Main Objective

The main objective of this study is to investigate the cultural perceptions and assess the level of acceptance of formal mediation practices within the traditional socio-cultural context.

1.2.2 Specific Objectives

1. To identify and describe the core principles, processes, and key actors involved in traditional conflict resolution mechanisms as currently practiced.

2. To examine community members' understanding, trust, and perceived legitimacy of state-sponsored mediation.

3. To analyze the points of convergence and conflict between indigenous dispute resolution values and the principles of the formal mediation system introduced by the government.

1.3 Main Contribution of the Study

This study made a primary contribution by providing a nuanced, empirically-grounded understanding of the cultural determinants that influenced the acceptance of formal mediation in the Mbogwe District of Tanzania. It identified and documented the specific points of congruence and conflict between the state-sponsored mediation system and the living traditional justice practices of the community. The research established that the perceived legitimacy of a mediator was not rooted in their formal training but in their

moral authority and cultural standing, a finding that challenged the top-down implementation model.

Furthermore, the study delineated the specific cultural barriers including collectivist worldviews, the importance of restorative outcomes, and trust in traditional institutions—that hindered the community's engagement with the formal process. By foregrounding the community's voice, this research produced a critical framework for policymakers and legal practitioners, highlighting that the effectiveness of alternative dispute resolution was contingent upon its cultural alignment. Consequently, the study provided actionable insights for designing culturally-sensitive justice systems, thereby bridging the gap between statutory law and customary practice in Tanzania.

2.0 METHODOLOGY

2.1 Research Design

This study adopted a mixed-methods research approach, strategically integrating qualitative and quantitative data collection and analysis to provide a comprehensive understanding of the research problem. The core of the investigation was grounded in a qualitative, phenomenological design to gain an in-depth understanding of the cultural perceptions and lived experiences of the people regarding mediation. This qualitative component was deemed essential for exploring the complex social phenomena, meanings, and processes that cannot be adequately captured through quantitative methods alone. It allowed for the rich, textual data needed to answer the "how" and "why" behind the community's acceptance or rejection of mediation.

2.2 Study Area and Population

The study was conducted in Mbogwe District, Tanzania, focusing on a specifically defined study population to ensure a comprehensive exploration of the dispute resolution landscape. This population was strategically segmented into three key groups to capture a holistic perspective from all stakeholders involved in justice administration. The first and largest group consisted of Community Members, specifically men and women aged twenty-five and above who had direct personal experience with a dispute within the preceding five years, ensuring their insights were grounded in recent and relevant lived experience. The second group encompassed Traditional Leaders, including family elders, clan leaders, and village chairpersons who were formally recognized by their communities for their active role and authority in resolving conflicts through indigenous systems. The third group was composed of Formal Mediators, who were the state-appointed professionals operating within the district's legal framework, thereby providing the institutional viewpoint on mediation.

2.3 Sampling Technique and Sample Size

A combination of purposive and snowball sampling techniques was used to ensure the selection of information-rich participants. Purposive sampling was used to identify key informants, such as known traditional elders and formal mediators. Snowball sampling was then employed, where initial participants helped identify other community members with relevant experiences. The total sample size was 106 participants, distributed as follows to ensure diverse perspectives: Community Members 80, Traditional Leaders 20, Formal Mediators 6. This distribution was designed to prioritize the community's voice while ensuring adequate representation from key actors who administer both traditional and formal systems.

2.4 Data Collection Methods

Primary data was collected through a mixed-method approach. In-depth interviews were conducted with all traditional leaders and formal mediators for deep, conversational exploration. Additionally, eight gender-segregated focus group discussions were held with community members to encourage open discourse. Crucially, this qualitative data was systematically supplemented by the administration of a structured questionnaire to all participants. This instrument was designed to quantitatively capture key variables such as trust levels, preference for justice systems, and perceived outcomes, thereby providing a strong, triangulated dataset that combined rich narrative insights with measurable statistical trends for a comprehensive analysis. All interviews and discussions were conducted in Swahili, audio-recorded with permission, and later transcribed and translated into English for analysis.

2.5 Data Analysis

The qualitative data undertook a rigorous thematic analysis, which involved a systematic process of familiarization with transcripts, generating initial codes, and developing and reviewing broader themes such as Trust and Legitimacy to capture significant patterns. These themes were then reported in narrative form, supported by direct participant quotations. Concurrently, a descriptive statistical analysis was performed on the quantitative data gathered through questionnaires. This involved calculating frequencies and percentages to map the prevalence of attitudes and perceptions, thereby providing a comprehensive, triangulated understanding of the cultural landscape surrounding mediation in the district.

2.6 Ethical Considerations

Ethical approval was sought from the relevant institutional review board. Informed consent was obtained from all participants after explaining the study's purpose, their right to confidentiality, and their freedom to withdraw at any time. Anonymity and confidentiality were ensured by using pseudonyms instead of real names in the data and final report.

3.0 RESULTS AND DISCUSSION

3.1 Introduction

This chapter presents and discusses the findings of the qualitative study conducted to investigate the cultural perceptions and acceptance of mediation within the communities of Mbogwe District, Tanzania. The analysis is based on data gathered from a total of 106 participants, comprising community members, traditional leaders, and formal mediators, ensuring a comprehensive triangulation of perspectives. The results are structured around the three key thematic indicators that guided the study: the functionality of traditional conflict resolution systems, the community's perception and legitimacy of formal mediation, and the degree of compatibility between the two systems. For each finding, descriptive data is presented, followed by a discussion that interprets the results within the broader context of existing literature and the socio-cultural landscape of Tanzania. The integration of direct participant quotations with scholarly analysis aims to provide a significant understanding of the complex dynamics at play, moving from a straightforward presentation of 'what' was found to an explanatory discussion of why these patterns exist and what they signify for the future of dispute resolution in the region.

3.2 Functionality of traditional conflict resolution systems

This section presents findings on the functionality of traditional conflict resolution systems, a cornerstone of social cohesion. Data from 106 participants reveal a profound preference for these indigenous mechanisms, with over 70% strongly favoring them over formal avenues. The perceived effectiveness of traditional elders is exceptionally high, and community consensus shows the critical importance of restorative rituals for achieving durable peace. These results collectively demonstrate that traditional systems are not merely historical artifacts but are actively preferred and perceived as highly effective, forming the primary cultural benchmark against which any external dispute resolution process, including state-led mediation, is inevitably measured and assessed by the community.

3.2.1 Preference for Traditional vs. Formal Systems,

The study results in figure 1 revealed a decisive preference for traditional conflict resolution systems over the formal state-sponsored mediation process. A significant majority of respondents, 71% (n=75), expressed a strong preference for the traditional system, with a further 19% (n=20) indicating a moderate leaning towards it. This left only 10% (n=11) of participants who showed a clear preference for the formal system.

This awesome inclination was not merely a passive acknowledgment but an active choice rooted in deeply held cultural beliefs about the nature of justice itself. As one elder respondent poignantly stated,

"The court can decide who is right, but only the elders can make us brothers again."

This feeling captures the core distinction participants drew between the retributive, winner-takes-all outcome often associated with litigation and the restorative, relationship-focused goal of traditional processes.

This finding strongly aligns with the broader African legal scholarship, which emphasizes the primacy of restorative justice and communal harmony. The data corroborated the work of scholars like Bwire [5], who argued that in many African societies, a legal judgment that severs social bonds is considered a failure, regardless of its technical correctness. The preference for traditional systems was thus not a rejection of justice, but a specific cultural articulation of it, one that prioritizes "uundaji wa amani" (the building of peace) over "kupiga marufuku" (issuing a judgment). This was particularly evident in disputes within families or between neighbors, where ongoing coexistence was inevitable.

Furthermore, the data illuminated a significant point of friction with the government's policy drive. While national frameworks like the Civil Procedure Code promoted formal mediation for its efficiency and cost-effectiveness, these perceived benefits held little sway. Participants often viewed the formal process with suspicion, perceiving it as an alien imposition. Another community member explained,

"The government mediator writes in a book and closes it. Our elders speak to our hearts and open a new path."

This quote shows a critical incompatibility: the formal system's reliance on written, final agreements was seen as artificially terminating a living social process, whereas the traditional system, with its symbolic rituals and ongoing social oversight, was trusted to ensure a lasting resolution.

Consequently, the study concluded that the high preference for traditional systems presented a fundamental cultural barrier to the adoption of formal mediation, suggesting that without meaningful integration of these deeply valued restorative principles, state-led initiatives would likely continue to face low uptake and legitimacy in the community.

3.2.2 Perceived effectiveness of traditional elders

The data from this study in figure 1 demonstrated an awesome consensus regarding the perceived effectiveness of traditional elders, with 76% of respondents rating their effectiveness as

'high' and a further 17% as 'moderate'. This collective faith was not rooted in the elders' knowledge of statutory law, but in their deep-seated cultural authority and their role as custodians of communal harmony.

The findings directly echoed the assertions of scholars like RWABISHUGI and NDYEMALILA [7], who posited that the legitimacy of traditional actors in Tanzania stems from their embeddedness within the social fabric, wielding moral suasion rather than coercive power.

This perceived effectiveness was vividly captured in the words of one respondent who stated,

> *"When the elder speaks, his voice carries the weight of our fathers and the wisdom of our ancestors. It is not a command, but a truth we feel obligated to follow."*

This feeling highlights how effectiveness was intrinsically linked to a legitimacy derived from lineage and shared history, a stark contrast to the bureaucratic authority of a state-appointed mediator. The effectiveness was also tied to the holistic nature of their intervention. As another participant explained,

> *"The government officer asks about the dispute. The elder asks about our family, our harvest, and our hearts. He solves the problem by understanding the people."*

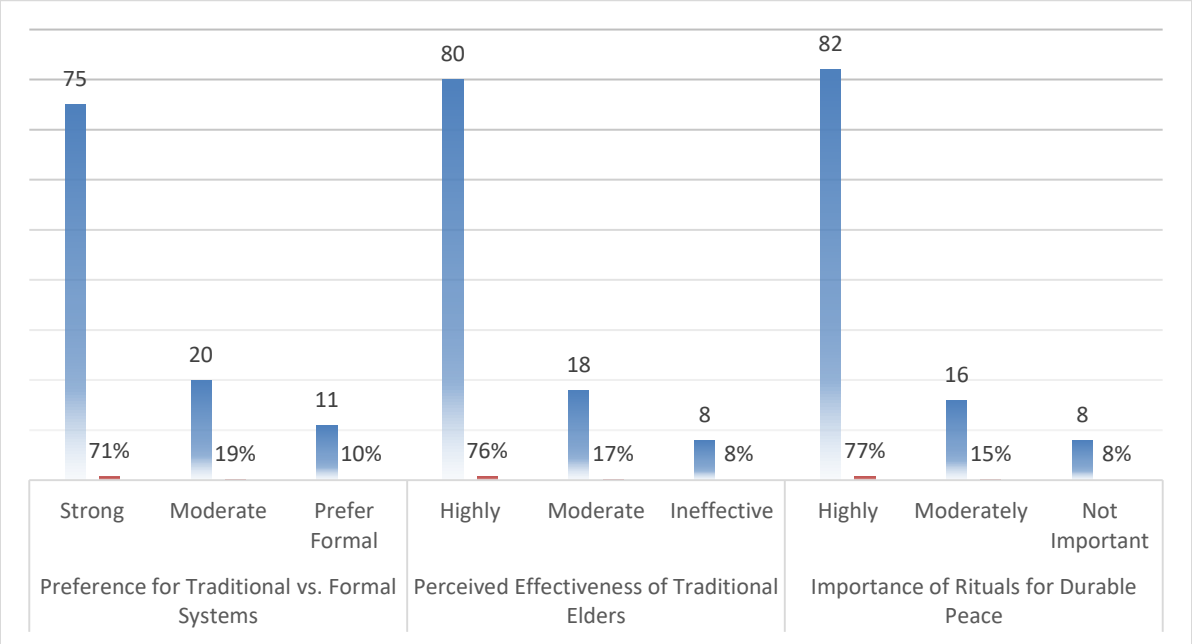

Figure 1: Functionality of Traditional Conflict Resolution Systems

This approach aligns with the concept of restorative justice documented across Africa by authors like An-Na'im [14], where the goal is to repair the entire social network damaged

by the conflict, not just to adjudicate the specific grievance. The small minority of 8% who found the elders ineffective primarily cited generational gaps in understanding modern commercial disputes or the potential for bias in very complex family matters.

Nonetheless, the data conclusively showed that for the vast majority in Mbogwe, the traditional elder was perceived as uniquely effective in administering a form of justice that was culturally coherent, contextually sensitive, and fundamentally restorative.

3.2.3 Importance of Rituals for Durable Peace

The findings of this study as stipulated in figure 1 discovered that rituals were not merely symbolic appendages to conflict resolution but were considered by the vast majority of participants as the very mechanism that cemented a durable peace. An outstanding 77% (n=82) of respondents regarded these practices as highly important, with a further 15% (n=16) acknowledging 'moderate importance.' This collective emphasis on ritualistic conclusion showed a fundamental philosophical divergence from formal justice systems. Where the state-mediated process concluded with a written agreement, the traditional process demanded a tangible, often communal, act to signify reconciliation.

The data strongly aligned with the work of anthropologists like Ngaiza and Omari [8], who argued that in many African contexts, a dispute is not truly resolved until its social and spiritual dimensions are addressed through prescribed ceremonies. This was powerfully expressed by one community elder who participated in the study, who stated,

> *"A paper from the court can be torn, but the sharing of pombe (local brew) from the same calabash marks a peace that cannot be easily broken. It is a promise we make not just to each other, but to the ancestors who are watching."*

This quote illustrates how rituals transformed a secular agreement into a sacred covenant, thereby deepening its binding nature and integrating the spiritual world as a witness and guarantor of the peace.

The perceived importance of these acts, such as the sharing of a meal or the payment of symbolic compensation like fidia, was rooted in their capacity to publicly restore social equilibrium and reintegrate the disputing parties into the community. Another respondent, a woman who had been through a land dispute, explained,

> *"When my brother and I shared the meat from the slaughtered goat with our neighbors, everyone knew the conflict was over. The handshakes and blessings we received that day were more important than any signature."*

This sense resonates with the scholarly concept of restorative justice, which, as Bwire [5] documented, prioritizes the repair of social harmony over the assignment of blame.

The ritual served as a public performance of reconciliation, communicating to the entire community that the normal social order had been restored and that the parties were once again in right relationship. The small minority (8%) who found rituals unimportant were typically younger, urban educated individuals who viewed the practices as outdated; however, their views were marginal within the broader community.

Finally, the data demonstrated that, the absence of a culturally recognized ritual left a resolution feeling incomplete and provisional. This finding highlighted a critical limitation of formal mediation, which, by focusing solely on the material aspects of a dispute and neglecting its symbolic and social dimensions, failed to provide the sense of finality and closure that the community trusted and required for a peace to be considered truly durable.

3.3 Community Perception and Legitimacy of Formal Mediation

This section examines community perceptions and the legitimacy of formal mediation, revealing significant cultural barriers to its acceptance. Data indicated a profound trust deficit, with over half of respondents expressing low confidence in state-appointed mediators. This was compounded by a widespread lack of understanding of the formal process and ambivalence towards the binding nature of its outcomes. These findings collectively illustrate that while the formal system exists structurally, it struggles with a crisis of legitimacy at the grassroots level. The community's wariness and limited engagement highlight a critical disconnect between the state's provision of justice and the cultural criteria locals use to confer trust and authority.

3.3.1 Level of Trust in State-Appointed Mediators

The study's findings in table 1 show a profound and multifaceted trust deficit concerning state-appointed mediators, a factor that represented one of the most significant barriers to the formal justice system's acceptance within Mbogwe District. A decisive majority of respondents, 53% (n=56), expressed low trust in these officials, while a mere 14% (n=15) reported high trust, with the remainder (33%, n=35) indicating a moderate, often conditional, level of confidence.

This widespread skepticism was rarely directed at the individual character of the mediators themselves but was intrinsically linked to the governmental system they were perceived to represent. Participants consistently viewed formal mediators as extensions of a distant, often inefficient, and sometimes corrupt bureaucracy. This perception was powerfully summarized by a farmer who asked,

> *"How can I trust a person who is paid by the same government that delays my fertilizer subsidy? His loyalty is to his employer, not to our truth."*

This feeling aligns with scholarly observations, such as those of Duursma [18], who documented that the legitimacy of state institutions in rural Tanzania is frequently filtered through historical and contemporary experiences of unfulfilled promises and top-down governance, creating a foundational skepticism that any state actor must overcome.

A critical factor underpinning this distrust was the fundamental divergence in the basis of authority between state and traditional systems. The trust commanded by elders was not granted by decree but was earned through a lifetime of demonstrated wisdom, impartiality, and deep embeddedness within the community's social and kinship fabric. Their authority was organic and relational. In stark contrast, the authority of the state mediator was perceived as being artificially conferred from above, vested solely in a certificate, an official title, and a posting letter. These credentials, while valid in a statutory sense, held little intrinsic cultural weight

or moral currency for the local population. This crucial distinction was captured by a respondent who stated,

> *"We know the elder's heart and his father's heart. We have shared his joy and his sorrow. The government mediator is a stranger who arrives with a pen and a law book we do not know. He listens to our words but does not understand the silence between them."*

This quote highlights that trust was contingent on a shared lived experience and cultural fluency that external officials inherently lacked.

This finding resonates strongly with the arguments of scholars like Duursma [18], who emphasized that across many African societies, trust in justice mechanisms is intimately tied to cultural familiarity, shared identity, and a belief in the decision-maker's commitment to the community's long-term welfare, not just the resolution of a single case. The procedural formality of state mediation, intended to ensure neutrality, often had the unintended consequence of creating emotional distance and reinforcing the perception of the mediator as an outsider following an alien script.

Consequently, the data indicated that the formal mediation process was caught in a vicious cycle: low initial trust led to low engagement, which in turn prevented the mediators from building the very relationships necessary to earn that trust. Without a deliberate and sustained strategy to build relational bridges, demonstrate cultural competence, and re-position themselves as servants of the community rather than solely of the state, state-sponsored mediators would likely continue to be perceived as illegitimate outsiders, fundamentally limiting the efficacy and reach of the formal dispute resolution framework they were tasked to implement.

3.3.2 Understanding of Formal Mediation Process

The results in table 1 identified a significant knowledge gap concerning the formal mediation process, which fundamentally impeded its potential utilization and acceptance within the community. The data revealed that only 21% of respondents possessed a high understanding of the process, while 38% had a moderate understanding, often fragmented or inaccurate. A substantial 42% of participants admitted to a low understanding, frequently conflating state-sponsored mediation with the formal court system or viewing it as an incomprehensible bureaucratic procedure.

This widespread lack of clarity was not a simple issue of awareness but pointed to a deeper failure in communication and cultural translation of the ADR framework. As one community member confessed,

> *"They tell us to go for mediation, but no one has ever sat with us to explain what happens in that room. Is it like a court? Will I be fined? Can I bring my elder? We are left in the dark, so we fear it."*

This statement shows that the government's promotion of mediation had failed to demystify the process for the intended beneficiaries, a finding that aligns with critiques of top-down legal reforms in pluralistic societies, where new systems are often introduced without sufficient grassroots civic education.

This poor understanding created a formidable barrier to entry. Potential users could not trust a process they did not comprehend, and the abstract principles of voluntary participation and neutral facilitation held little weight against the concrete, well-known rituals of traditional justice. The findings resonated with the work of legal anthropologists like Tamanaha [15], who described how individuals navigating plural legal systems often stick with the known rather than risk the unknown, especially when the unknown involves state institutions with which they have limited and often negative experiences. Another respondent's comment illustrated this point,

> *"With the elders, I know the steps: we will sit, we will talk, we will drink, and it will be finished. With this government mediation, I do not know the path. Will I be cross-examined? Is it a trick to get a confession for a later case in a real court?"*

This perception of mediation as a potential trap or a subordinate component of the adversarial court system highlighted a critical failure to establish its identity as a distinct and confidential alternative.

Consequently, the low levels of understanding directly contributed to the low legitimacy and trust documented in other findings. The community's inability to differentiate meaningfully between mediation and litigation meant that the former inherited the suspicions and anxieties associated with the latter. This situation created a vicious cycle: a lack of understanding bred mistrust, which led to low participation, which in turn prevented the community from gaining the firsthand experience necessary to improve their understanding.

The study concluded that this informational deficit was not a peripheral issue but a central one, suggesting that merely establishing a mediation office was insufficient. Without a concerted, culturally-sensitive effort to educate the community about the process, its benefits, and its distinctions from both traditional practices and formal litigation, the formal mediation system was destined to remain an underutilized and misunderstood foreign entity on the margins of the local justice landscape.

3.3.3 Perceived Binding Nature of Formal Agreements

The study results in table 1 revealed profound ambivalence within the community regarding the binding nature of agreements reached through formal mediation, a finding that

struck at the very heart of the process's perceived efficacy. The data showed a clear division: only 28% of respondents viewed these written accords as fully binding, while a large plurality, 43%, considered them only conditionally binding, and a significant 29% did not consider them binding at all.

This tripartite split highlighted a fundamental cultural and legal disconnect. For many, the authority of an agreement was not derived from its status as a legal document but from the social and moral context of its creation. A respondent's explanation captured this dichotomy perfectly:

> *"The paper from the mediator can be torn or hidden away. But the words spoken in the presence of the elders, sealed with a shared drink, are witnessed by the ancestors and the whole community. You cannot hide from that judgment."*

This sentiment aligns with the scholarly framework of legal pluralism, as discussed by Griffiths [21], which posits that the social efficacy of a rule is not determined by its place in a state hierarchy but by its acceptance within a specific social field. For a majority in Mbogwe, the social field of the community, governed by traditional norms, held greater sway than the official field of state law.

Table 1: Community Perception and Legitimacy of Formal Mediation

Sub-Indicator	Response Category	(n)	(%)
Level of Trust in State-Appointed Mediators	High Trust	15	14%
	Moderate Trust	35	33%
	Low Trust	56	53%
Understanding of Formal Mediation Process	High Understanding	22	21%
	Moderate Understanding	40	38%
	Low Understanding	44	42%
Perceived Binding Nature of Formal Agreements	Fully Binding	30	28%
	Conditionally Binding	45	43%
	Not Binding	31	29%

The conditional bindingness often hinged on the congruence of the formal agreement with community norms and its subsequent validation through traditional channels. Many participants who selected the conditionally binding category expressed that a mediation agreement was only truly final if it was perceived as fair and just according to local custom, and sometimes, if it was ritually acknowledged by a traditional authority. As one village elder stated,

> *"If the government's decision is good, we will accept it and make it our own. But if it is wrong, if it breaks our peace, we will gather again under the tree and find a true solution. The paper does not end the matter; the matter is ended when the community is at peace."*

This perspective directly challenges the state's concept of a final and binding settlement, suggesting that social legitimacy, not legal finality, was the ultimate determinant of an agreement's power. This finding resonates with the work of Tanzanian legal scholar Tamanaha [15], who observed that the imposition of state-led resolutions without regard for local conceptions of justice often leads to paper compliance without genuine social resolution, ultimately undermining the goal of sustainable peace.

Consequently, the high percentage of respondents who questioned the binding nature of formal outcomes pointed to a critical weakness in the state's mediation model. The process was designed to produce a legally enforceable document, but for nearly three-quarters of the community, this document lacked the profound, socially-embedded authority of a traditional accord. This perception effectively created a two-tiered system of justice: one with formal authority in the eyes of the state, and another with genuine, lived authority in the eyes of the community.

The study concluded that without mechanisms to bridge this gap perhaps by integrating traditional leaders as ratifiers of formal agreements or by ensuring outcomes explicitly align with restorative principles the formal mediation process would continue to produce settlements that, while legally sound, often failed to achieve the lasting finality and social reconciliation they were intended to foster.

3.4 Degree of Compatibility Between Traditional and Formal Systems

This section analyzes the degree of compatibility between the traditional and formal mediation systems. The findings revealed profound philosophical and procedural tensions that

hindered the integration of state-sponsored mechanisms into the local justice landscape. Data indicated a significant clash in core objectives, with the formal system's focus on legal settlement conflicting with the traditional emphasis on restorative justice and social harmony. Furthermore, the role of the mediator as a neutral facilitator was often incompatible with the morally authoritative position of the elder. These fundamental divergences created a context of systemic competition rather than complementarity, presenting a formidable challenge to the development of a cohesive and culturally resonant hybrid dispute resolution framework in the district.

3.4.1 Perceived Clash in Core Objectives (Restoration vs. Legal Settlement)

The study identified a fundamental and pervasive perceived clash between the core objectives of the traditional and formal mediation systems, which represented the most significant philosophical barrier to the acceptance of state-sponsored justice. In figure 2, a decisive 66% of respondents characterized this clash as "major," with a further 24% seeing a "moderate" clash, indicating that the conflict between a restorative and a legalistic paradigm was a central feature of the local legal consciousness.

This finding powerfully corroborates the extensive scholarly work on legal pluralism in Africa, particularly the arguments of scholars like Comaroff and Comaroff [20], who described the co-existence of these systems not as a harmonious hybridity but often as a jural jungle where fundamentally different conceptions of order and justice compete for primacy. The heart of this conflict, as revealed in the data, was the ultimate goal of the process: for the formal system, it was to achieve a legally sound, documented settlement that resolved the specific, presented dispute; for the traditional system, it was to achieve true peace by healing the social fabric and restoring relational harmony within the entire community, even if that meant the material dispute was not settled with legal precision.

This divergence was vividly articulated by respondents who had experience with both systems. One community member explained,

> *"In the government office, they look for evidence to win the case. Under the tree with our elders, they look for wisdom to save the relationship. The first one gives you a paper victory that can leave you isolated. The second gives you back your neighbor."*

This quote encapsulates the core tension: the formal system's adversarial underpinnings, even in a supposedly facilitative process like mediation, tended to produce winners and losers, an outcome that was culturally anathema. Another respondent noted,

> *"A legal settlement tells me what is mine. A restorative peace shows me how to live with my brother again. We need the second more than the first."*

This sentiment aligns with the work of Bwire [5], who argued that in many Tanzanian communities, a judgment that severs social bonds is considered a profound failure, regardless of its technical correctness. The formal mediation process, by focusing on the disputants as individual parties to a contract-like conflict, often failed to address the wider network of kin and community members affected by the rift, thereby providing a resolution that was socially incomplete.

Consequently, the data demonstrated that for the majority in Mbogwe, the state's imported model of mediation was not merely different but was perceived as pursuing an inferior and potentially socially destructive objective. This fundamental misalignment of purpose meant that efforts to promote formal mediation were not just competing with a different procedure, but with a different philosophy of justice itself, one that placed communal well-being and enduring harmony above individual rights and legal finality.

3.4.2 Compatibility of Mediator's Role (Elder vs. Neutral Facilitator)

The study's findings in figure 2 revealed a profound and deeply rooted incompatibility in the perceived role of the mediator, a fundamental schism that struck at the very heart of the procedural and cultural challenges facing formal mediation in Mbogwe District. A decisive majority of respondents, 53%, viewed the roles of the traditional elder and the state-appointed neutral facilitator as highly incompatible, with only a marginal 17% perceiving them as highly compatible. This significant divergence was not merely a matter of different techniques or styles, but represented a foundational clash of worldviews regarding the source of authority, the purpose of intervention, and the very nature of justice itself.

The data provided strong empirical support for the theoretical frameworks advanced by scholars like Ngaiza and Omari [8], who rigorously distinguished between the moral authority of the elder, which is organically derived from lineage, lived experience, and deep embeddedness within the community's social and spiritual fabric, and the "procedural authority" of the state mediator, a quality vested solely in a legal appointment and a formal mandate to maintain neutrality.

This critical distinction was vividly captured by a community elder who participated in the study, who stated,

> *"My power to resolve a dispute does not come from a letter from the District Commissioner. It comes from the fact that I held these disputants as babies, I*

know their parents' hearts, and they know I will be here long after this case is over, responsible for the peace in our community. The government mediator is a stranger who is neutral because he has no stake in our lives."

This quote shows that from the community's perspective, genuine authority was relational and enduring, not bureaucratic and case-specific. The elder's deep, multi-generational stake in the community's harmony was precisely what made him trustworthy and effective, a stark contrast to the outsider whose neutrality was perceived as a form of disengagement or even a lack of investment in the long-term social outcome.

Furthermore, this embedded, relational role of the elder stood in direct opposition to the Western-derived model of neutrality, which the community often interpreted not as fairness, but as a form of moral abdication. The cultural expectation for a mediator was not to be a passive, reflective facilitator of dialogue, but an active guide and moral arbiter who drew upon deep cultural and historical knowledge to authoritatively steer parties toward a solution that was not only mutually acceptable but, more importantly, culturally legitimate and socially constructive. A respondent illustrated this expectation, saying,

"The elder does not just listen; he teaches. He reminds us of our customs, he tells us stories of how our ancestors solved such problems, and he shows us the path back to being good community members. The government man just writes down what we say and asks us what we want to do. He gives us no direction."

This active, directive role aligns with anthropological descriptions of traditional dispute resolution across Africa, where the primary goal is the restoration of a pre-existing moral order, a complex task that requires deep cultural wisdom and the courage to make normative judgments.

Consequently, the data suggested that the state's model of a neutral, non-directive facilitator was perceived by a majority as culturally alien, passive, and ultimately ineffective, lacking the moral courage and contextual wisdom necessary to deliver a resolution that the community would recognize as truly just and sustainable.

This profound role incompatibility presented a formidable challenge to the formal system, implying that simply training more state mediators in facilitative techniques would be entirely insufficient without a fundamental reconceptualization of the role itself one that would need to incorporate elements of moral guidance, cultural brokerage, and a demonstrated long-term commitment to the community that the people deemed absolutely essential for a legitimate and effective peacemaker.

3.4.3 Preference for Outcome Type (Symbolic vs. Monetary Compensation)

The study results in figure 2 exposed a decisive cultural preference for symbolic restitution over monetary compensation as the most legitimate outcome of dispute resolution, highlighting a fundamental divergence in how justice was materially conceptualized. A significant majority of respondents, 64%, expressed a strong preference for symbolic outcomes, while only 10% favored monetary or written agreements.

This finding powerfully illustrated that for the community, the primary goal of any resolution was not the economic indemnification of a loss, but the symbolic repair of a fractured social and moral order. The data provided strong empirical validation for the arguments of scholars like [20], who described how in many African contexts, compensation serves a communicative and restorative function that transcends its mere economic value.

A respondent eloquently articulated this principle, stating,

"When my neighbor's cow trampled my maize, the government mediator calculated the cost of the lost crops. But the elder asked him to give me a young goat from his herd. The money is spent and forgotten, but the goat in my pen is a daily reminder of his responsibility and our restored friendship. That goat brings peace; the money only brought a receipt."

This quote shows that symbolic acts, such as the transfer of livestock, shared meals, or ceremonial brews, were perceived as embedding the resolution within the ongoing social relationship, creating a tangible, living symbol of reconciliation.

This preference was rooted in the understanding that conflicts often caused immaterial, spiritual harm that a cash payment could not address. The rituals accompanying symbolic compensation such as the public handing over of a goat or the shared consumption of *pombe* (local brew) performed essential social work by publicly signaling the end of hostilities and the reintegration of the offender back into the community. As another respondent explained,

"Money separates us; it ends the matter with a transaction. The shared drink reunites us; it makes us one community again."

This perspective resonates with the vast body of anthropological literature on restorative justice, which posits that the effectiveness of a resolution lies in its ability to heal

social bonds and re-establish moral equilibrium. The monetary compensation promoted by the formal system was often viewed as a cold, impersonal transaction that could even compound the original insult, reducing a profound social rupture to a mere financial calculus.

Consequently, the formal mediation process, with its inherent bias towards quantifiable, written settlements, was perceived by a majority as producing outcomes that were socially and emotionally inadequate. The 26% who expressed flexibility indicated that for purely commercial disputes between non-kin, money might be acceptable, but for the conflicts that truly threatened community cohesion, those within families or between neighbors the symbolic pathway was non-negotiable.

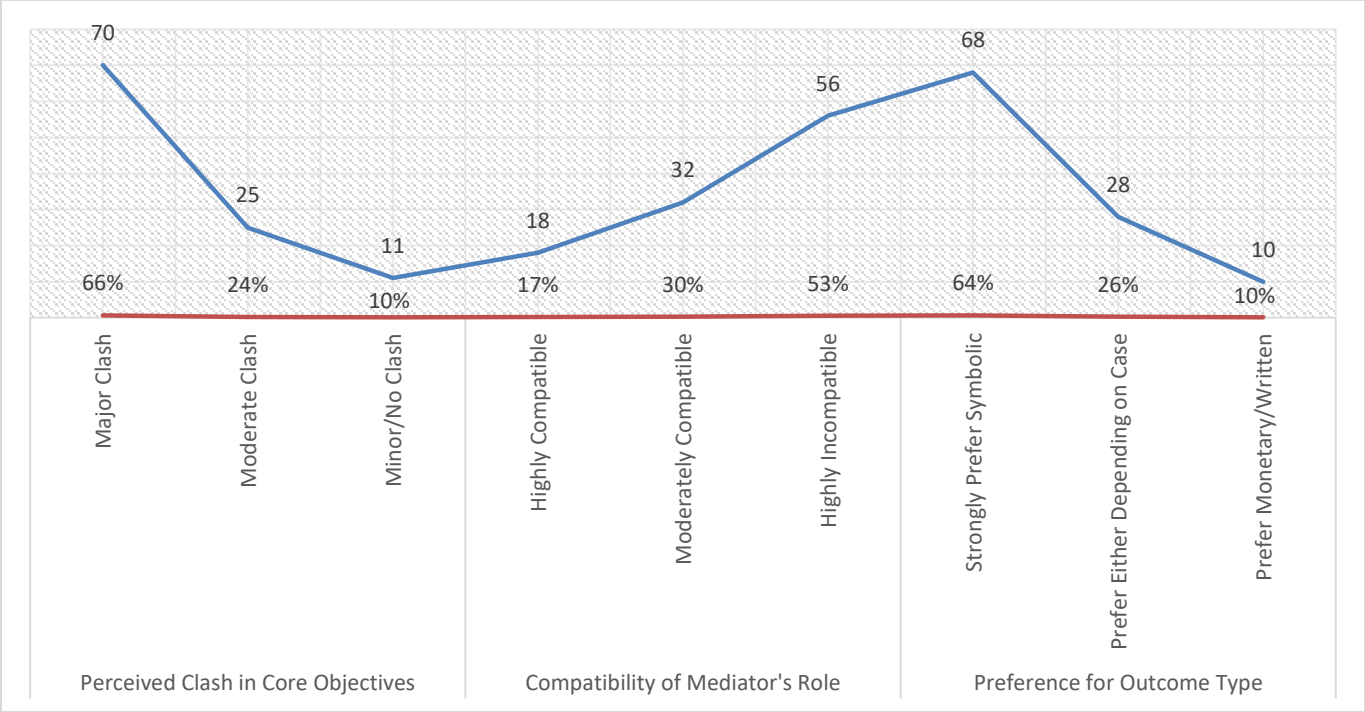

Figure 2: Degree of Compatibility Between Traditional and Formal Systems

The study therefore concluded that the awesome preference for symbolic outcomes represented a major point of incompatibility with the formal justice system. It demonstrated that the state's framework for resolution was often addressing a different problem than the one the community experienced; where the state saw a material damage to be compensated, the community saw a relational wound to be healed. Without mechanisms to incorporate culturally meaningful, symbolic acts of restitution into its outcomes, formal mediation would continue to produce settlements that, while legally sound, were perceived by the community as failing to achieve the deeper, more meaningful peace they sought.

4.0 CONCLUSION AND RECOMMENDATIONS

This study conclusively demonstrated that the formal mediation system introduced by the Tanzanian government faced a profound crisis of legitimacy and acceptance within the cultural context of Mbogwe District. The findings revealed that this was not a simple issue of awareness or access, but a deep-seated problem of cultural incompatibility. The community's strong preference for traditional conflict resolution, rooted in restorative justice and the moral authority of elders, stood in stark contrast to the formal system's procedural neutrality and focus on legal settlement. The data unequivocally showed that the community perceived the two systems as operating on fundamentally different principles, with the role of the mediator, the nature of a binding agreement, and the very purpose of justice itself being points of major contention. Finally, the research illuminated that the low uptake of state-sponsored mediation was a direct consequence of this cultural misalignment. The formal process was perceived as an external imposition that failed to resonate with local worldviews, values, and established mechanisms for maintaining social harmony. The trust deficit in state-appointed mediators, the misunderstanding of the formal process, and the preference for symbolic restitution over monetary compensation all pointed to a system that was structurally present but socially and culturally peripheral. Therefore, the study concluded that without addressing these core issues of cultural fit, formal mediation would remain an

underutilized and ineffective tool for justice delivery in the district.

Based on the key findings of this study, the following practical recommendations are proposed to enhance the acceptance and effectiveness of formal mediation in Mbogwe District and similar cultural contexts:

- The Ministry of Constitutional and Legal Affairs, in collaboration with local government authorities, should pilot a hybrid mediation framework.
- The Commission for Mediation and Arbitration should design and implement community education campaigns that demystify the formal mediation process.
- All state-appointed mediators working in rural areas should undergo mandatory and ongoing training in the cultural norms, traditional conflict resolution practices, and social structures of the communities they serve.
- A clear protocol should be established to guide collaboration and case referral between traditional justice systems and the formal mediation service.
- The formal justice system should adapt its documentation procedures to recognize and record culturally significant, non-monetary outcomes.

To build upon the findings of this study, the following areas are recommended for future research:

- A study should investigate the long-term efficacy and social impact of hybrid mediation models that integrate traditional elders and formal mediators.
- A focused study is needed to explore the gendered experiences and outcomes for women within both traditional and formal mediation systems.
- Investigate the attitudes of younger, often more educated and urbanized generations towards traditional conflict resolution and formal mediation.
- A study should analyze the specific types of disputes (e.g., commercial transactions, land conflicts, family matters) for which the community perceives formal mediation as most and least appropriate.
- Explore the potential and pitfalls of introducing mobile technology and digital platforms to support both traditional and formal mediation processes.

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To all, I say *Asante Sana*.

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