

INVESTIGATING THE EFFECT OF MEDIATION ON ACCESS TO JUSTICE IN GIHANGA COMMUNE IN BURUNDI

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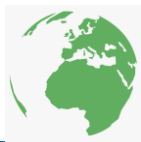
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ABSTRACT

The study set out to investigate the mediation effect on access to justice taking specific interest in Gihanga commune. The study employed the descriptive and correlational design and opted quantitative approach. The sample size of 705 from the total population of 55,344 people was used. Data collected from the field was analyzed using SPSS Version (25.0) and was presented using Pearson's correlation, multiple regression and factor structure loadings. The result indicated that there is a significant positive relationship between Mediation and Access to justice ($r = 0.688$, $P\text{-value} < 0.01$). There is also a significant positive relationship between Awareness and Access to justice ($r = 0.727$, $P\text{-value} < 0.01$) and a significant positive relationship between Mediation and Awareness ($r = 0.710$, $P\text{-value} < 0.01$). These variables explained 56.4% of the variance of Access to justice ($R^2 = .564$). The most influential predictor of Access to justice was Awareness ($\beta = .470$, $\text{Sig} .000$). Mediation is less likely to influence Access to justice since it portrays a lower significance than Awareness ($\beta = .346$, $\text{Sig} .003$) in the model. The study recommends enlightenment of masses on the ease, importance and impact of alternative dispute resolution mechanisms, creation of awareness campaigns to inform masses of their rights and duties as responsible citizens, constitutional review to provide clear legislation on various legal players as well as investment in legal aid services and promotion of less costly legal avenues like arbitration, among others.

Keywords: Mediation, Mediator, Dispute, Awareness, and Access to Justice.



INTRODUCTION

Improving mediation is crucial to access to justice in Gihanga Commune where farmers, breeders, and people are doing different businesses. The interaction between them can generate multiple disputes: family disputes, land disputes, social disputes, commercial disputes, etc. The right of access to justice is a major challenge for population and mostly for vulnerable populations. In fact, it has been recognised that the legal process is not always the most satisfactory way of settling disputes. It can be lengthy, costly, antagonistic, and uncertain, all of which are undesirable, and can lead to dissatisfaction with the legal process itself (Cohen, 2003). This situation affects both the demand and the offer of justice (ASF, 2012). This is the case in Gihanga Commune as well as in other communes of the country. In fact, people, in their relationships, communications and interactions, experiment disputes or conflicts. A report on the communal exchange days between the local administration and the Bakanguriramahoro Women Mediators (BWM, 2016) identified 10 recurrent conflicts in communities (all communes) : “ (1) gender based violence; (2) school dropouts; (3) unwanted pregnancies and early marriages; (4) marital conflict and violence; (5) drunkenness, drugs and prohibited drinks; (6) theft and scam; (7) mismanagement of family property; (8) polygamy and concubinage; (9) land conflicts;(10) illegal marriages”. And once there is a conflict or dispute, there is a need of a quick and inexpensive solution in the neighbourhood. However, people who access to justice remains few. Indeed, the statistic service of the Justice Ministry mention that, in Gihanga Commune, in 2016 and 2017 (Justice Ministry, 2018), civil cases brought to court were respectively 350 cases and 369 cases while Judges were respectively around 9 Judges and 8 Judges.

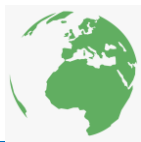
As mentioned previously, the population of Gihanga Commune is around 55,344 habitants. This means that there is one judge for 6,149 habitants in 2016 and one judge for 6,918 habitants in 2017 (SSJM, 2017). The jurisdiction is unable to trial civil cases if each habitant brings a case towards it. And if it happens that litigants bring their cases to court, it is common that at the end of the litigation, there is a winner and a loser. And most of the time, one of them or both are unsatisfied by the judgment, they lament that they have suffered an injustice. This is due to many reasons such as lack of access to information related to the



functioning of the jurisdiction, delays, costs of the proceedings, corruption, unawareness of the law and procedures, illiteracy.

This study helps to know and understand that there is an alternative dispute resolution mechanism to litigation such as mediation which is more accessible, inexpensive, quicker, intimate, effective and upholds relationships between disputants. Thus, mediation enhances access to justice, in other words allow disputants to obtain a just and fair solution reached by involving disputants in a mediation process facilitated by an impartial third party, named mediator. Stakeholders in dispute resolution mechanism and particularly providers and disputants will then undertake mediation so to transform destructive conflicts or destructive disputes into constructive situations. Consequently, disputants will save their interests, and they will have response to their respective needs, then they will be both winners, and will be satisfied by the result of the decision-making process, and at the end reconciliation will happen and sustain peace and development in communities. This study therefore was to establish the relationship between mediation, awareness and access to justice as well as the intermediary factors therein.

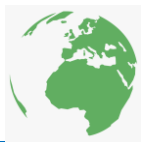
Thus, Mediation means a process whereby a neutral third person called a mediator acts to encourage and facilitate the resolution of a dispute between two or more parties. It is an informal and non-adversarial process with the objective of helping the disputing parties reach a mutually acceptable and voluntary agreement. In mediation, decision making authority rests with the parties. The role of the mediator includes, but is not limited to, assisting the parties in identifying issues, fostering joint problem solving, and exploring settlement alternatives” (Tetunic, 2003). It is important to distinguish mediation with other alternative dispute resolution such as conciliation, and arbitration. Conciliation is a process whereby a third party guides the parties in dispute to try and reach a compromise that suits both parties (Bennett, 2011). So, for instance, if a dispute has escalated to the stage where an employee submits a claim against his employer to an employment tribunal, the inspector of labor can offer its conciliation service to settle that dispute before the formal hearing. Similarly, mediation is not arbitration, because arbitration is a process in which an impartial third party (after hearing from both sides) makes a final, usually binding, agreement (Bennett, 2011). Arbitration involves an impartial outsider being asked to make a decision on a dispute. The



arbitrator makes a firm decision on a case based on the evidence presented by the parties. Arbitration is voluntary, so both sides must agree to go to arbitration; they should also agree in advance that they will abide by the arbitrator's decision" (ACAS, 2008).

Awareness is knowledge or understanding that something or a situation exists based on information or experience. Slama (2010) highlights that mediators have to know what issues they can or cannot deal with when it comes to the parties involved in mediation. In fact, each person has his positive or negative biases expressed through positive or negative attitudes regarding to certain people, certain situations, or certain beliefs people hold. Building legal knowledge amongst populations who have limited access to legal services, who rely upon informal legal structures, or who have to represent themselves in legal processes, is fundamental to improving access to justice in general (Eveleigh, 2018). Communication is often overlooked or tacked on in development programming yet quality communication, education and empowerment are integral pillars for improving rule of law. Governments and organizations ought to devise an approach that engages target populations with genuinely interactive mechanisms through which to build legal knowledge and learn to apply this in practice to improve their situation. NGOs and civil society organizations should work together with communities to identify barriers to positive change and craft communication and empowerment strategies together (Earl, 2016).

Access to justice is rooted in acts such as Universal Declaration of Human Rights, African Charter on Human and Peoples Rights, Burundi constitution. UDHR (1948) declares that "Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law". ACHPR (1981), in its article 7, states that "Every individual shall have the right to have his cause heard. This comprises: a) the right to an appeal to competent national organs against acts of violating his fundamental rights as recognized and guaranteed by conventions, laws, regulations and customs in force; b) the right to be presumed innocent until proved guilty by a competent court or tribunal; c) the right to defence, including the right to be defended by counsel of his choice; d) the right to be tried within a reasonable time by an impartial court or tribunal. Burundi constitution (2018), in its article 38, states that "Everyone is entitled in a judicial or



administrative proceeding to a fair hearing and to a fair trial”. Through these fundamental acts, it’s undoubtedly that all over the world, access to justice is not only a fundamental right but also one of the aspirations of the population. On population’s understanding and expectation, access to justice is key to justice, peace, social stability, cohesion and development. However, access to justice is a challenge for a large number of citizens, particularly vulnerable. This is due to justice system failure which generates the growth of ADR as explained by Genn (2009): “the interest in ADR, around the world, has grown out of a failure of the civil courts to provide access to fair procedures. This is because criminal and civil courts are overloaded; legal costs are high and disproportionate. Enforcement can be difficult and, in many jurisdictions, there is little or no public funding for legal aid”. DIHR (2001) indicates that in Kenya, 26 percent of the persons who needed legal services actually benefit from it. In Northern Kenya, courts are few and cover a very large area. The courts are also frequently understaffed and overworked, which is a cause of slow delivery of justice in Kenya. Legal instruments are drafted in a way that makes them too complicated for ordinary people to understand, and it is often impossible to obtain copies of legislative acts. One consequence of access to justice problems in the formal legal system is that many Kenyan’s resorts to alternative systems of justice such as mediation processes facilitated by paralegals and community-based traditional justice systems.

In Uganda, one major challenge concerns the huge backlog of cases, which is in part caused by budgetary constraints that limit the number of judicial personnel. Another key problem is that legal sector personnel, including paralegals, often lack the necessary training. There are also “legislative bottlenecks” relating to procedural guidelines, which cause access to justice problems, especially at the local level. Poverty, geographical distribution and proximity, ignorance of the law also constitute a significant obstacle for access to the formal justice system, both because many people cannot afford legal assistance and representation or cover the costs related to transport, judicial fees or even bribery. Bowd (2009) explains that in countries like Sierra Leone, Tanzania and Zambia, “illiteracy affects a significant proportion of the population”, and thereby represents an important challenge to access to justice. In Burundi, the National Commission of Human Rights (2013) states that “Justice is above all a matter of access, and the attention paid to everyone's access to justice is now common....”



In Burundi, Justice Ministry (2016-2020) explains that judiciary backward is a persistent challenge. In fact, in 2014 the judiciary backward was 66 692 cases only in superior jurisdictions. The budget of the Justice Ministry within judicial institutions is 1, 2% of the national budget. Comparing the justice demand (very high) and the offer (very low) the budget remains insufficient. The execution of judgments remains a challenge. However, in Burundi, legislation, starting by the constitution, establishes an "independent and impartial judiciary" whose mission is precisely to deliver justice. But many Burundians complain about the difficulties of access to justice, fundamental right, and mother of all other rights since it is it that allows them to prosper. PAGE (2009) states that "The inefficiency of the justice constitutes a desolation for the litigants who will thus have to make at the same time to difficulties of access to the right, difficulties of access to the justice and difficulties of justice thus elliptically declined: lack of diligence in the processing of court files; injustice; difficulties in executing judicial decisions; arbitrariness in reparations (compensation); moral disintegration of some of the actors who do not hesitate to exploit the weakness of the institution for their own benefit. This state of affairs has finally discredited Burundian justice: more than a perception, a reality". Burundi justice system presents limits to absorb cases or litigations. This study therefore seeks to look at what can be done to improve mediation to boost awareness and eventually strengthen access to justice with the emphasis of Gihanga commune of Bubanza.

METHODOLOGY

In order to collect data from the study samples, descriptive and correlational survey research design were employed. The data collected was analysed using descriptive and inferential statistics through statistical package for the social sciences (SPSS) Version 25.0. Under descriptive, mean and standard deviation was used. Inferential statistics like correlations were used to illustrate the existence of the relationship between variables, while regression analysis was used to explain how the independent variables affected the dependent variable. The items/questions selected for the study were deemed relevant to the study variables since all content validity indices for all experts and Alpha coefficients were above 0.7.

RESULTS AND DISCUSSION



This section discusses the findings based on the objectives of the study such as to: evaluate the relationship between mediation and awareness; ascertain the relationship between awareness and access to justice; assess the relationship between mediation and access to justice; and determine the effect of mediation and awareness on access to justice.

Descriptive Statistics for the study variables

These outputs below provide descriptive statistics for all of the independent variables and the dependent variable.

Table 1. Descriptive statistics for Mediation items

	Mean	Std. Deviation
Confidentiality		
Communications occurring during mediation are confidential and may not be revealed by the mediator to a party outside the mediation.	4.53	2.820
Confidentiality assures parties to voluntarily enter the process and further enables them to participate effectively and successfully.	4.21	2.340
Participation and communication improvement		
Participation and communication improvement enable parties to explain factual background of the dispute, to identify issues and underlying interests, to generate options for agreement and to make a final and acceptable decision	3.08	1.705
Effective participation and communication bring disputants to reduce hostilities, to understand the needs and concerns of opponents, to reveal the true interests of each parts, to clarify problems, to develop new ideas and to formulate solutions	2.86	.934
Skills, knowledge and competence of the neutral party		
Skills, knowledge and competency in listening, facilitating, communicating, impartiality, neutrality, <i>negotiation</i> , building rapport with people, having empathy and persistence.etc. allow the mediator to successfully manage and terminate the mediation process	2.44	.906
To help disputants to understand their problems, needs and conflicting interests, the mediator is required to have skills, knowledge, competence	2.32	.888
Impartiality and neutrality of the third party		
Independence, impartiality and neutrality are basic requirements to the third party assisting the disputants to work out for themselves a solution to their dispute	2.19	.841
Mediator's independence, impartiality and neutrality increase the parties' trust in the mediator and feel free sharing ideas, possible solutions until they reach an acceptable solution	1.61	.718
Control of the process by the parties		
In the mediation process, parties retain the right to decide for themselves whether to settle a dispute and the terms of settlement of the dispute.	2.43	.969
The parties have ultimate control on the process as well as on the outcome and the solution is fair and biding between parties as well as they continue approving the solution.	2.67	1.032

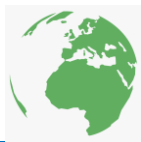


Fairness and bidingness solution		
The procedural fairness is a guarantee to fairness of outcome, and fairness of outcomes is commonly based on the subjective view of parties.	1.41	.650
The fairness of the process leads to a solution which is practicable, workable, and reasonable from the point of view of the parties, and needs not to be based on any external legal or societal standards.	1.33	.615
Nonbiding process		
Mediation process is a nonbiding process, this means that at any time, any party withdraw from the mediation proceedings at any stage before its termination and without assigning any reason.	2.851	0.934
In the mediation process parties do not abandon the right to use another dispute resolution mechanism in order to resolve their dispute, for example they can go to court or to an arbitrator.	3.540	0.698
Preservation of relationships		
In mediation process, the parties gain understanding of each other's motives, needs, and interests, therefore, this understanding often improve the relationship between parties.	3.732	0.972
When the relationship is maintained and improved through the resolution of the conflict by mediation, the parties have an increased capacity both to maintain the agreement and to solve future conflicts.	2.649	1.193
Easy implementation of the solution		
The outcome of the mediation is not a win for one party and a loss for the other; both parties agree to a solution which is mutually beneficial.	2.861	1.024
Mediation agreement is reciprocally acceptable by parties and stand the greatest chance of being implemented because the outcome of mediation is not imposed by a third party but represents a solution which has been voluntarily agreed to by mutual agreement.	3.723	0.832
Cost reduction		
Mediation is faster than the judicial process, it is less costly, and saves on resources: time, money, and energy.	3.549	1.214
Pooled Mean & Standard Deviation	2.841	1.120

Legend: 4.20-5.00 *Very High*, 3.40-4.19 *High*, 2.60-3.39 *Average*, 1.80-2.59 *Low*, 1.00-1.79 *Very Low*

Source: *Primary data computed (2020)*

The results in table above indicated the mean and standard deviation of the results show that all the constructs of confidentiality recorded a mean high than three, which suggests that as far as confidentiality is concerned, the respondents reasonably agreed with the statements and as such, the level of confidentiality. The computed mean for confidentiality is 4.365 thus depicting a level of agreement. Concerning participation and communication improvement, one of the constructs recorded a mean high than another (3.08), which suggests that as far as participation and communication improvement is concerned, the respondents agreed with the statement. Another construct (2.86) recorded a mean low than three, which implies that the respondents disagreed with the statements. The computed mean for participation and communication improvement is 2.97 thus depicting an average level. Findings concerning skills, knowledge and competence of the neutral party indicated that all the constructs recorded a mean less than three (2.44) and (2.32), which means that the respondents disagreed on all statements. The computed mean for skills, knowledge and competence of the



neutral party is 2.38, thus depicting a level of disagreement. The results of impartiality and neutrality of the third party showed that all the constructs recorded a mean less than three (2.19) and (1.61), which means that the respondents disagreed on all statements. The computed mean for impartiality and neutrality of the third party is 1.9, thus depicting the disagreement of the respondents.

The results of control of the process by the parties indicated that all the constructs recorded the mean less than three (2.43) and (2.67), which implies that the respondents disagreed on all statements. The computed mean for control of the process by the parties is 2.55 which is less than three, thus the disagreement of the respondents. With fairness and bidingness solution, the results indicated that all the statements recorded the mean less than three (1.41) and (1.33), which means that the respondents disagreed on all statements. The computed mean for fairness and bidingness solution is 1.37 which is less than three, thus the respondents disagreed on the statements. The findings concerning nonbiding process indicated that one statement (2.851) recorded a mean less than three which means that the respondents disagreed; another statement (3.540) recorded a mean high than three, which means that the respondents agreed on the statement. The computed mean for nonbiding process is 3.1955, thus depicting a level of agreement. The results of preservation of relationships indicated that one of the statements recorded a mean high than three (3.732), which means that the respondents agreed while another statement recorded a mean less than three (2.649), which means that the respondents disagreed on the statement. The computed mean for preservation of relationships is 3.1905, thus depicting a level of agreement. The findings on easy implementation of the solution indicated that one of the statements recorded a mean less than three (2.861), which means that the respondents disagreed on the statement; while the second statement recorded a mean high than three (3.723), which implies that the respondents agreed on the statement. The computed mean for easy implementation of the solution is 3.292, thus depicting a level of agreement. The findings on cost reduction indicated that the one statement recorded the mean high than three (3.549), which implies that the respondents agreed on the statement. The pooled mean is 2.841, which means that the respondents disagreed on the mediation aspects.

Table 2. Descriptive statistics for Awareness items

	Mean	Std. Deviation
Awareness		
The mediators have to know what issues they can or cannot deal with when it comes to the parties involved in mediation.	3.11	2.060
Self-awareness		
For parties, self-knowledge and self-control lead to the understanding and the willingness to take responsibility for their contribution to solve the dispute they are involved in.	2.84	1.721



For the mediator, self-management, self-control, social-awareness and social skills help him to exercise competence to perform his job well.	2.63	1.544
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Public awareness

To increase the number of disputes that are successfully completed based on mediation, it is necessary for the people to know about the alternative forms of resolving litigation.	3.07	2.018
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Public awareness can be done through specific planned events, poster campaigns, websites, documentaries, newspaper articles, in schools and workplaces-any publicly available medium.	2.55	1.326
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Pooled Mean & Standard Deviation	2.84	1.733
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Legend: 4.20-5.00 Very High, 3.40-4.19 High, 2.60-3.39 Average, 1.80-2.59 Low, 1.00-1.79 Very Low

Source: Primary data computed (2020).

The result in the table above indicated that awareness recorded a mean high than three (3.11), which means that the respondents agreed on the statement. The findings in the table above also showed that all element of self-awareness recorded a mean less than three (2.84) and (2.63), which means that the respondents disagreed on the statements. The computed mean of self-awareness is 2.735, thus depicting a level of disagreement. The results concerning public awareness indicated that one of the constructs recorded a mean high than three (3.07), which means that the respondents agreed on the statement. The second constructs recorded a mean less than three (2.55), which means that the respondents disagreed on the statement. The computed mean for public awareness is 2.81, thus depicting a level of disagreement. The pooled mean of awareness is 2.84, which showed that the respondents disagreed on the awareness aspects.

Table 3. Descriptive statistics for Access to Justice items

	Mean	Std. Deviation
Opening up the formal systems and structure of the law		
Access to justice involves the opening up of formal systems and legal structures to the disadvantaged groups in society, removal of legal, financial and social barriers such as language, lack of knowledge of legal rights and intimidation by the law and legal institutions.	3.26	2.303
Access to justice implies equal access to authoritative enforceable rulings and outcomes that reflect the merits of the case in light of relevant legal principles.	3.22	2.241
Access to legal information, assistance and representation		
Access to justice" refers to "legal information, legal advice, legal assistance, and legal representation".	2.81	1.622
Many people do not obtain justice for everyday problems due to challenges such as lack of legal information, assistance, representation, financial and social barriers such as language, lack of knowledge of legal rights and intimidation by the law and legal institutions.	2.59	1.419
Right to present the case		
Access to justice requires that parties have the opportunity to present their case effectively in a fair procedure and that parties know the case against them.	2.24	1.206



The right of every person to present the case is effective if challenges such as high cost, delays, geographical location, complexity of rules and procedure and the use of legalese are addressed.	2.16	.999
Prompt, just, fair, effective and efficient process		
Access to justice is real when principles of expedition; proportionality; equality of opportunity; fairness of process; party autonomy; cost-effectiveness; party satisfaction and effectiveness of remedies are satisfied.	2.08	.950
Access to justice occurs when justice is prompt without being unjust, and when justice process is fair, effective and efficient.	1.94	.934
Fair solution		
Access to justice includes the ability of justice mechanisms to provide fair, impartial and enforceable solutions.	1.71	.911
Access to justice means that the legal system leads to results that are individually and socially just, <i>this to mean fair solution</i> .	1.30	.777
Pooled Mean & Standard Deviation	2.33	1.336

Legend: 4.20-5.00 *Very High*, 3.40-4.19 *High*, 2.60-3.39 *Average*, 1.80-2.59 *Low*, 1.00-1.79 *Very Low*

Source: *Primary data computed (2020)*

The results in the table above indicated that all the construct of opening up the formal systems and structures of the law recorded a mean high than three (3.26) and (3.22), which means that the respondents agreed on the statements.

Concerning the access to legal information, assistance and representation, the findings indicated that all constructs recorded a mean less than three (2.81) and (2.59), which means that the respondents disagreed on the statements. With right to present the case, the findings showed that all the constructs recorded a mean less than three (2.24) and (2.16), which means that the respondents disagreed on the statements. The findings showed also that all the elements of fair solution recorded a mean less than three (1.171) and (1.30), which means that the respondents disagreed on the statements. The pooled mean of access to justice is 2.33, thus depicting a level of disagreement of the respondents on the access to justice.

Inferential Statistics Results

This section looked at the correlation and regression analysis. The correlation evaluated the relationship between study variables while the regression assessed the effect of the independent variables on dependent variable.

The Relationship between Mediation and Access to justice

The results indicated a significant positive relationship between Mediation and Access to justice ($r = 0.688$, $P\text{-value} < 0.01$). This implied that proper mediation structures and approaches greatly influence access to justice in Gihanga commune and generally Burundi as a whole. The results are in line with Tan (2011) who opined that mediation has a faster, less bureaucratic, and more effective process which does not require the use of attorneys to



present claims. Mediation prevents deterioration of relations because knowledgeable professionals provide reaching more equitable results based on the realities of the construction process instead of applying the strict letter-of-the-law. Disputes process end up in court often mean that parties concerned suffer long. Settling a dispute out of court and through mediation can often result in a swift resolution that satisfies all involved. Ashworth (2005) cemented this with their opinion that mediation is a way to resolving a dispute as an alternative to court procedures. It is a “non-adversarial technique which aimed resolving disputes. Shamir (2003) also contributed that mediators are generally free to use a variety of strategies and techniques during mediation, which often vary from one mediator to the other depending on their personality, experience, and beliefs in the role of mediation. This makes it a much easier and more practical path to justice as it ensures equal involvement of both parties and disputing parties get confidence in the system. This was supported by Kariuki&Kariuki (2014) who pointed out that mediation increase accessibility to justice since it is flexible, informal, cost-effective, expeditious, efficient, foster parties’ relations and produce win-win outcomes.

The Relationship between Awareness and Access to justice

The results indicated a significant positive relationship between Awareness and Access to justice ($r = 0.727$, $P\text{-value} < 0.01$). This implied that Awareness on legal policies, rights and obligations is a big contributor to Access to justice in Gihanga commune and the Country as a whole. The results are in line with Eveleigh (2018) who opined that building legal knowledge amongst populations who have limited access to legal services, who rely upon informal legal structures, or who have to represent themselves in legal processes, is fundamental to improving access to justice in general. They added that communication is often overlooked or tacked on in development programming yet quality communication, education and empowerment are integral pillars for improving rule of law. Governments and organizations ought to devise an approach that engages target populations with genuinely interactive mechanisms through which to build legal knowledge and learn to apply this in practice to improve their situation. NGOs and civil society organizations should work together with communities to identify barriers to positive change and craft communication and empowerment strategies together (Earl, 2016).



The Relationship between Mediation and Awareness

The results indicated a positive and significant relationship between Mediation and Awareness ($r = 0.710$, $P\text{-value} < 0.01$). This meant that the improvements in mediation are linked with the positive change in awareness. This was in line with Mironi (2016) who found that the advantages of mediation are low cost and high speed derived from informality and simplicity. Also, Lovin (2009) establishes that practitioners of alternative dispute resolution mechanisms must bring to the table an openness and curiosity mind to learn more about how others see and experience the world; respect and compassion; the humility to acknowledge an error and express regret for an unintended outcome; and the willingness to remain alert for their own cognitive errors and biases. Therefore, Stoilkovska and colleagues (2015) found that in order to increase the number of disputes that were successfully completed based on mediation, it is necessary for the people to know about the alternative forms of resolving litigation. This was supported also by the findings of Davies (2016) that the lack of information contributes to the lack of trust in any resolution of the dispute except in the court.

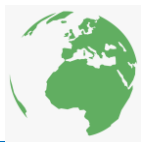
Regression analysis for Mediation and Awareness on Access to justice

Regression analysis was used to examine the level to which Mediation and Awareness determine Access to justice.

Table 4. The regression model for Mediation, Awareness and Access to Justice

Model	Un-standardized coefficients		Standardized coefficients		
	B	Std. Error	Beta	T	Sig
Constant	84.144	67.541		1.246	.000
Awareness	.491	.497	.470	.740	.000
Mediation	.373	.382	.346	.664	.003
R= .751; R Square =0.564, Adjusted R- square = 0.318, F= 1.085, Sig = 0.000					

Source: Primary data computed (2020)



The results in table above indicated that mediation and awareness explain 31.8% of the variation in the access to justice (Adjusted $R^2 = 0.318$). This meant that 68.2% of the variation was accounted for other factors not considered under this study. The most influential predictor of Access to justice was Awareness ($\beta = .470$, Sig .000). Mediation is less likely to influence Access to justice since it portrays a lower significance than Awareness ($\beta = .346$, Sig .003) in the model. This implied that a unit change in Awareness contributed to a change in the possibility of better Access to justice by (.470) while a unit change in Mediation will contribute to a change in the Access to justice as a whole (.346). This is supported by Xiong (2015) who affirmed that mediation and awareness have a strong relationship with access to justice and that the combination is a key alternative dispute resolution mechanism. He added that in China, after a period of decline, judicial mediation had been recently revived. The revival had occurred as a result of a combination of political and juridical forces. China's courts had been struggling to meet demand for access to justice and the revival of judicial mediation was part of a broader policy to promote mediation as a mainstream dispute resolution mechanism. At the same time, the revival of judicial mediation also reflected the disaffection of China's political elite with an emphasis upon adversarial, western style legal process. China's establishment appeared to be seeking a more responsive multi-door style of court system.

CONCLUSIONS

The study established that in general terms variables including mediation and awareness play a big role in access to justice. The study discovered that disputing parties often have confidence in mediation as they are equally involved and that mediators often give them time and attention to their specific needs which would otherwise be hard in a court environment. The freedom and ease of expression among disputing parties during mediation was also found to greatly aid access to justice. In regard to awareness, it was discovered that many players in the legal fraternity are cognisant of the fact that practioners of alternative dispute resolution mechanisms must bring to the table an open and curious mind to learn more about how others see and experience the world; respect and compassion; the humility to acknowledge an error and express regret for an unintended outcome; and the willingness to remain alert for their own cognitive errors and biases. Various people engaged in the legal



operations and structures of Gihanga Commune acknowledged the importance of these basics while a few also admitted that they had not given some of these matters the due attention that they deserved and were looking to change this.

The challenge however, is that concepts like consensus, easily implementable solutions and cost reduction have not been given a priority yet they greatly determine mediation which in turn heavily influences Access to justice in any Commune. There is little focus on the actual problem in some cases, with some mediators often abandoning the actual problem and leading disputing parties into personal attacks which reduces the speed of dispute resolution and undermines access to justice. If Access to justice is to improve in Gihanga Commune, there is need for proper integration of Mediation with Awareness which will not only increase the volume of disputes being handled every single time but also widen the scope of cases that can be handled through alternative dispute resolution.

RECOMMENDATIONS

The following recommendations are put forward based on the results of the study.

- (i) The need for training of more mediators. Mediation was found to be one of the most efficient modes of alternative dispute resolution in Gihanga but with one major challenge in the level of professionalism of the available mediators.
- (ii) Need for enlightenment of masses on the ease, importance and impact of alternative dispute resolution mechanisms. Several people acknowledged that they had heard about alternative dispute resolution and that it had worked for a friend or someone they knew but they were not entirely open to it because they did not properly understand how it operates.
- (iii) The Government therefore needs to set up programs aimed at enlightening the masses on the flexibility that comes with alternative dispute resolutions means as well as the impact and its importance especially in regard to maintaining harmony even in the midst of dispute.



- (iv) There is a need for the Government to start campaigns to create awareness on legal terms and sensitize masses on the best path to take in case of conflict as well as their obligations and duties as citizens whenever they witness or are part of a dispute.
- (v) Need for constitutional review to provide clear legislation on various legal players. The Government ought to do a legal review in order to streamline how the numerous players in Burundi's legal fraternity operate.
- (vi) There is a need for self-knowledge and self-control that lead to the understanding and the willingness to take responsibility for their contribution to solve the dispute they are involved in.

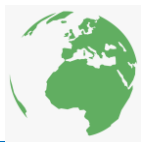
AUTHORS' DECLARATION

We declare that this study is an original research by our research team and we agree to publish it in the journal.



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