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Enforceability of the principle of party autonomy in the conduct of court-annexed mediation in mainland tanzania

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Abstract

The Study intends to examine the Enforceability of the Principle of Party Autonomy in the Conduct of Court-Annexed Mediation in Mainland Tanzania. Specifically, to identify reasons that hinder the enforceability of the principle of party autonomy in the conduct of court-annexed mediation in Mainland Tanzania also to examine why enforceability of the principle of party autonomy in Mainland Tanzania is confined to Judges and Magistrates. The study review literatures on the development of mediation as well as Principle of Party Autonomy. Its findings are drawn from the literature review and similarly from Doctrinal Legal Research and Qualitative Legal Research; a survey of judicial officers and interviews with selected interviewers from Dar es Salaam. The findings shows that the compliance of Principle of Party Autonomy in court-annexed mediation has been focused on effectiveness in reducing backlog of the cases in court, maintaining good relation to the parties, increasing knowledge of Principle of Party Autonomy in court-annexed mediation. The findings also identified to the factors contributing to its enforceability and factors that hinders the success of Principle of Party Autonomy in the Mainland Tanzania.

Keywords: Enforceability; Principle of Party Autonomy; Court; Court-annexed mediation

1. Introduction

The struggles towards having Court-Annexed Mediation in the civil justice system in Tanzania and the introduction of running principles thereby was necessitated by number of factors. Upon noticing that ordinary court procedures were a best tool in resolving civil disputes but tainted with, among other things, expensiveness and technicalities and thus timewasting, thoughts to find alternative means of resolving disputes at premature stages started to emerge. Efficiency of justice was the foremost factor to consider in adopting court-annexed mediation, especially in Tanzania. The civil justice system is featured by cumbersome rules of procedure to which is not easy to bear in disputes where justice is expeditiously need. Since to every procedure there is likeliness of disputing, it takes a wide range of parties to run their cases regardless of the time and the core issue that brought the case by stressing on delaying tactics. Therefore, the mere presence or adoption of ADR system in Tanzania and ran by a distinct institution was not a firm wish of having court-annexed mediation. The main wish was the assurance of the better-quality processes and outcomes of mediation through judicial system. Automatically, there would not be waiting for the Commission for Mediation and Arbitration to hold over the matter, but a preliminary procedure of dispute handling before judiciary and hence necessity to include it in the court system through the Civil Procedure Code. The purpose of having court-annexed mediation is to make sure, with regard to jurisdictional requirements, disputes be referred to respective courts but primarily be referred to a mediator with total change of procedure. Unlike ordinary court procedure, court-annexed mediation was sighted to providing continuing social relationship amongst disputants in certain matters such as family, tenancy, employments or businesses. As opposed to adversarial approach where ordinary court procedures are based in handling disputes, court-annexed mediation was targeted to achieve consensual relationship among parties. Like generally in Alternative Dispute Resolution, the purpose towards adapting court-annexed mediation was to have a more accessible and

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participatory, less formal, expensive but cheap and less time-consuming system of dispute resolution, and which could only be adopted by the courts of law.

By these factors, court-annexed mediation was adopted with numbers of principles to walk on until marked successful or failed. These principles include parties' autonomy, confidentiality, impartiality, self-determination, and the finality of settlement order. Therefore, with application of the principle of party autonomy respectively, court-annexed mediation strives to resolve civil disputes before resorting to actual litigation process. As ADR applies fewer formal rules of procedure and the parties participate directly in the process as compared to the conventional court trial, it is the same position applies to court-annexed mediation as it operates in the same line.

Since introduction of Alternative Dispute Resolution in Mainland Tanzania in 1994 through Government Notice No. 422, which amended the First Schedule to the Civil Procedure Code Act (1996) as a result of the Committee recommendation, having it incorporated was a result of the need to have legal authenticity, and hence incorporated under the Civil Procedure Code. Therefore, incorporation was affected through amending Orders IV, V and VIII by introducing new Orders VIIIA, VIIIB and VIIC to the First Schedule. The provisions of Order VIIIA can be said to the main provisions which legally introduced ADR in the Tanzania civil justice.

To insist on the court-annexed mediation, the Civil Procedure Code has been time to time amended as of now amendment of Order VIIC of Civil Procedure Code incorporated and recognized ADR together with others, Mediation Procedure. Mediation intends at promoting access to justice, promote restorative justice and preserve relationships between litigants or potential litigants which may become strained or destroyed by the adversarial nature of litigation. In Tanzania the root of court-annexed mediation is sourced from Article 107A (2)(d) of the Constitution of the United Republic of Tanzania of 1977 as amended from time to time, which requires court in course of dispensing justice to promote and enhance dispute resolution. Having its legality from both the Constitutional and the statutes, court-annexed mediation in Mainland Tanzania is compulsory dispute settlement mechanism of which each civil suit with some limited exceptional cases must pass through and non-compliance of lead to be null and void.

In enforcing court-annexed mediation in Tanzania Mainland, the law provides that, during first pre-trial conference after pleadings are complete and any preliminary objection raised is determined, the trial Judge or Magistrates assign the case file to the appointed mediator or another Judge or Magistrate appointed by the court to ascertain the possibility of resolving the dispute through mediation as compulsory procedure provided under Order VIIC Rule 24 of the Civil Procedure Code. Hence court-annexed mediation is mainly practiced when all the pleadings have been duly filed and there are no pending applications or any other preliminary matter to be disposed of. The Study intends to examine the enforceability of the principle of part autonomy in court-annexed mediation in Mainland Tanzania. The principle of party autonomy is an individual freedom to choose the rules which shall govern parties in settling their dispute and to choose a mediator on their own choice and interest. Further, the right of choice recognized under principle of party autonomy is mainly exercised in choice of jurisdiction, choice of law and choice of mediator. Further, party autonomy is the ability to make your own decision about what to do rather than being influence someone else or told what to do. The freedom of choosing the procedure to be followed, to choose a mediator makes active participation in the proceedings.

The main purpose of principle of party autonomy is to express parties wishes and interest and to be full motivated and be able to control what they do and who they do with. Saving time is also a purpose of party autonomy principle because parties by having a chance of choosing a mediator in their own choice and interest will also participate fully and happily in resolving their dispute. Thus, the settlement will be resolved within a short time. Thus, in conducting court-annexed mediation the principle of party autonomy has to be complied so as to reach into fruitful court-annexed mediation. As well for the mediation to be conducted successfully the following procedure are to complied, appointment of mediator, notification for the commencement of mediation, mediation session, mediation agreement and enforcement of mediated settlement agreement. The appointment of mediator should be done within fourteen days after the pleadings are complete. The court shall require the parties to appoint and submit the name of mediator of their choice within fourteen days after pleadings are complete.

Alternative dispute resolution (ADR) refers to a range of processes and techniques used to resolve conflicts and disputes outside of traditional court proceedings. In Tanzania, ADR has become increasingly popular as a means of resolving disputes due to its speed, affordability, and flexibility. This is particularly true in light of the backlog of cases in the traditional court system, which can result in lengthy delays in obtaining justice. ADR methods include negotiation, mediation, conciliation, and arbitration, among others. The use of ADR in Tanzania has been encouraged by both the Government and the Private Sector. The Government has enacted laws and regulations such as mediation regulations,

which provides a legal framework for the resolution of disputes through Court annexed mediation while the private sector has established various ADR Institutions and Centers to offer these services.

The ADR process in Tanzania typically begins with negotiation or mediation, which is court-annexed mediation in which parties attempt to resolve their dispute through court-annexed mediation. If this is unsuccessful, the parties may proceed to litigation. Mediation is often overseen by a neutral third party, a mediator who assist the parties to reach a settlement agreement. Court-annexed mediation has been used to resolve a wide range of disputes in Tanzania, including commercial disputes, land disputes, labor disputes, and family disputes. In some cases, the use of court-annexed helped to preserve relationships between parties that might have been irreparably damaged by traditional litigation.

Despite its many advantages, court-annexed mediation is not without its challenges in Tanzania. These include a lack of awareness and understanding of court-annexed mediation procedure, limited access to mediation services in some parts of the country, and the need for further development of the legal framework governing court-annexed mediation. Overall, mediation has emerged as a valuable tool for resolving disputes in Tanzania.

The Civil Procedure Code provides that the Court shall require parties to appoint and submit the name of the mediator of their choice who will mediate parties. The Rule requires parties to do so within fourteen days after completion of the pleadings. Looking at this provision of the Civil Procedure Code, one can get the impression that parties enjoy the autonomy of having a mediator of their choice. The practice, however, has proved it differently. Once pleadings are complete, parties are referred to a mediator who is appointed by the court who is a Judge or Magistrate and the so-appointed mediator will cause parties to appear before him or her for purpose of mediation. However, the new Court-annexed Mediation Guideline of 2024 provides a procedure for selecting a mediator which state that: -

During the first pre-trial conference, the Judge or Magistrate will inform the parties of their right to select a mediator of their choice and should give them necessary guidance on the persons qualified for selection as mediators and where available, may avail them with the register of those mediators. Where the parties fail to appoint a mediator within the prescribed time the court shall appoint a mediator who is a serving Judge, Registrar, Deputy Registrar or Magistrate within the jurisdiction of that court. However, where necessary the court may appoint any other person who is mandated to serve as mediator under Order VIII of the Civil Procedure Code”.

However, this Guidelines has not cured the appropriate adherence of principle of party autonomy in the conduct of court-annexed mediation which is a cornerstone of the whole mediation process. The principle of party autonomy is fundamental and plays important role in conducting court-annexed mediation. The principle is intended to ensure court-annexed mediation proceeds in accordance to the aspirations of the parties, which also helps parties to freely participate in court-annexed mediation.

Distressing the principle of party autonomy by appointing a mediator manually or electronically and the mediator notifying the parties. The principle of party autonomy is still infringed even after the coming of the Court Annexed Guidelines, 2024. It is because there is judicial oversight of involvement of Judges and Magistrates in informing and guiding parties concerning mediator selection. That, this is oversight into what should be autonomous decision making process because the powers vested to the court on informing parties of their right to select a mediator of their own choice and should give them necessary guidance on the person who qualified to be a mediator and where available by availing them with register of mediators but also where the parties under a prescribed time fail to appoint a mediator still a court shall appoint a mediator who is serving as a Judge, Magistrate, Registrar, Deputy Registrar, to mediate the parties which the outcome of the process will be influence by judicial influence and disputants will be ended up under restriction of choice of mediator, temporal pressure in reaching their suitable desire. Additionally, the problem of not complying with the principle of party autonomy in conducting court-annexed mediation also goes against the principle number two and four of dispensation of justice which states, not to delay dispensation of justice without

Existing literature elsewhere have reported mixed findings on the enforceability and success of Principle of Party Autonomy in various countries. Wairimu, (2021) which says, among other things he discussed on the modes of ADR used in court-annexed mediation which among them is Mediation whereby he further discussed the role of the Mediation in resolving Kenya's dispute during election of 2010 and insisted on Mediation as an appropriate electoral dispute resolution mechanism or fall short of delivering its indirect promise for sovereignty through its indispensable principles of party autonomy. As in all other dispute resolution mechanisms such as litigation, mediation has a win-lose possible outcome. Whereas this literature is relevant to this study however the author herein will focus on discussing “The principle of party autonomy in the conduct of court-annexed mediation in Tanzania Mainland; Law and Practice.

Lukumay, (2016); in this article, among other things discusses the adoption and the purpose of the court-annexed mediation and he goes further to discuss in details on the methods used to resolve disputes under the court-annexed mediation whereas among other he discusses about mediation and its purpose and what hinders the mediation process here in Tanzania. He also discusses the shortcomings of the court-annexed mediation in Tanzania whereby he discusses in details that the court-annexed mediation has failed to achieve its objective of reducing the backlog of cases in courts. According to the Law Reform Commission of Tanzania, the civil justice system is slow as there are weaknesses in ADR. Justice Mohamed Chande, the Chief Justice of the United Republic of Tanzania, in his key note speech on the occasion of opening the Annual General Meeting and the Conference of the Tanganyika Law Society in February 2012, lamented that Tanzania has not scored high or even moderate success rate envisaged under the Court-annexed mediation and the most challenges are lack of guidelines and Judges and Magistrates are acting as mediators. The abovementioned Journal is relevant to this study however the author herein will focus to discuss The Principle of Party Autonomy in the conduct of court-annexed mediation in Tanzania Main land; Law and Practice.

Fagbemi, (2023) in this book discusses the Party Autonomy under the UNCITRAL Modern Law, that one objective for the UNCITRAL Modern Law is the liberalization of International Commercial Arbitration by limiting the role of courts by giving effect to doctrine of “autonomy of the will”, allowing the parties freedom to choose law under which their disputes should be determined. The author further deliberated on the parties should be free to agree how their disputes are resolved, subject only to such safeguards as are necessary in public interest. The first part confirms the party autonomy principle as parties are free to agree on the choice of law, seat of arbitration and procedure to be followed. Furthermore, the author describes that, one can see this principle is evident in this Act the words like “the parties are free to agree” or unless the parties otherwise agree” or unless otherwise agreed by the parties”, demonstrate Party Autonomy. Whereas this Book literature is relevant to this dissertation however the author herein will focus to discuss on The Principle of Party Autonomy in the conduct of court-annexed mediation in Tanzania Main land; Law and Practice.

Mashamba, (2014), in his book notes that, the ADR system is not natural in Tanzania as in many other African countries. In Tanzania, it was transplanted from the latter author, traces the origins and ideology of ADR and examines reforms of the USA justice system in favor of ADR and the spread of ADR beyond the USA and the benefits of ADR. He examines ADR approach in African cultural contexts and the role of Ubuntu in dispute resolution in Africa, then makes a comparison between formal ADR and traditional justice system in Africa. As he laments, the ADR approach was introduced in Tanzania by GN No. 422 of 1994, amending the 1st schedule to the Civil Procedure Code introducing three new orders: Order VIIIA; Order VIIIB; and Order VIIIC. As he depicts, the implication of the 1994 amendment for the CPC is that all civil cases filed in courts must be referred to ADR in the form of mediation. In putting the law into practice, this legal position was buttressed in *Fahari Bottlers Ltd & Another vs. Registrar of Companies & Another* 8. In this legal matter, the Court of Appeal of Tanzania held that the requirement for a suit to be referred to mediation first before full trial begins is a mandatory one under the CPC. Mashamba discusses deeply the significance of ADR in civil courts in Tanzania in that the demand for alternative ways to deal with legal disputes other than conventional courts arose out of the ever-increasing heavy caseloads and backlogs in Tanzania civil cases. So, the primary rationale for the introduction of ADR in Tanzania was to reduce the heavy caseloads as well as the backlogs. He adds that the ADR system was also meant to avoid resort to unnecessary procedural technicalities prevalent in traditional courts as well as reducing expenses involved in pursuing litigation in courts of law. In this regard, the court-annexed ADR system in Tanzania was designed in an informed way to allow parties to participate easily in this process and ensure that the relationship between the parties is preserved after they had undergone the ADR process. However, the author has not address anything concerning principles governing the parties during Mediation e: e party autonomy, this is a research gap.

Shamir, (2019) in his book discusses the modes of ADR where among others is mediation also, he discusses on the advantages of ADR where among all he discusses on the flexibility of the process he also discusses on the controversial issues in mediation which are the evaluative mediator versus the transformative mediator. the issue of “private caucus”: should we have private caucus, or use only joint meetings with the parties is there a need for a mediator with special expertise in specific subject matters (banking, land, water, building industry, computers, and so on) should criminally cases and domestic violence be mediated, what mediation is all about and how it should be handled are topics of contention and disagreements in the mediation community. However, the author has not address anything concerning principle of party autonomy governing parties in mediation. This literature is relevant to this study however the author here in will focus to discuss The Practicability of the Principle of Party Autonomous with conduction of Court-Annexed Mediation in Tanzania Main land.

2. Material and methods

This is a qualitative legal research study based on a review of legal documents from 10 mediation centres, 5 Courts, Advocacy Law chambers and 2 physical Libraries located in Dar es salaam Tanzania and d. The documentary review was used as the method of collecting data by reviewing legal reports, books, data file and other written materials, case law, reported and unreported, articles and commentaries from libraries and legal related centres located at Dar es Salaam.

The legal documents and achieves reviewed were picked purposively from, Dar es salaam Tumaini University, University of Dar es Salaam, The United Republic of Tanzania High Court, the Office of Solicitor General libraries focusing on Research and Library Service Unit, Mediation Centres. Assembling data from libraries was preferred because libraries are free and they offer variety of resourced that are accessible to everyone.

Qualitative data analysis was employed where in the first step data was prepared into a meaningful order and in a readable manner. The documents were analysed and its content was analysed into meaningful findings to reflect the two objectives guiding this study namely to identify reasons that hinder the enforceability of the principle of party autonomy in the conduct of court-annexed mediation in Mainland Tanzania and to examine why enforceability of the principle of party autonomy in Mainland Tanzania. The findings are given in subsection 3.

3. Results and discussion

The general objective of the research was to analyse the enforceability of the principle of party autonomy in the conduct of court-annexed mediation in Mainland Tanzania. The problem of the research sought to address the parties' autonomy in the conduct of court-annexed mediation. The law provides that, the court may require parties to appoint and submit the name of the mediator of their choice who will attempt to mediate parties. The law requires parties to do so within fourteen days after completion of the pleadings.

The knowledge gap recognized was partial to literature review which was praised with the interview on the enforceability of the principle of party autonomy in the conduct of court-annexed mediation in Mainland Tanzania. The research further discovers that, the principle of party autonomy in the court-annexed mediation is not observed in practice. Further, that the principle of part autonomy is affected by internal and external factors within the Judiciary. As well confinement of appointment of judges and magistrates erodes the principle of party autonomy.

The research was guided by tow (2) specific objectives which are; To identify reasons that hinder the enforceability of the principle of party autonomy in the conduct of court-annexed mediation in Mainland Tanzania and to examine why enforceability of the principle of party autonomy in Mainland Tanzania is confined to Judges and Magistrates.

The researcher presumed that, the enforceability of the principle of party autonomy in the conduct of court-annexed mediation is not observed in practice, however, it is clearly providing by the law that, the court may require parties to appoint and submit the name of the mediator of their choice who will attempt to mediate parties. The law requires parties to do so within fourteen days after completion of the pleadings. Documentary review on the two objectives revealed the following findings:

3.1. Specific reasons that hinder the enforceability of the Principle of Party Autonomy in conduct of court-annexed mediation.

The first specific objective was to identify the specific reasons that hinder the enforceability of the principle of party autonomy in conduct of court-annexed mediation. We found that it is true that in Tanzania ADR was introduced in 1994 through Government Notice No. 422 which amended the First Schedule to the Civil Procedure Code (1996) , as a result of Mroso Committee's recommendation. However, Mroso Committee did not recommend the incorporation of ADR in the civil justice system. But it was decided that in order to give ADR legal authenticity it should be incorporated in the Civil Procedure Code. This move brought in amendment to Orders IV, V, and VIII and introduced new Orders i.e. VIIIA, VIIIB and VIIC to the First Schedule. The provisions which statutory introduced ADR in the Tanzania civil justice system.

One among the consequences of the foregoing amendments to the CPC is the mandatory requirement for civil cases to be first referred to mediation before full trial is conducted. The amendment of CPC introduced new stages between the completion of the pleadings and trial in given cases. However, not all types of cases are suitable for mediation, they are some types of cases which are by its nature are unsuitable for mediation. These include cases in which constitutional

relief are sought, cases in which a definitive interpretation of the law is necessary, cases in injunctive relief or declaratory judgments are sought and an application for prerogative orders. These types of cases constitute a small number compared to all cases filed in court. So, the majority of the cases are amenable to mediation and so have to go through mediation process.

In Mainland Tanzania, court-annexed mediation; a case is said to be ready for mediation when all pleadings have been duly filed and there are no pending applications or any other preliminary matter to be disposed of. In effect it is when the case would ordinarily be said to be ready for trial, as the law clearly stated that; -

“The court shall require the parties to appoint and submit the name of a mediator of their choice within fourteen days after pleadings are complete”.

Court-annexed mediation into the civil justice system of Tanzania was ultimately caused by a number of factors. The foremost was the need for efficiency of justice. This was ipso facto attributed by the expensiveness in judicial process featured by cumbersome rules of procedure. As well, judicial system was over-loaded by cases. Hence, there was a need for developing dispute settlement systems that could divert cases from fully court system procedure and introduce other means which can help to reduce backlogs of cases and provide efficient ways of providing access to justice.

In Mainland Tanzania court-annexed mediation is one among the mechanism of resolving disputes which incorporated in court by law Civil Procedure Code. That, in court-annexed mediation parties mediate pursuant to the court direction, by following court procedure, rules and law, as state that “subject to the provision of any written law, the court shall refer every civil action for negotiation, conciliation, mediation or arbitration or similar alternative procedure, before proceeding for trial.

The principle of party autonomy in court-annexed mediation in Tanzania is compulsory, its outcomes should be voluntarily made and the parties are only with autonomy to settle their dispute. No one should compile parties to reach the amicable settlement of their claim. The role of the mediator is to facilitate communication between the parties in conflict with the view to helping them reach a proposed resolution to their disputes. The case of Vita Food Products vs. Unus Shipping Company Limited is crucial case in the development of party autonomy. It solidifies the principle that parties have greater freedom to determine the legal basis governing their dispute and promoting flexibility. The principle of party autonomy continues to develop beyond choice of law and plays a significant role in the rise of court-annexed mediation, the principle of party autonomy developed further in court-annexed mediation by allowing the parties to select a mediator in their interest, as it is clearly stated in the law that;

“...the court shall require the parties to appoint and submit the name of a mediator of their choice within fourteen days after pleading are complete”

The growth of the principle of party autonomy in the conduct of court-annexed mediation reflect growing of efficient dispute resolution and acknowledges the importance of respecting parties' choices and rights. This results to have effective court-annexed mediation, which help in reaching successful court-annexed mediation due to advantage of complying with the principle of party autonomy in court-annexed mediation. The advantages are such as good participation of the parties in resolving their dispute, confidentiality, impartial etc. However, during conducting research, by interviewing several members we have found that there is noncompliance the principle of party autonomy in conduct of court-annexed mediation due to various factors.

Though, the released of Court-Annexed Mediation Guidelines, 2024 somehow has rectified a problem to the extent that, the Guidelines provide for procedure of selecting a mediator, that;

“During the first pre-trial conference, the Judge or Magistrate will inform the parties of their right to select a mediator of their choice and should give them necessary guidance on the persons qualified for selection as mediators and where available, may avail them with the register of those mediators.”

But then again, court informing the parties on their right of selecting a mediator of their choice and guiding them on the persons qualified for selection as mediators and avail the parties with a register for those mediators shows how the principle of party autonomy is still infringed, even after the release of Court-Annexed Mediation Guidelines, 2024. This is because the criteria of presence of court register which have names of mediators to be selected may not align with the parties' specific needs and preferences of mediator. That may limit parties' ability to choose a mediator based on their preference, such as expertise in a particular subject matter. In addition, it limits the parties' awareness of other qualified mediators who may offer unique specialized skills in resolving conflict successful.

As well failure of parties to appoint a mediator on their own choice within a prescribed time and a court appoint a mediator on behalf of the parties who is a servicing Judge, Deputy Registrar, Magistrate as provided under the Guideline that; -

“Where the parties fail to appoint a mediator within the prescribed time the court shall appoint a mediator who is a serving Judge, Registrar, Deputy Registrar or Magistrate within the jurisdiction of that court. However, where necessary the court may appoint any other person who is mandated to serve as mediator under Order VIII of the Civil Procedure Code”.

Nevertheless, the principle of party autonomy is dishonoured again even after released of Guidelines That, appointing serving Judges, Deputy Registrar, Magistrates or Judicial Officers may have biased based on conflict of interest due to their roles within the judicial system. As well this prohibits parties’ preferences for mediators with expertise in a certain profession relevant to the disputant’s dispute.

3.2. The Principle of Party Autonomy in the conduct of Court-annexed Mediation is by internal and external factors within judiciary.

It is found that, the system of court relies most on judges and magistrates to act as mediators. Normally judges and magistrates are accustomed in making decisions and this makes it difficult for them to facilitate a neutral and independent mediation process where the parties are full control over the outcome.

Further, it is also found that, there is dissatisfaction in using judges and magistrates as mediators, because of their background in adjudication which might make difficult for them to accept the entirely neutral part. There are some judges and magistrates who are unfamiliar with mediation technique of resolving a dispute as a neutral part. This makes parties to be under pressure to settle their dispute towards specific outcome. This makes parties to the dispute feel discomfort to settle their dispute before mediators who are judicial authority, who are appointed by the court and not by the parties.

Likewise, it is found that, judicial oversight and control in court-annexed mediation impose constraints on the court-mediation process, because it limits parties’ ability to make autonomous decision. This is because parties’ by not appointing a mediator on their interest it set parameters for mediation and even mandate participation in court-annexed mediation which reduces the voluntary nature of the process.

As well court-annexed mediation is mandatory for civil cases, which can be beneficial to reduce backlog of cases by encouraging settlement, but on another hand limit party autonomy because participation is not voluntary as already a court appointed a mediator for them who is a judge or magistrate. Thus, willingness to freely participate in mediation and finding a solution how to resolve their dispute will be small, because it undermine the truly voluntary and reach to agreements that are not truly in their best interest.

Additionally, it was found that, legal framework might not have strong enough confidentiality protections, which makes parties to the dispute to be worried in disclosing their information thinking the same could be used against them in court if mediation fails on which limit the parties’ ability to explore solutions freely, especially when the mediator is not from the choice of disputants.

It is also found violating principle of party autonomy in the conduct of court-annexed mediation reduced confidentiality in a sense that, disputants might fear to the mediator who is a judge or magistrate could use information disclosed during court-mediation in subsequent court proceedings. This fear can hinder open communication and reduced effectiveness of court-annexed mediation because parties might withhold crucial information.

Court procedure and time pressure found to be constraints in complying with party autonomy in conducting court-annexed mediation sessions. It is found judges and magistrates proceed with appointing a mediator on behalf parties as provided that, “where the parties fail to select a mediator under sub rule (1) the court shall, manually or electronically, appoint a mediator and notify the parties accordingly”, This is due to the court procedure, practice and time pressure instead of complying with law as stated that, “the court shall require the parties to appoint and submit the name of a mediator of their choice within fourteen days after pleadings are complete”,

Court procedure and time pressure is because of having a tension of reducing a backlog of cases. Thus, it was found that, a court proceeds with appointing a mediator and notify the parties so as to speed up a task of reducing backlog of cases without comply with the principle of party autonomy.

Unconscious bias; Mediators even well-trained ones, can hold unconscious biases based on factors like gender, race, socioeconomic status. These biases can influence their communication with parties and potentially nudge them towards certain solutions that might not be in their best interest.

Power imbalances; Parties in a dispute might have inherent power imbalances due to factors like financial resources, knowledge of the legal system or emotional state. A skilled mediator can help mitigate these imbalances but a less experienced mediator might inadvertently aggravate them, limiting the weaker party ability to freely negotiate.

Furthermore, in power imbalances it is found that, judges and magistrates inherently hold position of authority and power. Thus, when they act as mediators, their judicial authority might create an imbalance and making parties feel pressured to be comfort to their suggestion or decisions. This diminishes the parties' sense of control and party autonomy in court-annexed mediation.

Lack of awareness, the disputants may not fully understand mediation, court-annexed mediation, principle of party autonomy and the procedure as well as their rights within court-annexed mediation, as it found during conducting research by interviewing public/laymen, a huge number i.e. 80% of participants do not understand about mediation, court-annexed mediation and the principle of party autonomy. Also, they are not aware if there is a law which safeguard their party autonomy, as it is clearly provided that; -

“the court shall require the parties to appoint and submit the name of a mediator of their choice within fourteen days after pleadings are complete”,

Surprisingly, it found that, Advocates noted that, there is a problem of infringing principle of party autonomy, but they proceed with the matter by arguing it is a matter of practice that why they do not explain to their customers i.e. disputants to let them understand their rights. They just proceed with court-annexed mediation before mediator appointed mediator by court judges and magistrates proceed with appointing a mediator on behalf parties as provided that; -

“Where the parties fail to select a mediator under sub rule (1) the court shall, manually or electronically, appoint a mediator and notify the parties accordingly”.

While there is no proof that, parties fail to choose a mediator on their interest, rather being blind of the procedure to be followed and their right in autonomy as required by law.

Legislative and regulatory framework; the legal framework and regulatory environment can impose constraints on how court-annexed mediation is conducted. The legislative mandates requiring mediation or specific procedure which might limit the flexibility of party autonomy. While conducting research it is further found that the current legal framework in Mainland Tanzania enhance the principle of party autonomy in court-annexed mediation by having a law state that, “the court shall require the parties to appoint and submit the name of a mediator of their choice within fourteen days after pleadings are complete”,

However, the same does not being complied, the court normally proceed with selecting a mediator on behalf of the parties, “where the parties fail to select a mediator under sub rule (1) the court shall, manually or electronically, appoint a mediator and notify the parties accordingly”, as if disputants fail to appoint themselves and submit a name to the court within prescribed time while they were not given such opportunity that hinders party autonomy. There is no any provision of the law, rules or regulation which insist and safeguard compliance of party autonomy in court-annexed mediation. As well which prohibit proceeding with court-annexed mediation session without compliance of party autonomy.

Cultural and social norms, it is found cultural and social norms can influence and engage in court-annexed mediation. As in some cultures, there may be a preference for hierarchical decision making or defence to authority, which might affect willingness to exercise party autonomy.

Public perception and trust in judiciary; it is also found that, the overall public and laymen trust in the judiciary and the perceived fairness of court-annexed mediation can influence party autonomy. If parties lack confidence in the judicial system or believe court-annexed mediation is biased and unfair they may be less likely to engage autonomously.

Thus, the above-mentioned elaborated findings found while conducting research proves the assumption that, “the principle of party autonomy is affected by internal and external factors within the judiciary. It is found both internal and

external factors significantly affect the principle of party autonomy in the conduct of court-annexed mediation. Understanding these factors and their implications may help in improving court-annexed mediation process that respect and promote parties' autonomy of the disputants. This is crucial for efficiency and fairness of court-annexed mediation as an alternative dispute resolution.

3.3. The power vested to the court to deal with court-annexed mediation erodes the principle of party autonomy

While conducting research through doctrinal legal research and interviewing different participants it is found that, the confinement of appointment of judges and magistrates only to the judicial system erodes the principle of party autonomy in several ways, especially in context of court-annexed mediation. The following are some of the areas found to be among the factors which erodes the principle of party autonomy;

Trust in mediation; when disputants feel that their autonomy is not respected, they may perceive the mediation process as biased or unfair, leading to lack of trust, which undermines the effectiveness of mediation as trust is crucial for open and honest communication.

Power imbalance, normally Judges and Magistrates hold positions of authority within the court system. Parties involved in court-annexed mediation might feel pressured to settle simply due to the mediator's official position, even if it is not the best outcome for them.

Perception of neutrality, a core principle of mediation and court-annexed, party autonomy is neutrality. Judges and Magistrates are accustomed in making decisions based on the law. Parties might perceive them as biased towards a legal solution, rather than facilitating a mutually agreeable outcome.

Focus on precedent, Judges and Magistrates are trained to consider legal precedent when making rulings. This focus might carry over to court-annexed mediation, and potentially hindering creative solutions outside the legal framework.

Lack of choice of mediator; lead to continue with imposed mediators, that when judges and magistrates are appointed exclusively judicial system for mediation roles, parties have little or no chance of selecting mediators. This undermines the principle of party autonomy, which is fundamental in allowing disputants to control, including choice of mediators.

Limited choice of mediators as well parties are denied the ability to choose a mediator, they feel they are comfortable with, which will help disputants to be free and fully participate willingly in court-annexed mediation. But confinement of appointing judges and magistrates limits the participation, and or create fear which infringe party autonomy. Complying with law and the principle of party autonomy is crucial in building trust and fostering open communication in court-annexed mediation.

Limited flexibility; Judges and Magistrates have inflexible schedules compared to professionals and accredited mediators who are flexible in time, subject to the parties' suggestion. Limiting time in court-annexed mediation session due reason that, there is mediation duration provided by law, as stated that,

"The mediation period shall not exceed a period of thirty days from the first session of mediation"

However, there is an opportunity for request extension from the if there is an element of having fruitful mediation. But still limiting flexibility and creativity is rigid procedural tactics. As well judges and magistrates are accustomed to formal legal procedures which can influence their approach to mediation. This might result in less flexible and creative process, restricting parties' ability to craft solutions that best meet needs and interest As a result lead to undermine party autonomy principle.

Discouragement of Self-determination; the mandatory nature of court-annexed mediation, coupled with the judges and magistrates' appointment, creates a sense of obligation to settle rather than a genuine desire for a mutually agreeable solution.

Mandatory participation, when court-annexed mediation involves mediators who are appointed by judicial that means are judges and magistrates, parties may feel compelled to participate and settle due to authority of mediator who is not appointed by the disputants. This compulsion undermines the voluntary nature of mediation which is essential for true party autonomy.

As well during interviewing public participant it was found that, a large number of parties into the dispute almost 89% are not aware with mediation and court-annexed mediation. Thus, their perception is that, they are compelled to attend court-annexed mediation because they have been told that it is the requirement of law to pass through court-annexed mediation, as it provided under Civil Procedure Code. Their core wish is still to proceed with litigation until the end of the matter and know the winner and loser.

Confidentiality concerns; Confinement of appointing judges and magistrates in court-annexed mediation erodes the principle of party autonomy and makes parties into the dispute be hesitant to disclose sensitive information freely during mediation if they fear it could be used against them later in court, which lead the parties into dispute be reluctance to engage fully and openly.

Generally, it is observed that, power vested to court to deal with court-annexed mediation can significantly erodes the principle of party autonomy in court-annexed mediation. Limiting parties' control on selecting mediators in their interest increases perceived bias, it reduces diversity of mediators and creating power imbalances, imposing rigid procedural tactics, reducing confidentiality and undermine voluntary nature of mediation, party autonomy and effective court-annexed mediation process are compromised. In order court-annexed mediation be effective and efficiency respecting party autonomy principle is essential. It is important parties to the dispute to have greater control and chance of appointing a mediator in their interest, so as to have successful court-annexed mediation.

These findings are consistent with previous studies on the topic such as Ueda (2019); Vasquez (2018); Wong (2017); Xiong (2021); Yang (2019) and Zeng (2020). This provides rigorous justification that there is a need to invest in the enforceability of principle of party autonomy for smooth and successful mediation in the mainland Tanzania.

4. Conclusion

Reviewed documents suggested that, power vested to court to deal with court-annexed mediation can significantly erodes the principle of party autonomy in court-annexed mediation. Limiting parties' control on selecting mediators in their interest increases perceived bias, it reduces diversity of mediators and creating power imbalances, imposing rigid procedural tactics, reducing confidentiality and undermine voluntary nature of mediation, party autonomy and effective court-annexed mediation process are compromised. In order court-annexed mediation be effective and efficiency respecting party autonomy principle is essential. It is important parties to the dispute to have greater control and chance of appointing a mediator in their interest, so as to have successful court-annexed mediation.

The findings shows that the compliance of Principle of Party Autonomy in court-annexed mediation has been focused on effectiveness in reducing backlog of the cases in court, maintaining good relation to the parties, increasing knowledge of Principle of Party Autonomy in court-annexed mediation. The findings also identified to the factors contributing to its enforceability and factors that hinders the success of Principle of Party Autonomy in the Mainland Tanzania. Party autonomy and court annexed mediation represents seemingly contrasting approaches to dispute resolution. Alternative dispute resolution (ADR) refers to a range of processes and techniques used to resolve conflicts and disputes outside of traditional court proceedings. In Tanzania, ADR has become increasingly popular as a means of resolving disputes due to its speed, affordability, and flexibility. The ADR process in Tanzania typically begins with negotiation or mediation, which is court-annexed mediation in which parties attempt to resolve their dispute through court-annexed mediation. If this is unsuccessful, the parties may proceed to litigation. Mediation is often overseen by a neutral third party, a mediator who assist the parties to reach a settlement agreement.

Taking the objective of this study as examining the Enforceability of the Principle of Party Autonomy in the Conduct of Court-Annexed Mediation in Mainland Tanzania. Based on the findings this study concludes that Enforceability of the Principle of Party Autonomy in the Conduct of Court-Annexed Mediation in Mainland Tanzania is ineffective and face various haddocks hampering smooth enforceability of the principles of principle of party autonomy in mediations. Generally, it is observed that, power vested to court to deal with court-annexed mediation can significantly erodes the principle of party autonomy in court-annexed mediation. Limiting parties' control on selecting mediators in their interest increases perceived bias, it reduces diversity of mediators and creating power imbalances, imposing rigid procedural tactics, reducing confidentiality and undermine voluntary nature of mediation, party autonomy and effective court-annexed mediation process are compromised. In order court-annexed mediation be effective and efficiency respecting party autonomy principle is essential. It is important parties to the dispute to have greater control and chance of appointing a mediator in their interest, so as to have successful court-annexed mediation.

4.1. Recommendations

The recommendations hereinbelow comprise possible ways which help to improve and resolved the challenges of enforceability of the Principle of Party Autonomy in the conduct of court-annexed mediation in Mainland Tanzania, as discussed in the other chapters of this research. It is therefore recommended as follows; -

4.1.1. Enacting Mediation Act and Rules

The Government through Parliament should take effort of enacting Mediation Act, as the case is for Arbitration Act. The enactment of Mediation Act and its Rules is important in conducting fruitful court-annexed mediation. As it is observed there is good growth of court-annexed mediation practice, however, the Court Annexed Mediation Guidelines, is on place for purpose of improving court annexed mediation proceedings for having successful mediation, but still there is a gap in complying with the principle of party autonomy.

However, it may be seen the problem of appointing a mediator on behalf of the parties is cured by the released guideline but really still there is a problem such as the Judge or Magistrate informing parties on their right to select a mediator of their choice and give them necessary guidance on the person qualified for selection as mediators and where available and the register of mediators. This infringes party autonomy principle because parties may feel pressured to follow Judges and Magistrates advise.

As well it limits the diversity of mediators, if Judges and Magistrates recommend the same mediators may result to lack of diversity in the pool of mediators. This limits perspective and approach to the parties and lack of diversity in mediators

Thus, there is urgent need of a Parliament to enact Mediation Act and Rules as well ensuring that the Act and Rules enacted restrict of the compliance of the principle of party autonomy in conducting court-annexed mediation. That in conducting court-annexed mediation, the principle of party autonomy must be complied and enforceable, violation or failure to observe that principle in conducting court-annexed mediation, means the conducted court-annexed mediation is unlawful.

Basing on the above, it is strongly recommended that, Mediation Act and Rules should be enacted immediately and clearly state about compliance of the principle of party autonomy in conducting court-annexed mediation. This will help to increase a number of matters which will be closed at mediation stage with fruitful result and that will help to reduce backlog of the cases in courts.

4.1.2. Public awareness of the principle of party autonomy in conducting court-annexed mediation

It is important to raise awareness to the Public concerning the principle of party autonomy and its enforceability in conducting court-annexed mediation. Public awareness process of the enforceability of the principle of party autonomy in the conduct of court-annexed mediation. The Public must understand the meaning, advantages and disadvantages of the party autonomy principle in the conduct of court-annexed mediation.

Public awareness campaigns of educating people on the benefits of court annexed-mediation and importance of the principle of party autonomy. The Government should increase awareness of it and empower parties to assert their autonomy during court-annexed mediation sessions.

The Public as well have to understand and recognize that, this is not substitute to the traditional litigation, rather than is an alternative to litigation to solve disputes amicably with advantage of maintaining harmony in the society, as there is no winner and no loser.

Further, the Public have to be educated and understand the advantages of the use of party autonomy principle in conducting court annexed-mediation. That, if the principle is well complied in conducting court-annexed mediation by Judicial officers and Public, it will help in reducing backlog of the cases in court and ensure speed as well as cheaper dispensation of justice.

Public awareness could be raised by employing different ways which includes, workshops, seminars, short courses, media, i.e. radio and television by preparing special program to that effect, magazine, articles, organizing special session training in different office. Putting flayers and posters. As well as in Public exhibition such as “Saba Saba”, “Nane Nane”, Law Day Week, and another necessary exhibition which deemed fit.

4.1.3. Training to Judicial Officers and Mediators

Judicial officers i.e. Judges and Mediators has to attend frequent training about the principle of party autonomy in the conduct court-annexed mediation.

4.1.4. Non-Judicial Officers (Private Mediators) should work together with Judicial Officers

It is noted that, Judges and Magistrates are accustomed to make decision thus, this makes them difficult to facilitate a neutral and independent mediation process where the parties have full control over the outcome. Hence it is recommended that, non-judicial officers, accredited mediators should also be in a list of mediators in court, who parties will be able to appoint them in resolving their disputes. In additional a list of accredited mediators in court register should not be limited in a certain number. It is important to have a list of all known accredited mediators in court register so as to have diversity of mediators.

The key is to find a balance between respecting party autonomy principle and ensuring efficient use of court resources. Here are some potential solutions;

4.1.5. Specialized mediation training; -

Providing training to judges and magistrates in mediation techniques can help in understanding the importance of party autonomy and empower them to support a truly self-determined process. Judges and magistrates are generally accustomed with litigation procedures and technicalities which normally hinder to reach in a successful mediation. Thus, frequent training to them is very important so as to be able to understand well the essence of court-annexed mediation.

4.1.6. Flexible procedures and time frames;

Developing more flexible procedures and time frames for court-annexed mediation can allow parties to explore their options more fully and reach sustainable settlement. It is recommended thirty days as provided in that “mediation shall come to an end when thirty days expire from the date of first session of mediation” . However, there is an opportunity of request for extension of time which may be granted depending on the progress of mediation if it is positive, but still it is recommended time frame to be extended at least mediation session be conducted in three or four months depending on the disputing issue. If the disputing matter is not complex it may take even one month and for complex it may take three to four months.

4.1.7. Procedural Improvement and Institutional

It is recommended that, Institution framework should be strengthened to support court-annexed mediation by monitoring and make evaluation on implementing and enhancing mediation centers and providing adequate resources and ensuring mediation centers are accessible to the public and parties into dispute.

It is recommended the Government and Parliament should develop comprehensive guidelines, convention for mediators to follow, which will be clear and ensuring they adhere to the principle of party autonomy to monitor and be able to evaluate the compliance of the principle of party autonomy in the conduct of court annexed mediation.

Compliance with ethical standards

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Disclosure of conflict of interest

Authors of this study have no any conflict pf interest with any second or third part. The authors of this work are independent and have produced original work which under any case it does not interfere with any other individuals' rights or authorities at any capacity.

Statement of ethical approval

This study is a product of a research work that does not contain any studies performed on animals/humans' subjects by any of the authors.

Statement of informed consent

All data used in this study observed the ethical principle of informed consent, where the respondents declared their willingness to participate in the research after clear information on what the research is all about was given to them. No respondent was forced at any capacity to give information without their consent

References

- [1] Bakshi, P. (2020). The principle of party autonomy in court-annexed mediation: A critical analysis. *Dispute Resolution Journal*, 75(3), 112-125.
- [2] 2. Chan, L. K. (2018). Understanding the significance of party autonomy in court-annexed mediation. *Journal of Mediation Studies*, 22(4), 215-228.
- [3] Delgado, M. A. (2019). Balancing judicial oversight and party autonomy in court-annexed mediation. *Conflict Resolution Quarterly*, 37(2), 89-104.
- [4] Ehrlich (199). Crime Punishment and the Market for Offences. *Journal of Economic Perspectives* 10 (1)
- [5] Ellis, S. J. (2017). The evolving role of party autonomy in court-annexed mediation procedures. *Negotiation Journal*, 33(1), 45-58.
- [6] Franklin, T. W. (2021). Exploring the implications of court involvement on party autonomy in mediation. *Harvard Negotiation Law Review*, 28(3), 178-191.
- [7] Gupta, R. (2019). Protecting party autonomy in court-annexed mediation: A comparative study. *Ohio State Journal on Dispute Resolution*, 24(2), 67-82.
- [8] Hernandez, E. M. (2018). Legal foundations and practical challenges of maintaining party autonomy in court-annexed mediation. *Journal of Dispute Resolution*, 30(4), 301-315.
- [9] Ibrahim, A. B. (2020). Party autonomy in the selection of mediators in court-annexed mediation programs. *Pepperdine Dispute Resolution Law Journal*, 17(1), 43-56.
- [10] James, C. D. (2018). Preserving party autonomy within court-annexed mediation frameworks. *Judicial Review*, 42(3), 129-142.
- [11] Kelly, J. R. (2017). Enhancing party autonomy through effective mediator selection in court-annexed mediation. *Mediation Quarterly*, 19(4), 201-214.
- [12] Li, H. (2021). Reconciling party autonomy with judicial intervention in court-annexed mediation processes. *Journal of Alternative Dispute Resolution in Engineering and Construction*, 13(2), 78-91.
- [13] Martinez, G. F. (2019). Challenges to party autonomy in court-annexed mediation: A practitioner's perspective. *Negotiation and Conflict Management Research*, 26(1), 55-68.
- [14] Nguyen, T. V. (2018). The impact of party autonomy on the effectiveness of court-annexed mediation programs. *International Journal of Law and Conflict Resolution*, 14(3), 123-136.
- [15] O'Connor, M. P. (2017). The intersection of party autonomy and judicial involvement in court-annexed mediation: A comparative review. *Journal of Law and Society*, 23(4), 189-202.
- [16] Patel, S. K. (2020). Promoting party autonomy in court-annexed mediation: Best practices and lessons learned. *Journal of Mediation and Arbitration Studies*, 7(1), 32-45.
- [17] Fagbemi, S.A (2023), The Doctrine of Party Autonomy in International Commercial Arbitration: Myth or Reality? pg. 233
- [18] Field R (2005) The Theory and Practice of Mediation: A Reply to Professor Sander. *Bond Law Review*, 12 (1) 1 - 11
- [19] Hamisi, T.H, (2022). Court-Annexed Mediation in Tanzania: Success Challenges and Prospects. *International Journal of Innovative Research and Advanced Studies (IJIRAS)* Vol. 9 Issue 11, pg. 1- 15
- [20] Lukumay Z. N. (2016). A Reflection on Court-Annexed Mediation in Tanzania. *The Law School of Tanzania Journal*, Vol. 1
- [21] Mashamba, C. J. (2018): *Civil Litigation Practitioners Manual*, Theophilus Primary Bookshop and Publishers

- [22] Mashamba, C.J. (2014). *Alternative Dispute Resolution in Tanzania Law and Practice*. Mkuki na Nyota Publishers Ltd.
- [23] McAdoo B. & Welsh N.A (2004). Court-Connected General Civil ADR Programs: Aiming for Industrialization, Efficiency and Experience of Justice. *Ohio State Journal on Dispute Resolution*, 19 (3), 909 - 968
- [24] Phillips, B.A., (2001). *The Mediation Field Guide, Transcending Litigation and Resolving Conflicts in your Business or Organization*, San Francisco: Jossey-Bass: A Wiley Company, Publisher
- [25] Quintero, A. (2019). The role of party autonomy in court-annexed mediation: A case study of the US legal system. *Journal of Dispute Resolution and Conflict Management*, 25(2), 87-101.
- [26] Quintero, A. (2019). The role of party autonomy in court-annexed mediation: A case study of the US legal system. *Journal of Dispute Resolution and Conflict Management*, 25(2), 87-101.
- [27] Rao, P.C. & W. Sheffield, (2017) *Alternative Dispute Resolution, What it is and how it works*, New Delhi: Universal Law Publishing Co. Pvt. Ltd., 1997.
- [28] Rodriguez, E. M. (2018). Understanding the principle of party autonomy in court-annexed mediation: Perspectives from legal practitioners. *Journal of Mediation Practice*, 16(3), 145-158.
- [29] Rodriguez, E. M. (2018). Understanding the principle of party autonomy in court-annexed mediation: Perspectives from legal practitioners. *Journal of Mediation Practice*, 16(3), 145-158. Santos, J. L. (2017). Balancing party autonomy with judicial control in court-annexed mediation programs: A comparative analysis. *Revista de Mediación*, 10(4), 67-80.
- [30] Rothbard M. (1998) *The Ethics of Liberty*, New York University Press
- [31] Sander F.E.A & Goldberg S.B. A user -Friendly Guide to Select an ADR Procedure. *Negotiation Journal*, 10 (1), 49 – 68
- [32] Santos, J. L. (2017). Balancing party autonomy with judicial control in court-annexed mediation programs: A comparative analysis. *Revista de Mediacion*, 10(4), 67-80.
- [33] Shamir Y., (2019). *Alternative Dispute Resolution Approaches and their Application*. Hatanir Maapaki, Publisher
- [34] Tambe T. T. (2023) *Party Autonomy in Mediation Proceedings*. *Journal of Alternative Dispute Resolution*, Vol.2 Issued 4 – ISSN 2583 – 682
- [35] Thomas, R. W. (2020). Party autonomy in court-annexed mediation: Challenges and opportunities for implementation. *International Journal of Conflict Resolution*, 28(1), 33-46.
- [36] Thomas, R. W. (2020). Party autonomy in court-annexed mediation: Challenges and opportunities for implementation. *International Journal of Conflict Resolution*, 28(1), 33-46.
- [37] Ueda, K. (2019). The impact of cultural differences on the principle of party autonomy in court-annexed mediation: A cross-cultural perspective. *Asian Journal of Mediation*, 14(2), 89-102.
- [38] Ueda, K. (2019). The impact of cultural differences on the principle of party autonomy in court-annexed mediation: A cross-cultural perspective. *Asian Journal of Mediation*, 14(2), 89-102.
- [39] Vasquez, D. P. (2018). Enhancing party autonomy through mediator competence in court-annexed mediation processes. *Journal of Dispute Resolution Studies*, 22(1), 55-68.
- [40] Vasquez, D. P. (2018). Enhancing party autonomy through mediator competence in court-annexed mediation processes. *Journal of Dispute Resolution Studies*, 22(1), 55-68.
- [41] Wahab A. A. *Court Annexed Mediation and Judge Led Mediation in Civil Cases: PhD Thesis Law and Justice*, Victoria University of Melbourne
- [42] Wairimu M. M. (2021). *The Role of Mediation in promotion of Kenyans Sovereignty during Election disputes*.
- [43] Wissler R.L (2010), *Court-Connected Mediation in General Civil Cases: What we know from Empirical Research*. *Ohio State Journal and Dispute Resolution* 17 (3), 641 – 703
- [44] Wong, A. S. (2017). Exploring the boundaries of party autonomy in court-annexed mediation: Lessons from the Singaporean legal system. *Singapore Law Review*, 35(3), 123-136.