

# Effect of Contract Dispute Resolution Practice on Procurement Performance of Manufacturing Companies In Nakuru County Kenya

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**ABSTRACT:** An efficient procurement process serves as the cornerstone of manufacturing operations. However, procurement performance among manufacturing companies faces significant challenges, impeding their efficiency and competitiveness in the market. According to a survey by the Kenya Association of Manufacturers, manufacturing firms in Kenya cite procurement inefficiencies as a major obstacle to growth and profitability. One of the primary reasons for this poor performance stems from inadequate contract management practices. Therefore, the study sought to assess the effect of contract dispute resolution practices. The study was guided by game theory. The study adopted a descriptive research design. The study targeted 52 Nakuru County manufacturers. 52 supply chain managers from 52 Nakuru County manufacturing enterprises. Since the targeted population was manageable, the researcher used census technique to incorporate all 52 targeted respondents. The researcher collected primary data using structured questionnaires. The questionnaire incorporated closed items. The collected data was quantitative in nature. Quantitative data was analyzed through the aid of Statistical Package for Social Sciences version 25. Descriptive and inferential statistics was employed in the study to analyze quantitative data. Descriptive statistics involved the use of, mean and standard deviation. Inferential statistic involved the use of correlation and regression analysis. Data was presented in form of tables. The findings revealed that the Cronbach alpha value for all the variables was above 0.7 therefore the study concluded that the data collection instrument was reliable. The finding revealed that there is a strong positive correlation between contract dispute resolution practice and procurement performance ( $r=0.541$ ;  $p<0.05$ ). From the conclusion the study recommended that manufacturing companies should also develop robust contract dispute resolution. Clear procedures for dispute resolution, including arbitration and mediation processes, is essential for managing conflicts in a structured and fair manner.

**Key Words:** *Procurement Performance, Manufacturing Companies, Contract Dispute Resolution Practice and Nakuru County*

## I. INTRODUCTION

Contract dispute resolution practices are essential for managing conflicts that arise during the execution of a contract (Pagell, Wu & Wasserman, 2019). Effective resolution starts with negotiation, where direct discussions between the parties involved aim to resolve disputes amicably without involving third parties (Suchman, 2019). This requires open communication and a mutual understanding of each party's interests. If negotiation fails, mediation can be used, involving a neutral third party to facilitate discussions and help the disputing parties reach a compromise (Schindler, 2019).

Mediation is voluntary and non-binding, focusing on finding a mutually acceptable solution. Arbitration is another formal method, where an arbitrator or panel of arbitrators makes a binding decision based on the evidence and arguments presented (Osibanjo & Nwaubani, 2021). This process is typically faster and less costly than litigation and provides a definitive resolution. Including clear dispute resolution clauses in the contract itself is also a proactive practice, as it outlines the steps and methods for resolving disputes, providing a structured approach to addressing conflicts and preventing misunderstandings and delays (Healy, Singh & Seddon, 2020).

Efficient dispute resolution minimizes financial losses associated with delays, legal fees, and resource allocation to resolving the dispute (Trent & Monczka, 2019). This contributes to better cost management and budget adherence. Dispute resolution often involves open communication between parties. Effective communication during this process can lead to a better understanding of each party's perspectives and expectations, which can ultimately improve collaboration and performance. Dispute resolution provides valuable insights into potential weaknesses in contract terms, performance measurement, and risk management (Dobson, 2020).

Manufacturing firms in the USA typically adopt advanced and structured conflict resolution practices to address disputes that arise in the context of contracts and supplier relationships (South African National Treasury, 2017). Negotiation is often the first step, where the parties involved attempt to resolve issues through open communication and compromise (Rendon, 2020). Firms also rely heavily on mediation and arbitration, particularly in cases where internal negotiations fail to produce results. The use of technology like Contract Lifecycle Management (CLM) software also plays a crucial role in minimizing contract-related disputes by providing clear records of terms, performance, and deadlines, which helps avoid misunderstandings (Batetah & Wabala, 2021).

In South Africa, manufacturing firms similarly prioritize conflict resolution as an essential component of their contract management strategies. Negotiation is commonly used, especially in addressing disputes arising from contract terms and supplier issues. Additionally, South African firms often resort to mediation as a cost-effective and non-adversarial method of conflict resolution (Chidi & Egbunike, 2020). Moreover, these firms emphasize building strategic supplier relationships, where conflicts are often managed through joint problem-solving and regular communication, reducing adversarial encounters. In cases of serious disputes, arbitration is used as a formal mechanism to resolve conflicts, providing a binding resolution while avoiding the costs and delays associated with litigation (Njoki, Ismail & Osoro, 2021).

In Kenya, manufacturing firms emphasize negotiation as the primary conflict resolution tool, especially when dealing with local suppliers and stakeholders (Omwega, 2023). The goal is to maintain long-term partnerships, which are essential for supply chain resilience. Additionally, mediation is frequently used in the Kenyan manufacturing sector as an effective and affordable method for resolving disputes without damaging business relationships (Mwangi, 2020). In situations where these approaches do not resolve the issue, arbitration may be employed, particularly in larger firms, to settle contractual disputes in a binding manner. Furthermore, the use of Key Performance Indicators (KPIs) to evaluate supplier performance helps Kenyan firms proactively identify and address issues that could lead to conflicts, strengthening their ties with suppliers and reducing the likelihood of disputes (GoK, 2020).

## **II: LITERATURE REVIEW**

The study was guided by game theory. Game theory was developed by John von Neumann and Oskar Morgenstern in 1944. Game Theory provides a strategic framework for analyzing and optimizing decision-making in situations where the outcomes depend on the choices of multiple participants. In procurement, it can be applied to reshape traditional negotiation methodologies, fostering competitive dynamics and transparency between buyers and suppliers (McEachern, 2017). Game theory often presupposes that the players are fully informed about the game they are playing, i.e., they are aware of the tactics that are accessible, the probabilities associated with random actions, and the reward functions.

Game Theory can help manufacturing companies design negotiation strategies that maximize their outcomes (McEachern, 2017). This includes determining optimal pricing, quantities, and contract terms based on the anticipated responses of suppliers and competitors. Game Theory can contribute to building stronger and more collaborative relationships with suppliers. Transparent negotiations based on strategic moves and counter-moves can lead to win-win situations, fostering long-term partnerships. Therefore, the theory guided the study's on contract dispute resolution practice on procurement performance.

## **III: METHODOLOGY**

The study adopted descriptive research design. The unit of analysis was 52 manufacturing firms in Nakuru County. The unit of observation was 52 supply chain Managers from 52 manufacturing companies in Nakuru County. Since the study population was manageable the researcher adopted census to include all the 52 targeted respondents. Census design is a study of every unit, everyone or everything in a population. The researcher used structured questionnaires to collect primary data desirable for the study. The questionnaire incorporated closed items. The close ended questions were

structured on a five-point Likert scale. (Mugenda & Mugenda, 2012). Data collection procedure involved seeking authorization from the University to allow the researcher to collect data.

A research permit was also obtained from National Commission for Science, Technology and Innovation. In addition, the researcher sought permission from the targeted manufacturing firms in order to be allowed to collect data from the companies. The primary data was collected through use of questionnaires. Reliability study was ensured by conducting a pilot study at Kakuzi PLC where 5 questionnaires were distributed to supply chain managers. The piloted respondents were not included in the final study. The questionnaire's reliability was statistically measured by the internal consistency. Internal consistency was measured by use of Cronbach's Alpha. Content validity was used in this study. To ascertain the validity of the research, instrument the researcher sought views of experts in the field of study especially the supervisor (Kothari, 2012).

The collected data was quantitative. Quantitative data was acquired from closed-ended questions. Before the process of data entry was initiated all the questionnaires were sorted. The researcher went through all the data selected and summarize them. Quantitative data was analyzed by utilization of Statistical Package for Social Sciences (SPSS) version 25. Descriptive and inferential statistics was employed in the study to analyze quantitative data. Descriptive statistics involved the use of, measures of central tendencies (mean) and measures of dispersion (standard deviation). Inferential statistic involved the use of correlation and regression analysis. After analysis data was presented in form of tables. The study undertook preliminary diagnostic tests to ensure suitability of correlation and multiple linear regressions. The preliminary diagnostic tests include normality tests, multicollinearity test and Autocorrelation Test.

#### IV: RESULTS

##### Response Rate

The researcher administered 52 questionnaires for data collection out of which 50 were filled and returned to the researcher. This represented 96% overall successful response rates.

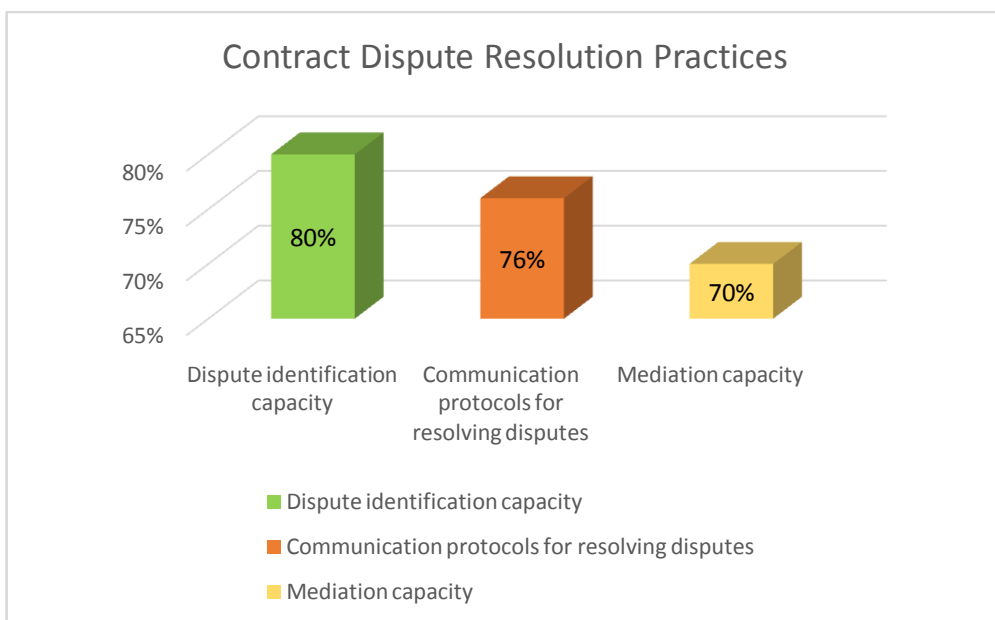
**Table 1: Response Rate**

	Sample Size	Completely Filled	Non-Response Rate
Frequency	52	50	2
Percent (%)	100	96	4

##### Contract Dispute Resolution Practice and Procurement Performance

##### Contract Dispute Resolution Practices

The respondents were asked to indicate dispute resolution practices manufacturing firms utilize. The findings were as indicated in figure 1.

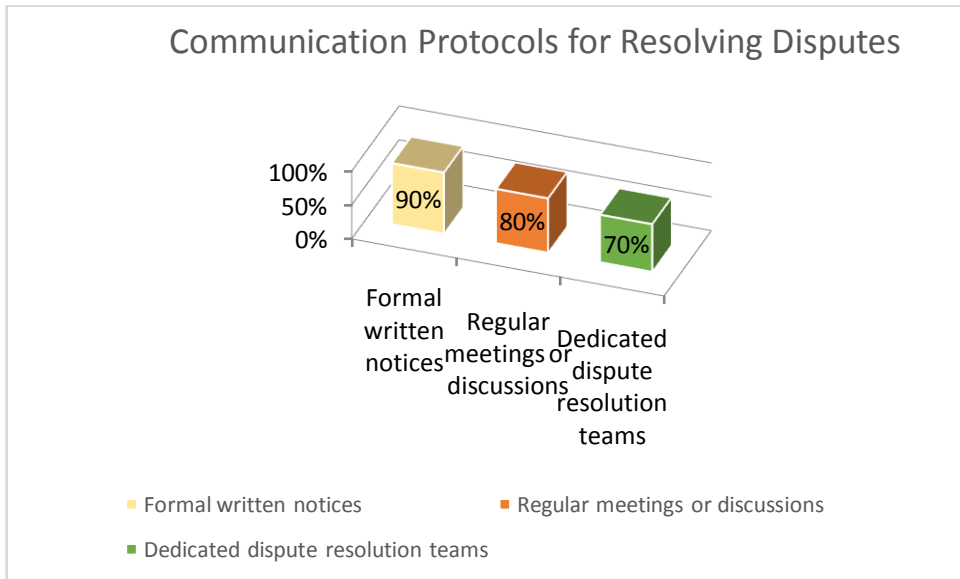


**Figure 1: Contract Dispute Resolution Practices**

From the analysis in terms of dispute resolution, 80% of organizations have dispute identification capacities, 76% utilize communication protocols, and 70% have mediation capacities. These practices are vital for minimizing procurement disruptions and ensuring that disputes are resolved quickly and efficiently, leading to enhanced procurement performance.

### Communication Protocols for Resolving Disputes

The respondents were asked to indicate communication protocols for resolving disputes in manufacturing firms. The findings were as indicated in figure 2.

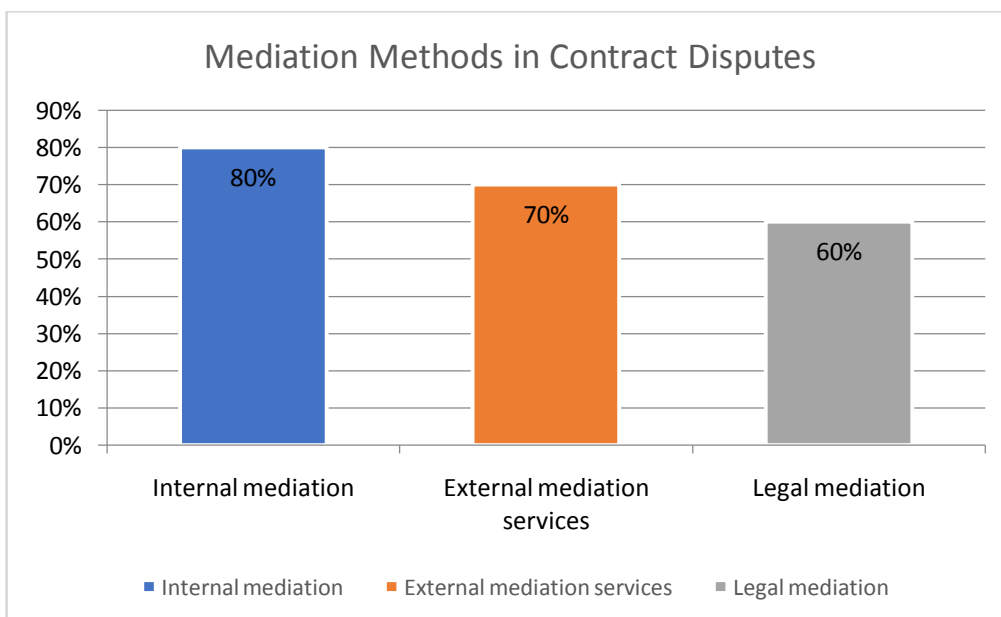


**Figure 2: Communication Protocols for Resolving Disputes**

Firms utilize formal written notices (90%), regular meetings or discussions (80%), and dedicated dispute resolution teams (70%). Structured communication protocols ensure that disputes are addressed early, reducing delays and preventing escalation, which helps maintain procurement efficiency.

### Mediation Methods in Contract Disputes

The respondents were asked to indicate mediation methods in contract disputes used by manufacturing firms. The findings were as indicated in figure 3.



**Figure 3: Mediation Methods in Contract Disputes**

Companies prefer internal mediation (80%), external mediation services (70%), and legal mediation (60%) for dispute resolution. The availability of various mediation methods allows for flexible dispute resolution approaches, contributing to smoother procurement processes.

**Contract Dispute Resolution Practice and Procurement Performance**

The study further sought to determine the effect of contract dispute resolution practice on the procurement performance of manufacturing companies in Kenya. The findings are presented in Table 2.

**Table 2: Contract Dispute Resolution Practice and Procurement Performance**

Statement	S A %	A %	U %	D %	SD %	Mean	Std
Identifying disputes early allows manufacturing firms to address issues before they escalate which ensure efficiency in supplier chain	47	34	13	6	0	4.210	0.908
Promptly identifying disputes enables manufacturing firms to maintain positive relationships with all the stakeholder in the supply chain	50	31	15	5	0	4.258	0.886
Effective dispute management helps avoid delays in procurement and delivery, which can impact manufacturing processes and project timelines	37	44	16	3	0	4.145	0.807
Establishing clear communication protocols improves the efficiency of procurement operations	44	53	3	0	0	4.403	0.557
Effective communication fosters strong relationships with suppliers	37	44	16	3	0	4.145	0.807
Effective communication help in maintaining accountability by documenting communications	52	36	7	5	0	4.823	0.931
Strong mediation capacity enables manufacturing firms to resolve disputes with suppliers amicably which minimizes disruptions to procurement activities	35	45	5	0	0	4.452	0.592
Mediation capacity supports proactive risk management by addressing potential conflicts before they escalate	40	42	9	3	6	3.873	1.037
Mediation capacity prevents lengthy and costly delays associated with formal litigation	47	34	13	6	0	4.210	0.908
<b>Aggregate Mean and Standard Deviation</b>						<b>4.279</b>	<b>0.825</b>

According to the findings, 47% of the respondents strongly agreed that identifying disputes early allows manufacturing firms to address issues before they escalate which ensure efficiency in supplier chain, 34% agreed, 13% were undecided while 6% disagreed that identifying disputes early allows manufacturing firms to address issues before they escalate which ensure efficiency in supplier chain with a mean of 4.210 and a standard deviation of 0.908. Also, 50% of the respondents strongly agreed that promptly identifying disputes enables manufacturing firms to maintain positive relationships with all the stakeholder in the supply chain, 31% agreed, 15% were undecided while 5% of the respondents disagreed that promptly identifying disputes enables manufacturing firms to maintain positive relationships with all the stakeholder in the supply chain with a mean of 4.258 and a standard deviation of 0.886. Furthermore, 37% of the respondents strongly agreed that effective dispute management helps avoid delays in procurement and delivery, which can impact manufacturing processes and project timelines, 44% agreed, 16% were undecided while 3% disagreed that effective dispute management helps avoid delays in procurement and delivery, which can impact manufacturing processes and project timelines with a mean of 4.145 and a standard deviation of 0.807.

In addition, 44% of the respondents strongly agreed that establishing clear communication protocols improves the efficiency of procurement operations, 53% agreed, while 3% of the respondents disagreed that establishing clear communication protocols improves the efficiency of procurement operations with a mean of 4.403 and a standard deviation of 0.557. Additionally, 37% of the respondents strongly agreed that effective communication fosters strong relationships with suppliers, 44% agreed, 16% were undecided while 3% of the respondents disagreed that effective communication fosters strong relationships with suppliers with a mean of 4.145 and a standard deviation of 0.807.

Moreover, 52% of the respondents strongly agreed that effective communication help in maintaining accountability by documenting communications, 36% agreed, 7% were undecided while 5% disagreed that effective communication help in maintaining accountability by documenting communications with a mean of 4.823 and a standard deviation of 0.931. According to Kingoto and Ismail (2021) who revealed that establishing clear communication protocols enhances the efficiency of procurement operations by streamlining information flow, improving coordination, supporting effective decision-making, and strengthening supplier relationships.

Further 35% of the respondents strongly agreed that strong mediation capacity enables manufacturing firms to resolve disputes with suppliers amicably which minimizes disruptions to procurement activities, 45% agreed while 5% of the respondents were undecided that strong mediation capacity enables manufacturing firms to resolve disputes with suppliers amicably which minimizes disruptions to procurement activities with a mean of 4.452 and a standard deviation of 0.592. Moreover, 40% of the respondents strongly agreed that mediation capacity supports proactive risk management by addressing potential conflicts before they escalate, 42% agreed, 9% were undecided, 3% disagreed while 6% strongly disagreed that mediation capacity supports proactive risk management by addressing potential conflicts before they escalate with a mean of 3.873 and Standard deviation of 1.037. Furthermore, 47% of the respondents strongly agreed that mediation capacity prevents lengthy and costly delays associated with formal litigation, 34% agreed, 13% were undecided while 6% disagreed that mediation capacity prevents lengthy and costly delays associated with formal litigation with a mean of 4.210 and a standard deviation of 0.908. The aggregate mean of 4.279, reflects strong agreement that effective dispute resolution improves procurement performance. The standard deviation of 0.825 suggests consistent responses, indicating a generally shared view on the importance of dispute resolution. The study is in line with Kolani&Miroga, (2019) who revealed that mediation capacity supports proactive risk management by providing a framework for early identification and resolution of conflicts. It facilitates open dialogue, promotes collaborative solutions, reduces escalation risks, enhances relationships, supports compliance, and contributes to cost-effective and timely conflict resolution.

## **V: DISCUSSION**

The findings of the study revealed that promptly identifying disputes enables manufacturing firms to maintain positive relationships with all the stakeholders in the supply chain. Timely resolution of disputes helps build and maintain trust between parties. Stakeholders are more likely to have confidence in the integrity and reliability of manufacturing firms if they see that disputes are handled fairly and efficiently. Further, the findings of the study revealed that effective communication fosters strong relationships with suppliers. Moreover, the findings revealed that mediation capacity supports proactive risk management by addressing potential conflicts before they escalate. Mediation fosters open and constructive communication between parties. Addressing grievances and misunderstandings early helps in resolving issues before they lead to significant disruptions or deteriorate relationships.

## **VI: CONCLUSION AND RECOMMENDATIONS**

From the findings on the effect of contract dispute resolution practice on procurement performance, the study concluded that contract dispute resolution practice has a statistically significant effect on procurement performance of manufacturing companies in Nakuru County Kenya. Effective dispute resolution mechanisms, such as arbitration or mediation, help resolve conflicts swiftly and minimize disruptions in the supply chain. Statistical analyses often show that companies with efficient dispute resolution practices experience fewer operational delays and interruptions, leading to smoother procurement processes and more reliable delivery schedules.

The study recommended that manufacturing companies must develop robust contract dispute resolution mechanisms to handle conflicts efficiently and minimize disruptions. Establishing clear procedures for dispute resolution, including arbitration and mediation processes, is essential for managing conflicts in a structured and fair manner. Training personnel in dispute resolution techniques and the use of alternative dispute resolution (ADR) methods can help resolve issues without escalating to costly legal battles. Promoting transparency in dispute resolution processes will also help maintain trust and positive relationships with suppliers. By improving these mechanisms, manufacturing companies can reduce operational delays and ensure a more reliable and smooth procurement process.

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