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The Challenges Facing the Mediation Centre of The High Court of Tanzania Mainland

RAMADHANI MUSSA KALINGA[1]

ABSTRACT

Mediation is the mode of settling disputes between disputants with the assistance of an appointed neutral third party, commonly known as a mediator, whose presence is only to facilitate discussions of amicable settlement of the dispute and their decision is non-binding. Formally, mediation was introduced in Tanzania in 2015, in the civil and land lawsuit. Moreover, the government introduced mandatory mediation, also called court-annexed mediation, to encourage disputing parties to use the mediation process as a preferred way to resolve disputes. Furthermore, to promote the use of modern dispute settlement Mechanisms, the Government of the United Republic of Tanzania through the Judiciary, established a specialized Alternative Disputes Resolution Centre of the High Court of Tanzania, namely the High Court of Tanzania Mediation Centre, in Mainland Tanzania that specifically deals with settlement of disputes through ADR mechanisms aiming to combat the backlog of cases in courts. This article intends to evaluate the efficiency and effectiveness of the established Mediation Centre in tackling the backlog of cases in courts.

Keywords*: Mediation, Backlog of Cases, Challenges, Tanzania Mainland.*

I. INTRODUCTION

Compared to other dispute resolution methods, the oldest and most common method of dispute resolution used in nearly all African societies since ancient times before colonialism and the introduction of colonial rule was traditional dispute resolution. In the traditional environment, (villages, hamlets, settlements, and towns), dispute resolution is as old as the traditions and customs of the society. Customary laws, generally are known to be the accepted rule within the communities, and for the most part, African traditions emphasize and dwell more on the togetherness of the societies and encourage unity and that is why to this day most African countries still hold onto their unwritten customary laws that promote the application of traditional dispute resolution mechanisms and the fact that they are flexible.

[1] Author is a LL.M. student at Tumaini University Dar es Salaam College (TUDARCo) and Senior State Attorney at National Prosecutions Service (NPS), Tanzania.

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Alternative Dispute Resolution (ADR) Concept emerged in the 1970s in the USA during the political and civil conflicts as a way of dealing with the overwhelming number of cases filed in the U.S. courthouses that created case backlogs and procedural errors, especially after the Civil Rights Act, of 1964. Primarily, mediation was used by community activists to intervene in interracial conflicts in the labour area. Eventually, they realized that mediation could also be useful for handling interpersonal conflicts rather than letting these conflicts escalate while waiting to be handled in court and the 1980s efforts to try to find efficient and effective substitutes to litigation in the commercial and business sector, grew the demand for ADR drastically making mediation one of the most sort out ADR mechanism.

ADR is a modern-day non-judicial dispute resolution that solely aids in solving disputes by providing voluntary freedom for disputants to come together with their representatives and a non-binding neutral third party to facilitate the discussion between the parties with a view of reaching an amicable settlement for both parties and encourage in resolving the conflict. It is a win-win alternative contrary to the judicial litigation process.

The Law Reform Commission of Tanzania (LRCT) 1986 made a crucial remark that *"it is a matter of consensus that the interest of all involved in the administration of justice is that justice should be speedy, cheap and fair. Delayed justice causes numerous social and economic disruptions and therefore, the measure of a good legal system is the length of time it takes to conclude litigation."*[2]

In 1994, Alternative Dispute Resolution was introduced in Tanzania vide the Civil Procedure Code (Amendment of Schedules) Rules 1994[3] which amended the First Schedule to the Civil Procedure Code.[4] ADR derives its legality from both the constitution and the statute, following the 13th amendment of the Constitution of the United Republic of Tanzania, 1977,[5] and the Civil Procedure Code (CAP. 33 R.E. 2022). The Civil Procedure Code (*supra*) indicates, "*Subject to the provisions 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.*"[6] In every case assigned to a specific judge or magistrate, a first schedule and settlement conference attended by the parties or their mediators or advocates shall be held and arranged by such judge or magistrate pleadings.

[2] The United Republic of Tanzania, Law Reform Commission, Report No. 1 of 1986 on *Delays in the Disposal of Civil Suits*. May 1986, Government Printer.
[3] Mediation Government Notice No. 422 of 1994 that came into force on 1st November 1994.
[4] The Civil Procedure Code Cap 33 of 1966 [R.E 2019].
[5] Article. 107A (2) (d) of *The Constitution of the United Republic of Tanzania* [CAP. 2] as amended.
[6] Order VIIIC Rule 24 of the Civil Procedure Code [Cap.33 R.E. 2022].

The code introduced Order VIIIA, VIIIB, and specifically VIIIC for Negotiation, Conciliation, Mediation, and Arbitration respectively. However, it is not applicable in the Court of Appeal of Tanzania and in some cases like judicial review, constitutional rights, injunctive reliefs, and cases for declaratory judgments, the ADR process does not apply. Furthermore, court-annexed mediation was introduced by the Civil Procedure Code (CAP. 33 R.E. 2022) under orders VIIIA, VIIIB, and VIIIC as a mandatory procedure in all civil suits before trial litigation.

In recent years, the ADR has become more and more popular around the globe as a common practice in many judicial procedures and is widely used as the best and most effective solution to resolve disputes, complementing traditional methods. It is a preferred mechanism applied to reduce the accumulation of cases in the courts of law and for the most part, it intends to preserve good relationships between disputant parties.

However, some critics contend that mediation robs people of their right to fair justice as it does not provide access to the courts or practical justice based on legal rights but rather a settlement process.[7] In his journal, Professor Owen Fiss argued against settlement because it deprives parties of the remedial help of a lawsuit that access to the courts provides.[8]

II. Concepts and terminologies

There is no doubt that disagreements cannot be avoided, naturally, in any given society, due to daily human interactions, conflicts or disputes are bound to happen as the by-product of misunderstandings or simply a disagreement in opinions. In the words of the 14th His Holiness Dalai Lama, Tenzin Gyatso: *"As long as human beings have conscience and intellect to think about the future, definitely there will be conflicts. Human beings make conflicts, and methods to solve them must be created through human intelligence. It is wise to solve the conflict through dialogue, not through weapons."*[9]

Black's Law Dictionary defines a dispute as *"a conflict or controversy; a conflict of claims or rights; an assertion of a right, claim or demand on one side, met by contrary claims or allegations on the other."*[10] Each individual has their way in which they respond to resolving their differences. Some resort to anger and react violently, and some file lawsuits. ADR mechanisms aim to bring parties in conflicts together to achieve amicable settlement peacefully

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[7] Hazel Genn, *What is Civil Justice For? Reform, ADR, and Access to Justice*, Vol. 24:397, Yale Journal of Law & Humanities, 2012. (accessed on 15.07.2024).

[8] Owen Fiss, *Against Settlement,* Vol. 93: 1073, The Yale Law Journal, 1984. (accessed on 19.07.2024).

[9] Hammerich, E., interview on April, 2021 with H.H Dalai Lama, *Meeting Conflicts Mindfully,* Tibetan Centre for Conflict Resolution (TCCR) and Danish Centre for Conflict Resolution (DCCR), p.3, Dharamsala. (accessed on 12.04.2024).

[10] Garner, B.A., (ed), *Black's Law Dictionary* (8th Ed.), Texas: Thomson, 2004, at p.558. (accessed on 15.07.2024).

over litigation and violence.

(A) Alternative Dispute Resolution

S. J. WARE[11] Alternative Dispute Resolution (ADR) is defined as encompassing all legally permitted processes of dispute resolution other than litigation. It is also seen as an umbrella term that refers generally to alternatives to the court adjudication of disputes such as negotiation, mediation, arbitration, mini-trial, and summary trial.[12]

Dispute resolution prescribes an outcome based on mutual problem-sharing in which the conflicting parties cooperate to redefine their conflict and relationship. Resolution is non-power-based and non-coercive; it follows then that conflict resolution entails the mutual satisfaction of needs and does not rely on the power relationships between the parties.

(B) Mediation

Mediation is a process wherein the parties meet with a mutually selected impartial and neutral person who assists them in the negotiation of their differences.[13] Mediation leaves the decision power totally and strictly with the parties. The mediator does not decide what is "fair" or "right," does not assess blame nor render an opinion on the merits or chances of success if the case were litigated. The mediator acts as a catalyst between opposing interests attempting to bring them together by defining issues and eliminating obstacles to communication while moderating and guiding the process to avoid confrontation and ill will. The mediator will, however, seek concessions from each side during the mediation process.[14] Mediation is an efficient and cost-effective way of achieving that result while preserving, and at times even enhancing, the relationship of the parties.[15]

The primary goals of mediation are to promote access to justice, promote restorative justice, and preserve relationships between parties or potential appellants which may become strained or ruined by the confrontational nature of trials. It also facilitates an expeditious and cost-effective resolution of a dispute between plaintiffs or potential plaintiffs also assists plaintiffs or potential plaintiffs in determining at an early stage or before the commencement of trial. It also dispenses with litigation procedure and rules of evidence and provides both parties with

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[11] Ware, S. J., *Alternative Dispute Resolution*, St. Paul, 2001 available at https://books.google.co.tz/books (accessed on 11.06.2024).

[12] Nolan-Haley, J.M., *Alternative Dispute Resolution in a Nutshell*, St. Paul, 2008 available at https://www.westacademic.com (accessed on 11.06.2024).

[13] JAMS Services, *Mediation Defined: What is Mediation?* available at https://www.jamsdar.com/mediation-defined (accessed on 10.06.2024).

[14] *Ibid*. Article. 107A (2) (d) of *The Constitution of the United Republic of Tanzania* [CAP. 2] as amended.

[15] WIPO, *what is Mediation?* available at https://www.wipo.int/amc/en/mediation/what-mediation (accessed on 10.06.2024).

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solutions to the dispute.[16]

Mediation is a non-binding procedure controlled by the parties, a party cannot be forced to an outcome that does not like.[17] Mediation is the most important and preferred ADR mechanism due to its confidential procedures in which the parties cannot be compelled to disclose information that they prefer to keep confidential. Mediation's confidentiality allows the parties to negotiate freely and productively, without fear of publicity.[18] Mediation is an interest-based procedure, the parties can also be guided by their business interests. When the parties refer to their interests and engage in dialogue, mediation often results in a settlement that creates more value than would have been created if the underlying dispute had not occurred.[19] However, it is important to note that, mediation is most effective if all the parties go into the mediation process with a desire to reach an agreement and a willingness to compromise and not otherwise.

Mediation focuses more on the parties' welfare than the rules of procedure and evidence. Unlike other ADRs, like litigation, mediation affords the prospect for the disputing parties to settle their dispute on terms that a justice might fail to order. The case in point is when the parties may agree to continue their relations under revised terms. Moreover, a good mediator often will prompt the parties to have ideas about the terms of the agreement which would not be available if a judge were to decide the case. Mediation can therefore be a highly effective method for resolving disputes.

Court-Annexed Mediation in Tanzania is mandatory for each civil suit (limited to exceptional cases) to pass, and non-compliance with it leads to a serious legal consequence of declaring the whole proceedings insignificant and invalid. Court-annexed mediation is the kind of mediation that is ordered by the court. The court directs the disputing parties to submit their dispute to the mediator (appointed by the judge or magistrate) who will facilitate their settlement. If the mediation fails, the case file is returned to the magistrate or judge for trial. Statutory, the court-annexed mediation in Tanzania is held during the first pre-trial sessions, when the pleadings are completed and preliminary objections are determined, the judge or magistrate assigns the case to a mediator for mediation.

Court-annexed mediation was introduced to overcome the administration of the overwhelming number of court cases and assure access to effective and equal justice to all due to its quickness and inexpensiveness nature. However, as discussed previously, the main characteristic of

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[16] Boulle, L. & Rycroft, A., *Mediation Principles, Processes, Practice,* London: Butterworths, 1997. P.6 (accessed on 17.07.2024)

[17] *Ibid.*

[18] *Ibid.*

[19] *Ibid.*

mediation is that it is entirely consensual. No disputing party shall be forced into mediation and, when they agree to participate, they should not be forced to reach an agreed outcome. The court guidelines of practices and procedures must ensure considerable pressure on parties to participate in mediation and clarify that litigation should be a last resort. The court should consider the types of claims appropriate for compulsory mediation otherwise mandating parties to take part in a mandatory mediation with disputed success could be a waste of time and court resources.

III. Advantages of Alternative Dispute Resolution Mechanism in Tanzania

Like everything else, ADR mechanisms extensively received positive criticism globally due to their quality and benefits against formal litigation. Some of the critically acclaimed advantages are:

Facilitate communication between conflicting parties. It benefits the disputing parties involved by coming up with flexible and creative selections for the parties to exercise the best options available for both parties and arrive at an amicable settlement which in turn, preserves and builds healthy relationships.

Reduce delays in achieving settlement. When conducted appropriately, it can take up to weeks or months, allowing resolution to be settled within a short period compared to trial, which can take years. Hence, it saves time and money, which one uses in litigation when hiring lawyers and experts.

Increase Access to Justice and Flexibility. Mediation presents a unique opportunity for dispute resolution with the involvement and participation of all the parties and their advocates no party under any circumstance is coerced to enter into ADR and parties can terminate settlements at any time if they see fit.

Cost-efficiency System. Mediation does not require much preparation or procedures since the settlements are commonly referred to judges/magistrates who are appointed by the court itself and are remunerated by the judiciary, therefore the parties bear no costs.

Confidentiality. Mediation is always private, only the invitees attend the sessions, unlike litigation, where the proceedings are usually public, other individuals are allowed to attend and can be recorded or televised by the media.

IV. Disadvantages of Alternative Dispute Resolution Mechanism in Tanzania

However, despite the advantages brought by ADR mechanisms, there are some disadvantages as well. These may be ineffective, and even counterproductive, in achieving justice. Some of those disadvantages are:

***Confidentiality Concerns**:* While confidentiality can be a benefit, it can also be a disadvantage as it limits public accountability and transparency. This is particularly concerning in cases involving public interest or where there may be a need for a public record.

***Lack of Judicial Precautions**:* ADR processes may lack some of the procedural protections inherent in the judicial system, such as rules of evidence and procedures that ensure fairness and due process.

***Lack of Formality**:* ADR processes can be less formal than court proceedings, such as the discovery process *(the pre-trial phase where parties gather evidence)* is often more limited than in litigation, which can be a disadvantage to parties who need extensive information to support their case, which may lead to a perception of less authority or fairness in the decision-making process.

***Potential for Inequality**:* ADR may disadvantage less powerful or wealthy parties who may not have the same level of access to skilled negotiators or legal representation as the opposing party.

***Limited Appeals**:* In arbitration, there are often limited grounds for appeal. If a party is dissatisfied with the outcome, it can be difficult to challenge the decision.

***Enforceability Issues**:* While arbitration awards are generally enforceable, mediation agreements require the parties to voluntarily comply. If one party does not comply, the other party may still need to go to court to enforce the agreement.

***Lack of Legal Precedent**:* ADR decisions do not create legal precedents, which can be important for guiding future cases. This can result in inconsistency and unpredictability in outcomes.

V. CHALLENGES FACING ALTERNATIVE DISPUTE RESOLUTION IN TANZANIA

Negative perception of the use of the ADR mechanisms. The public's negative attitude that ADR is a waste of time as a substitute for proceeding with the matter in Court due to limited ADR and legal knowledge which denies individuals an opportunity for fair remedy and justice under the use of ADR mechanisms.

Cooperation from the Legal profession. Some lawyers or law firms defy arbitration viewing it as an obstacle to their income and profits. Since litigation can take years to reach the verdict, there is enough opportunity for them to profit from their clients, from court attendance costs,

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travel costs, and subsistence allowances to hours spent in court. Clients end up paying more than they bargained for.

Government Support. The Government should support and encourage, consistent training of mediators and educate the public about ADR and its benefits. The communities are familiar with traditional mediation with their slight differences, but still, the common role, is the facilitation of amicable settlement, the public will be able to adjust and enjoy the facilities to their advantage.

Lack of Skilled Mediators. These delays in the processing of reconciled documents after the settlements at the levels of decisions and approvals in both public and private institutions indicate that the ADR has failed and sometimes disputants lose the will to continue with mediation due to a significant number of judges, magistrates, and mediators that lack the necessary skills for a successful mediation.

VI. APPLICATION AND MODALITY OF MEDIATION IN TANZANIA

When conducting mediation, the court follows the guidelines set by the Judiciary of Tanzania to assist disputants and mediators with effective, appropriate, and speedy conduct during mediation proceedings. The guidelines apply to court-annexed mediation in all civil cases established in the High Court, Courts of Resident Magistrate, and District Courts.[20] Additionally, to preserve the flexible nature of the process, the Guidelines must be read and interpreted in such a manner that it facilitates a just, efficient, expeditious, and cost-effective process.[21] Moreover, the Guidelines allow the mediator to adopt any other approach in addition to the Guidelines that suits the circumstances of the case, only with the consent of the disputing parties.[22]

To establish a fast-track of the case, the presiding judge or magistrate, shall after discussion with the parties or their mediators or advocates determine the appropriate mode of resolution for such a case and make a scheduling order, setting dates or times for future proceedings or stages of the case, this includes preliminary applications, affidavits, counter affidavits and notices and the use of the procedure for alternative disputes resolution. [23]

After complete compliance as per the directions prescribed under sub-rule (2) of rule 3 of Order VIIIA, if the case remains unresolved, a final pre-trial settlement and scheduling consultation

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[20] Judiciary of Tanzania, *Court Annexed Mediation Guidelines: Application*, 2024 (accessed 20.07.2024)
[21] *Ibid.*
[22] *Ibid.*
[23] *Ibid. Order VIIIA Rule 3(1) and 3(2).*

shall be held, chaired by the judge or magistrate assigned to try the case and provide the parties with a final chance to reach an amicable settlement and enable the Court to schedule for future events and steps which are bound or likely to occur, such as the date or dates of trial.

In court-annexed mediation, a mediator may be the appointed judge/magistrate that possesses mediation skills although does not mean to be a mediation specialist or any trained mediator. Nevertheless, the law is very clear about the fitness of the mediator. For the private or trained mediator to be competent, the law states that such person must be accredited as so provided under the Reconciliation, Mediation, and Arbitration (Accreditation of Practitioners) Regulations, GN No. 147 of 2021 otherwise such person is committing an offence and shall be held liable by the court. Furthermore, the law does not limit the disputants' choice of mediator, the disputing parties can appoint the mediator of their choice within fourteen days after final pleadings,[24] however, the disputants shall incur the costs of the private mediator, unlike the appointed mediator which the judiciary is responsible for. Under order VIIIC, Rule 25(6) is clear on who is qualified to be nominated as a mediator, the following shall qualify to be nominated under sub-rule (1) to act as mediators-[25]

- *A Judge;*
- *A registrar or deputy registrar;*
- *A magistrate in case of a magistrates' court;*
- *A person with the relevant qualifications and experience in mediation appointed by the Chief Justice;*
- *A retired judge magistrate; or*
- *A person with the relevant qualifications and experience in mediation and chosen by the parties.*

Furthermore, mediation may be conducted physically or electronically and parties must notify the mediator before commencement of the mediation.[26] Subject to the provisions of the Guidelines, where mediation is to be conducted electronically, either party may, by notice, at any stage, indicate their intention to proceed with conciliation electronically, in a manner agreed upon by the parties.[27] Moreover, in an event where mediation is conducted physically, the venue

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[24] Order VIIIC, Rule 25(1) of the Civil Procedure Code CAP. 33 R.E. 2022.
[25] *Ibid.* Rule 25(6)
[26] Judiciary of Tanzania, *Court Annexed Mediation Guidelines: Modality of Conducting Mediation*, 2024 (accessed 20.07.2024)
[27] *Ibid.*

shall be within the premises of the court which referred mediation unless parties agree otherwise, thus, if parties agree to any other venue than the referring court, they shall jointly incur the venue.[28]

VII. Establishment of Mediation Centre of the High Court of Tanzania

Although the ADR mechanism cannot substitute the formal judicial system, it can be regarded as the best tool for the application of equity, rather than the rule of law. They can complement and support judicial reforms especially when the judicial system is regarded as biased. There is no specific law relating to the mediation mechanism in Tanzania, however, the main rules referred to mediation are embedded in article *107A(2)(d)* of the *Constitution of the United Republic of Tanzania* and *the Civil Procedure Code* (CAP. 33 R.E. 2022).

In 2015, the judiciary established a division under the High Court of Tanzania, an Alternative Dispute Resolution (Mediation) Centre. The centre was established in conformity with article *107A(2)(d)* of the Constitution of the United Republic of Tanzania 1977 (supra) to conduct mediation of civil cases and land cases referred from the High Court of Tanzania Dar es Salaam District registry and land division where the Centre's mediators assist the parties negotiate and resolve their dispute by way of ADR mechanism of Mediation rather than proceeded with litigations.

The Mediation Centre was established to abridging and hurtling the settlement of civil proceedings opened in the High Court District Registry of Dar es Salaam and Land Division, thus, fast-track litigation proceedings and ease the strain on the courts in case backlogs. To ensure access to justice for every citizen, when conflicts arise within the communities, the responsibility is upon the judiciary and community in general, to ensure that these conflicts are resolved as quickly without affecting relationships and activities that will lead to the deterioration of our economic growth.

In carrying out its duties, the Mediation Centre, as of December 2022, had a total of *Twelve (12*) employees of which Two (2) are male and Ten (10) are women. These staff include *three (3) records assistants*, *two (2) judges*, *two (2) magistrates*, *one (1) deputy registrar*, *one (1) human resource officer*, *one (1) court executive*, *one (1) secretary*, *and one (1) office assistant.*

The Centre has continued assessing all mediation proceedings and investigations of conflicts from the High Court of Tanzania Dar es Salaam Main Registry and Land Division to evaluate the effectiveness of its performance. Until December 2022, the Center has been able to mediate

[28] *Ibid.*

1,880 cases out of **1,942** disputes received, whereas, **326** ***(20%)*** of disputes were successfully resolved while **7** ***(1%)*** disputes were partially done. The centre provides cost-free services in reviewing and mediating all disputes. Furthermore, through the use of *online mediation*, the Centre's performance has improved from ***(89%)*** in *2018* to ***(93%)*** in *2022* paving the way for a ***'paperless court'*** established in *2023,* to provide *online mediation services,* where parties will not have to be physically present for their sessions. Moreover, in *2022* alone, the centre conducted **33** *online mediation* proceedings through its *Internet Court*.

VIII. Challenges facing the Mediation Centre of the High Court of Tanzania

Inadequate Staff and Limited Coverage. The Centre has only *12* employees including mediators and supporting staff working as a division within the High Court while at the same set as the mediation centre. Also, the center is located only in Dar es Salaam city, making it inaccessible or inconvenient to the residents outside of Dar es Salaam.

The Name of the Centre is Ambiguous. The use of the entity should have been ADR centre instead because ADR (Alternative Dispute Resolution) is a broad term encompassing various methods like mediation, arbitration, conciliation, and negotiation. Using ADR clarifies that multiple dispute resolution methods are available, not just mediation.

Lack of specialized and skilled Staff. Most of the staffs who are mediators and other supporting staff lack proper training in ADR methods and qualifications, leading to inefficiencies. Providing appropriate and specialized training can improve their effectiveness and lead to better outcomes in ADR processes.

Unsuccessful Cases. ADR cases may fail due to unskilled practitioners, inadequate preparation, or parties' unwillingness to compromise. Improving training, preparation, and promoting an ADR culture, can increase the success rate of ADR cases and accomplish the intended results.

Using Only Mediation and Conciliation. Relying solely on mediation and conciliation limits options. Expanding ADR to include methods like arbitration and negotiation can better suit different disputes and improve resolution rates.

Ordinary Civil Suits and Land, Excluding Commercial Cases. The centre uses only the mediation and conciliation mode of ADR ignoring other mechanisms which might be preferential to clients. The centre is focused on civil and land disputes, excluding commercial cases with high demand for ADR. Including commercial disputes in ADR practices can benefit the institution and businesses with cost-effective, speedy, and confidential resolutions, reducing

the court system's burden.

To guarantee the efficiency and effectiveness of the ADR mechanism, it is necessary to conduct a needs assessment and identify goals to determine if the mechanism will be suitable and feasible for the intended objectives. Additionally, the mechanisms must meet implementation criteria such as training and operations management, financial sustenance, outreach programs, and evaluation procedures to ensure their sustainability.

IX. Conclusion

Disputes are not new, they have existed since the ancient days, and through various historical facts and documented religious histories, for centuries, mediation has been used as a common mode of resolution to reach a mutual agreement between disputant parties. A swift, diplomatic, and effective amicable settlement of any dispute is what matters to build strong communities. Over the last few years, mediation has become popular in many African countries like Tanzania, as an excellent alternative for access to justice and swiftly integrated into the formal legal systems projecting to offer accessibility, flexibility, and cost-effectiveness to justice and improve overburdened courts.

However, it seems, the government did not conduct a need assessment in enforcing ADR in Tanzania. It is undisputed that, when properly administered, mediation can increase access to justice with cost efficiency and rebuild faith in the justice system that is lost due to the complex Judiciary rules and procedures. Like any other changes, ADR mechanisms are more likely to achieve their objectives when they operate within supportive systems such as political support, adequate human resources, and adequate financial resources. These factors influence the succession of any ADR mechanism, so they are worth considering before launching ADR systems and ignorance of any of these factors could diminish the projected achievement. The judiciary should endorse mediation as a tool of justice, reflect on its potential, and use it as a blueprint model for designing simple, accessible, and friendly ADR systems. Furthermore, court-annexed mediation should be voluntary to avoid coercing the parties into mediation but rather, seek to encourage parties to resolve their disputes voluntarily.

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