

Professional Integrity in Dispute Resolution: Ethical Standards and Conduct in Tanzania

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Abstract:

The article explores the significance of professional integrity and ethical standards in dispute resolution practices in Tanzania, particularly in mediation, arbitration, negotiation, and conciliation. It highlights the role of ethics in ensuring fairness, impartiality, and effectiveness in alternative dispute resolution (ADR). The article defines key concepts such as professional integrity, ethical standards, and conduct, and explores ethical frameworks for practitioners, including mediators, arbitrators, negotiators, and conciliators. However, the article identifies significant challenges faced by dispute resolution professionals in Tanzania. The article also discusses professional misconduct and ethical dilemmas during dispute resolution, highlighting real-world examples of unethical conduct leading to unfair outcomes. The article provides recommendations for enhancing ethical conduct, including stringent training programs, stronger regulatory frameworks, and raising awareness about ethics in dispute resolution. The article argues that maintaining high ethical standards is crucial for the credibility of dispute resolution systems in Tanzania, improving public trust, promoting fairer outcomes, and promoting more effective dispute resolution.

Keywords: Professional Integrity, Ethical Standards, Dispute Resolution, Mediation, Arbitration, Tanzania.

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1. INTRODUCTION

Dispute resolution is crucial for maintaining social harmony and resolving conflicts in any society. In Tanzania, mediation, arbitration, negotiation, and conciliation have become significant alternative dispute resolution (ADR) methods, offering parties an alternative to court proceedings. However, the success of these methodologies depends on the ethical standards and professional integrity of the practitioners involved. Professional integrity involves adherence to ethical principles that ensure impartiality, fairness, confidentiality, and protection of parties' rights. Ethical standards foster trust, promote transparency, and ensure just and equitable outcomes.¹

In Tanzania, ADR practices are still evolving, with mediation, arbitration, negotiation, and conciliation playing critical roles in resolving family and commercial disputes and larger societal conflicts. However, concerns regarding the ethical conduct of some dispute resolution professionals, such as a lack of proper training, cultural influences, societal biases, and inadequate regulatory oversight, hinder the effectiveness of ADR systems.² This article aims to explore the significance of professional integrity and ethical standards in the field of dispute resolution in Tanzania, examine the ethical frameworks governing these methods, discuss the challenges faced by practitioners, and offer recommendations for improving ethical conduct in the profession.

2. CONCEPT OF ETHICAL STANDARDS AND PRACTICE IN TANZANIA

Ethical standards are the principles and guidelines that govern the conduct of individuals within a profession, particularly in dispute resolution. They are crucial in ensuring fairness, impartiality, confidentiality, transparency as well as professionalism when dealing with parties involved in a dispute. These standards promote justice and equity while upholding the integrity of the dispute resolution process. The concept of ethics in dispute resolution can be broadly defined as a set of moral principles that govern the behavior of professionals when resolving conflicts.

According to Black's Law Dictionary, ethics is defined as "the rules or standards governing the conduct of a person or the members of a profession."³ This broad definition applies to various fields, including law, medicine, and dispute resolution. In dispute resolution, ethics ensures that practitioners act with integrity when handling parties' disputes. In Tanzania, ethical standards in dispute resolution are guided by formal legal frameworks

¹ Ntalawanda, L. (2018). The role of ethics in alternative dispute resolution. Dar es Salaam University Press.

² Mhando, K. (2020). Challenges in the practice of mediation and conciliation in Tanzania. *Tanzanian Law Review*, 10(2), 45-56.

³ Black's Law Dictionary

and cultural norms, creating a system that guides Mediation,⁴ Arbitration,⁵ Negotiation,⁶ and Conciliation⁷ practices. Ethics in dispute resolution is defined as a set of moral principles that govern the behavior of professionals in conflict resolution. Key legal instruments in Tanzania, such as the Arbitration Act,⁸ The Reconciliation, Negotiation, Mediation and Arbitration (Practitioners Accreditation) Regulations,⁹ and the Code of Conduct and Practice for Reconciliators, Negotiators, Mediators, and Arbitrators Regulations,¹⁰ Advocates (Professional Conduct and Etiquette) Regulations¹¹ provide the ethical framework for dispute resolution professionals. Ethical standards in dispute resolution are designed to promote justice, fairness, and impartiality. They ensure that professionals act in a manner that upholds the integrity of the ADR process. In Tanzania, these ethical principles are shaped by the country's legal framework and cultural context. However, challenges in applying these standards remain, and further work is needed to ensure that ethical conduct is consistently upheld across all areas of dispute resolution.

3. SOURCE OF ETHICAL STANDARDS IN TANZANIA

Ethical standards in dispute resolution in Tanzania are derived from a combination of constitutional principles, statutory laws, regulations, international legal frameworks, and case law. Together, these sources create a comprehensive framework that guides the ethical conduct of mediators, arbitrators, reconciliators, and negotiators. The Constitution of the United Republic of Tanzania¹² serves as a fundamental source of ethical standards, particularly through Article 107A.¹³ This article underscores the independence of the judiciary and mandates the administration of justice to be free from any form of interference. It also emphasizes the judiciary's obligation to operate independently and impartially, which is a cornerstone of ethical dispute resolution.

⁴ Refers to a voluntary process in which a neutral third party assists disputing parties to reach a mutually acceptable solution, without imposing a decision on them. By Muigua. K. (2017) *Settling Disputes through Arbitration and Mediation in Kenya*, 3rd Edtn Pg 19. Available at <https://kmco.co.ke/wp-content/uploads/2021/10/Arbitration-Book.pdf>. Accessed on 18 August 2025.

⁵ A process by which parties submit a dispute to the decision of a neutral person or persons appointed by mutual consent. According to Section 3 of the Arbitration Act Cap 15 R.E 2023.

⁶ Is a process of direct communication between parties to a dispute, through which they attempt to resolve their differences without the involvement of a third party. Muigua. K. (2017) *Settling Disputes through Arbitration and Mediation in Kenya*. Ibid. pg 18.

⁷ a process similar to mediation, but the conciliator may take a more proactive role by proposing terms of settlement and guiding the parties toward agreement. Ibid Muigua. K. (2017), Pg 22.

⁸ The Arbitration Act CAP. 15 R.E. 2023.

⁹ The government notice no 147 of 2021.

¹⁰ The government notice no 148 of 2021.

¹¹ The government notice no. 118 of 2018.

¹² The Constitution of the United Republic of Tanzania (1977) as amended time to time.

¹³ In delivering decisions in matters of civil and criminal nature in accordance with the laws, the court shall observe the following principles: that is impartiality, not to delay dispensation of justice, enhance dispute resolution among persons, and to dispense justice without being tied up with technicalities provisions that may obstruct the dispensation of justice. Article 107A (2) (a-e).

In addition to the constitutional provision, several statutory laws provide specific ethical standards for ADR practitioners. The Arbitration Act,¹⁴ cements on the principle of impartiality and fairness, while sections 39-41¹⁵, outlines the ethical responsibilities of arbitrators to adhere to the principle of confidentiality in the arbitration process. The Advocates (Professional Conduct and Etiquette) Regulations¹⁶ provides the ethical conduct for legal professionals, especially Advocates. These regulations highlight the duties of advocates to uphold integrity¹⁷, confidentiality¹⁸, impartiality¹⁹ competence and quality service delivery²⁰, professionalism, and ethical standards in their practice.

Additionally, the Code of Conduct and Practice for Mediators, Arbitrators, Reconciliators, and Negotiators provides a structured framework for ADR practitioners. First Schedule²¹ addresses the principles for the ADR Practitioners²² inter alia, upholding high integrity and moral standing in the conduct of service²³, conduct and practice of ADR practitioners of confidentiality, Quality of process, competence, disclosure, impartiality, and independence, which are critical for fostering trust and fairness in dispute resolution.²⁴

The Reconciliation, Negotiation, Mediation and Arbitration (Practitioners Accreditation) Regulations, GN 147 of 2021, Regulation 20 (2) (d) cements the adherence to the professional conduct whereby failure to so may result in the de-registration of the certificate of accreditation. Therefore, these regulations mandate Reconciliators, Negotiators, Mediators, and Arbitrators to act with integrity, avoid conflicts of interest, and handle disputes with due diligence and respect for all parties involved, and generally to adhere to the relevant professional code of conduct.

4. IMPORTANCE OF ETHICS IN DISPUTE RESOLUTION

Ethics are crucial in dispute resolution, as they maintain the integrity, fairness, and credibility of processes like mediation, arbitration, negotiation, and conciliation. These principles foster trust, ensure impartiality, and protect the rights of all parties involved.

¹⁴ Section 5, Cap 15 R.E, 2023.

¹⁵ Ibid.

¹⁶ G.N. No. 118 of 2018.

¹⁷ Part II of G.N. No. 118 of 2018.

¹⁸ Part V G.N. No. 118 of 2018.

¹⁹ Part VII of G.N. No. 118 of 2018.

²⁰ Part III of G.N. No. 118 of 2018.

²¹ Code of Conduct and Practice for Reconciliators, Negotiators, Mediators and Arbitrators Regulations, G.N. 148 of 2021

²² Paragraph 2 of G.N. 148 of 2021.

²³ Paragraph 2 (h) of GN No 148 of 2021.

²⁴ Paragraph 3, 4,5, 10, 13, 14 and 17.

Trust is essential in ADR, as parties are more likely to engage fully and accept outcomes when they believe the process is fair and unbiased. Ethical conduct ensures that mediators, arbitrators, negotiators, and reconciliators remain neutral, preserving the legitimacy of the resolution process.

Ethical principles also help safeguard the procedural integrity of ADR mechanisms by ensuring transparent and equitable conduct. This prevents bias or favoritism, which could undermine the resolution process and lead to unjust decisions. Confidentiality protects sensitive information shared during dispute resolution, encouraging open communication and allowing parties to negotiate freely without fear of public disclosure or reprisal. Ethical conduct upholds the professional reputation and accountability of ADR practitioners, demonstrating their commitment to high moral principles. This enhances their credibility and reliability in the eyes of the public, boosting confidence in individual practitioners and the ADR system as a whole.

Ethical standards also play a preventive role by guiding practitioners in avoiding conflicts of interest and misconduct. Clear ethical guidelines help delineate acceptable behavior, reducing the likelihood of ethical breaches that could compromise the dispute resolution process. In Tanzania, where ADR is increasingly recognized as a viable alternative to traditional court proceedings, ethics are essential for maintaining the integrity of dispute resolution processes and upholding public confidence in the system.

5. ETHICAL STANDARDS IN PRACTICE

The practical application of ethical standards in dispute resolution in Tanzania is governed by several key legal instruments and professional guidelines. These standards ensure that mediators, arbitrators, negotiators, and conciliators conduct themselves in a manner that upholds the integrity of the process and the rights of the parties involved. One of the central pillars of ethical practice is the requirement for impartiality, whereby ADR practitioners must avoid any form of bias or favoritism and ensure that their decisions are based solely on the merits of the case. This principle is enshrined in the Arbitration Act, Cap 15, and the Code of Conduct for Mediators, Arbitrators, Conciliators, and Negotiators, which explicitly mandates neutrality and impartiality throughout the resolution process.

Confidentiality is another critical ethical standard in practice. Dispute resolution professionals are obligated to protect the privacy of the parties and the sensitive information disclosed during proceedings. This standard helps foster an environment of trust, encouraging parties to be open and honest in their communications. Competence is also a fundamental ethical requirement. Practitioners must act at the requisite level of

competence and capacity to be fit and proper to undertake the task required of them²⁵. The GN No. 148 of 2021²⁶ requires the arbitrator to be able to perform his task with the necessary competence concerning his adjudicating function and the subject matter of the dispute. This ensures that practitioners stay updated on legal developments and best practices in dispute resolution.

The ethical standards also extend to the avoidance of conflicts of interest. Practitioners must disclose any potential conflicts and, where necessary, recuse themselves from proceedings to preserve the integrity of the process. Paragraph 3 of the First Schedule²⁷ highlights this obligation, ensuring that practitioners maintain objectivity and impartiality. In practice, adherence to these ethical standards is monitored by regulatory bodies and professional associations. Violations can lead to disciplinary actions, including suspension or revocation of the practitioner's certificates. Case law also plays a vital role in shaping the application of ethical standards by setting precedents for acceptable professional conduct.

6. CHALLENGES UPHOLDING PROFESSIONAL INTEGRITY

The dispute resolution system in Tanzania faces several challenges, including limited access to ethical training, cultural influences, and potential conflicts of interest. Many practitioners lack an understanding of complex ethical considerations, leading to unintentional misconduct or failure to adhere to established standards. Cultural influences and societal biases can conflict with impartiality and fairness. There is also growing concern about conflicts of interest, where external parties or personal biases can compromise neutrality. Economic incentives or political influences can also lead to ethical dilemmas.²⁸

The increasing complexity of disputes, particularly in commercial arbitration and international mediation, presents new ethical challenges, such as confidentiality breaches, information manipulation, and undue influence from powerful stakeholders. These issues require robust ethical frameworks and continuous professional development to ensure fair and credible processes. Despite Tanzania's progress in establishing ethical standards, the practical application of these standards remains a work in progress. Addressing these challenges is crucial for upholding professional integrity and fostering trust in the dispute resolution system. Furthermore, Tanzania, cases of professional misconduct are rarely addressed effectively, further eroding trust in the dispute

²⁵ Regulation 5 of G.N. No 148 of 2021.

²⁶ Paragraph 10 of the First Schedule.

²⁷ G.N. No 148 of 2021.

²⁸ Smith, J. A. (2015). *Ethics in Alternative Dispute Resolution: A Global Perspective*. Cambridge University Press.

resolution process. This is because the enforcement bodies are composed of the ADR practitioners' personnel, hence they lack impartiality and have conflicts of interest. Additionally, there is an inadequate appellate body and procedures for addressing the professional misconduct of ADR practitioners, as well as a lack of unified machinery for enforcing ADR ethics.

7. IMPLICATIONS OF BREACHING PROFESSIONAL INTEGRITY IN DISPUTE RESOLUTION

Failure by legal practitioners to maintain professional integrity in dispute resolution carries serious legal implications. In Tanzania, breaches of ethical standards under the Advocates (Professional Conduct and Etiquette) Regulations²⁹ and the Reconciliation, Negotiation, Mediation and Arbitration (Practitioners Accreditation) Regulations³⁰ may result in disciplinary sanctions, including reprimand, suspension, or even de-registration of accreditation. Courts may also intervene by setting aside arbitral awards or mediated settlements where bias, misconduct, or breach of confidentiality is established, as provided under the Arbitration Act,³¹ for instance *Tanzania National Roads Agency v Kundan Singh Construction Ltd*³², the High Court of Tanzania emphasized impartiality and set aside an arbitral award on grounds of procedural unfairness, underscoring the judiciary's intolerance of misconduct in ADR. In addition, practitioners may face civil liability for negligence or breach of fiduciary duty where misconduct causes financial or reputational harm to parties.³³ Beyond individual sanctions, unethical conduct erodes public trust in alternative dispute resolution mechanisms, undermines institutional credibility, and threatens Tanzania's compliance with international ADR standards such as the UNCITRAL Arbitration Rules³⁴ and the Singapore Convention on Mediation.³⁵ Ultimately, such failures not only damage a practitioner's professional standing but also compromise the effectiveness of the justice system as a whole.

8. PROMOTING PROFESSIONAL INTEGRITY IN DISPUTE RESOLUTION

Professional integrity in dispute resolution can be promoted through a combination of legal, institutional, and professional measures. First, strengthening the regulatory framework is essential. This entails not only the enactment of comprehensive laws such

²⁹ GN 118 of 2018.

³⁰ GN 147 of 2021.

³¹ Cap 15 R.E 2023.

³² (Commercial Case No. 91 of 2013.

³³ Miugua K. 2017 Op Cit.

³⁴ Rules of 2021 available at https://uncitral.un.org/sites/uncitral.un.org/files/media-documents/uncitral/en/21-07996_expedited-arbitration-e-ebook.pdf. Accessed on August 2025.

³⁵ https://uncitral.un.org/sites/uncitral.un.org/files/singapore_convention_eng.pdf. Accessed on August 2025.

as the Arbitration Act, the Advocates (Professional Conduct and Etiquette) Regulations, and the Code of Conduct for ADR practitioners, but also ensuring their consistent enforcement. Clear disciplinary mechanisms, including suspension, de-registration, or disbarment for misconduct, must be applied uniformly to deter unethical behavior and safeguard the credibility of the ADR process.³⁶ Second, continuous capacity building and training for mediators, arbitrators, negotiators, and conciliators is crucial. Ethical challenges in ADR are often complex and context-specific; therefore, practitioners require ongoing professional development programs to update them on new legal developments, international best practices, and practical strategies for managing conflicts of interest, confidentiality, and impartiality. This also helps to professionalize ADR and ensures that practitioners maintain the highest levels of competence.³⁷

Third, establishing independent oversight bodies and effective complaints mechanisms is key to accountability. In Tanzania, current enforcement bodies often lack impartiality as they are composed of the same practitioners they are meant to regulate. Creating a neutral and independent disciplinary authority, with the mandate to receive complaints, investigate, and impose sanctions, would reduce conflicts of interest and instill greater public confidence in the ADR profession.³⁸ Fourth, cultivating a culture of transparency and disclosure is vital. This requires practitioners to proactively declare any potential or actual conflicts of interest before or during the dispute resolution process. Transparency fosters trust between parties and the neutral, ensuring that no party feels disadvantaged by hidden relationships or undisclosed interests that may compromise impartiality.

Finally, raising public awareness about the importance of ethical standards in dispute resolution is equally important. When disputants understand their rights and the ethical obligations of ADR practitioners, they are more likely to demand integrity, challenge misconduct, and insist on fair treatment. This awareness empowers parties and helps establish ADR as a trusted alternative to litigation, particularly in a society where confidence in the judiciary is often strained by delays and backlogs.³⁹ Collectively, these measures help build a robust, credible, and fair dispute resolution environment that not only protects parties' rights but also enhances the legitimacy and sustainability of ADR systems in Tanzania and beyond.

³⁶ Mushy G. T. (2025). An Analysis of the Legal Framework for the Enforcement of Ethics and Etiquette in Alternative Dispute Resolution in Tanzania. *Tanzanian Journal of Multidisciplinary Studies* Vol. 1. No. 1 (2025), pp:84-93. Accessed on August 2025.

³⁷ Muigua. K. (2017) *Settling Disputes through Arbitration and Mediation in Kenya*, 3rd Edtn Pg 19. Available at <https://kmco.co.ke/wp-content/uploads/2021/10/Arbitration-Book.pdf>. Accessed on August 2025.

³⁸ Muigua K. 2017. Op Cit.

³⁹ Ibid.

9. CONCLUSION

The ethical standards in dispute resolution practices in Tanzania are crucial for their credibility and effectiveness. The Arbitration Act⁴⁰ and the Code of Conduct for ADR Practitioners,⁴¹ provide a strong foundation for impartiality, fairness, and transparency. However, challenges persist in the practical application of these principles, such as insufficient ethical training, cultural biases, and conflicts of interest. These issues highlight the need for comprehensive oversight, continuous professional development, and consistent enforcement of ethical standards. To address these challenges, the article proposes the establishment of rigorous training programs, strengthening regulatory frameworks, and raising public awareness of the importance of ethics in dispute resolution. By prioritizing ethical conduct and professional integrity, Tanzania can improve the efficiency and fairness of its ADR systems, foster trust, and create a more equitable and transparent environment. Strengthening these standards will enhance the overall functioning of the justice system and promote fairness, equity, and public confidence.

⁴⁰ Cap 15, R.E. 2023.

⁴¹ GN. 148 of 2021.

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