

Promoting Professional Conduct, Ethics, Integrity and Etiquette in Alternative Dispute Resolution in Tanzania

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Abstract:

The effective implementation of Alternative Dispute Resolution (ADR) mechanisms in Tanzania hinges on the professional conduct, ethics, integrity, and etiquette of practitioners. These values are essential for ensuring fairness, trust, and efficiency in resolving disputes outside traditional court systems. This article examines the significance of these principles in ADR, highlighting their role in fostering public confidence and equitable outcomes. It identifies challenges such as the lack of standardized guidelines, inadequate training, weak regulatory frameworks, cultural influences, and limited public awareness. To address these issues, the article proposes strategies including the development of a comprehensive code of conduct, enhanced training programs, strengthened regulatory oversight, public awareness campaigns, and culturally sensitive practices. By promoting these professional values, Tanzania can improve the credibility and effectiveness of ADR, contributing to greater access to justice and the development of a robust dispute resolution culture.

Keywords: Professional Conduct, Ethics, Etiquette, Integrity, Alternative Dispute Resolution.

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1. INTRODUCTION

Alternative Dispute Resolution (ADR) mechanisms have emerged as critical tools for resolving disputes outside traditional court systems. These processes, including mediation, arbitration, negotiation, and conciliation, offer parties an opportunity to resolve conflicts more efficiently and with greater flexibility than conventional litigation. ADR mechanisms are particularly crucial in Tanzania, where the court system is often overburdened and access to justice can be slow and costly.¹ By adopting ADR, Tanzania has been able to alleviate some of the strain on its judicial system, reduce litigation costs, and expedite conflict resolution, which has been beneficial for both businesses and individuals seeking timely and less expensive resolutions.² ADR also contributes to promoting harmonious relationships between disputing parties, which is particularly important in a society with diverse cultural backgrounds like Tanzania. However, the success of ADR is not solely dependent on the framework or mechanisms in place but also on the professional conduct, ethics, integrity, and etiquette of those who facilitate these processes.

The professional conduct of ADR practitioners, including mediators, arbitrators, and legal representatives, plays a pivotal role in ensuring the effectiveness of these processes. For ADR to be seen as a legitimate and reliable alternative to litigation, practitioners must demonstrate impartiality, neutrality, and competence.³ Professional conduct extends to the way disputes are handled and how ADR professionals interact with the parties involved. The failure to maintain high standards of conduct can result in bias, perceived injustice, and inefficiency, which ultimately undermines the credibility of ADR mechanisms.⁴ Ethical principles, such as transparency, fairness, and accountability, must be instilled and adhered to by ADR professionals.⁵ In Tanzania, where ADR is still evolving, these ethical principles are critical to ensuring that all parties are treated equitably and that decisions are based on merit rather than personal interests. Moreover, the integrity of the ADR process, including honesty and consistency, is essential for building trust among disputing parties, which is fundamental for the continued success of ADR as an alternative form of dispute resolution.⁶

Despite the increasing popularity of ADR in Tanzania, several challenges remain in ensuring the promotion of professional conduct, ethics, integrity, and etiquette. One of

¹ Mashamba, C. J. (2014). *Alternative Dispute Resolution in Tanzania: Law and Practice*. Tanzania: Mkuki na Nyoka Publisher Limited. Accessed in 9 August 2025.

² Ibid.

³ Feerick, J. et al., (1995) 'Standards of Professional Conduct in Alternative Dispute Resolution' *Journal of Dispute Resolution*. Accessed on 12 August 2025. Available at https://ir.lawnet.fordham.edu/faculty_scholarship/276/.

⁴ Ibid.

⁵ Rogers, C., (2002). *Fit and Function in Legal Ethics: Developing a Code of Conduct for International Arbitration*. Available at <https://repository.law.umich.edu/mjil/vol23/iss2/5/>. Accessed on 1 August 2025.

⁶ Mashamba, C. J. (2014). *Op Cit*.

the primary challenges is the lack of comprehensive training and awareness for ADR professionals.⁷ Many practitioners, particularly in rural areas, may not fully understand the ethical standards expected of them, and as a result, they may inadvertently compromise the quality of the ADR process. This lack of training is often compounded by insufficient regulatory frameworks that fail to provide clear guidelines or enforcement mechanisms for addressing unethical behavior or professional misconduct.⁸ Furthermore, there is a significant cultural component to the practice of ADR in Tanzania.

1.2 The nature of the problem

Alternative Dispute Resolution (ADR) mechanisms, including arbitration, mediation, and conciliation, have gained prominence in Tanzania as an efficient, cost-effective, and timely means of resolving disputes outside of the traditional judicial system. Despite the growing use of ADR, the success of these mechanisms heavily relies on the professional conduct, ethics, integrity, and etiquette upheld by the individuals involved in the dispute resolution process.

In Tanzania, however, the practice of ADR still faces several challenges. There is a noticeable gap in the consistent enforcement of ethical standards and professional conduct, which undermines the credibility and effectiveness of the process. Many ADR professionals lack sufficient training and awareness of the ethical principles governing their practice, leading to instances of partiality, conflicts of interest, and poor decision-making. In addition, the lack of a comprehensive regulatory framework exacerbates the situation, leaving ADR practitioners with limited accountability for unethical behavior or misconduct. Furthermore, cultural barriers and varying perceptions of ADR among the public contribute to a lack of trust in these alternative dispute resolution methods.⁹

As a result, parties involved in ADR processes often question the fairness, transparency, and impartiality of decisions made, which reduces the willingness of individuals and organizations to engage with ADR mechanisms. This has hindered the potential of ADR to serve as a robust and reliable alternative to the traditional court system in Tanzania. Therefore, this study seeks to investigate how professional conduct, ethics, integrity, and etiquette can be promoted and enhanced within the ADR framework in Tanzania, to improve the efficacy and public perception of ADR processes and ensure a fair, impartial, and professional environment for resolving disputes.

⁷ Ibid.

⁸ Meadow. C., (2001). Ethics in ADR: The Many "Cs" of Professional Responsibility and Dispute Resolution

⁹ Mashamba Mashamba, C. J. (2014). *Op Cit*.

2. THE ROLE OF PROFESSIONAL CONDUCT, ETHICS, INTEGRITY, AND ETIQUETTE IN ADR

2.1 Professional conduct

Professional conduct in ADR refers to the adherence to established standards of behavior and performance that are expected of practitioners, including mediators, arbitrators, and legal representatives. Professionalism encompasses qualities such as impartiality, diligence, competence, and respect for the procedural rules that govern the ADR process.¹⁰ It is essential that ADR practitioners act in a manner that is free from personal bias or conflict of interest, ensuring that all parties involved in the dispute are treated equally. Adherence to professional conduct helps to ensure that disputes are resolved fairly, which is crucial for fostering trust among disputing parties and other stakeholders, including the wider community.¹¹ When ADR professionals maintain high standards of conduct, it enhances the credibility of the ADR process and its acceptance as a legitimate alternative to the formal judicial system. Professional conduct also involves the practitioner's ability to facilitate discussions constructively, maintain control over the proceedings, and provide clear communication to all parties, helping to resolve the dispute efficiently and equitably.¹²

2.2 Ethics in ADR

Ethics in ADR refers to the moral principles and values that guide practitioners in their decision-making and interactions with disputing parties. Ethics serve as the foundation for the fair and just resolution of disputes. Key ethical principles include confidentiality, neutrality, and informed consent. Confidentiality is paramount in ADR processes, as it ensures that sensitive information shared during the proceedings is not disclosed to unauthorized individuals, thus promoting trust and open communication between the parties.¹³ Neutrality, another core ethical principle, requires that ADR professionals remain unbiased and independent, not favoring one party over another.¹⁴ This ensures that all parties have an equal opportunity to present their case, which is essential for achieving just outcomes. Informed consent involves ensuring that all parties are fully aware of the ADR process, its benefits, potential consequences, and the roles of the practitioners involved, thereby allowing them to make educated decisions regarding their

¹⁰ Meadow. C., (2001). Ethics in ADR: The Many "Cs" of Professional Responsibility and Dispute Resolution. Available at <https://scholarship.law.georgetown.edu/cgi/viewcontent.cgi?article=1541&context=facpub>. Accessed on 6 August 2025.

¹¹ Keli. J., (2018). 'Mediation as A Profession in Kenya: A Call for Regulation' Alternative Dispute Resolution. Available at <https://ciarbkenya.org/wp-content/uploads/2024/03/vol-6-issue-3.pdf>. Accessed on 15 April 2025.

¹² Ibid.

¹³ Rogers. C., (2002). 'Fit and Function in Legal Ethics: Developing a Code of Conduct for International Arbitration.

¹⁴ Ibid.

participation.¹⁵ Ethical behavior in ADR safeguards the interests of disputants, ensuring that the outcomes of the process are just and equitable, and that the rights of all parties are respected throughout the process.

2.3 Integrity

Integrity in ADR is the adherence to moral and ethical principles, particularly honesty, consistency, and transparency. Practitioners who demonstrate integrity act with fairness and truthfulness, making decisions based on facts and the merit of the case, rather than personal or financial interests. Integrity is vital in maintaining public confidence in the ADR process, as parties need to believe that the dispute resolution will be handled in a trustworthy manner.¹⁶ Without integrity, the legitimacy of the ADR process may be questioned, and disputing parties may be reluctant to engage with it in the future. For example, if an arbitrator or mediator is found to have acted dishonestly or inconsistently, the entire ADR process can be undermined.¹⁷ Maintaining integrity also means that practitioners must follow legal standards, adhere to ethical codes of conduct, and avoid any appearance of impropriety, ensuring that their actions are always in the best interest of justice and fairness. This promotes a system in which the decisions made are based on reason, merit, and impartiality, rather than being influenced by external factors such as personal relationships or financial incentives.

2.4 Etiquette in ADR

Etiquette in ADR refers to the codes of polite, respectful, and professional behavior expected from all parties involved in the dispute resolution process. Proper etiquette ensures that ADR proceedings remain respectful, formal, and conducive to productive dialogue. It involves maintaining decorum during the process, such as addressing each other courteously, listening attentively, and avoiding interrupting others.¹⁸ Etiquette also includes showing respect for the customs and cultural norms of the parties involved, as Tanzania, for instance, is a country with rich cultural diversity. Adhering to proper etiquette minimizes hostility and fosters a cooperative environment in which disputing parties can communicate more effectively.¹⁹ Moreover, a practitioner's ability to model proper etiquette can help set the tone for the rest of the participants, ensuring that the proceedings remain professional, calm, and productive throughout. In this way, etiquette

¹⁵ Ibid.

¹⁶ Rajoo, Datuk, Importance of Arbitrators' Ethics and Integrity in Ensuring Quality Arbitrations (November 28, 2013). Contemporary Asia Arbitration Journal, Vol. 6, No. 2, pp. 329-347, November 2013, Available at SSRN: <https://ssrn.com/abstract=2397659>. Accessed on 2 January (2025).

¹⁷ Ibid

¹⁸ Menkel-Meadow, C. (2016). Mediation and Its Applications for Good Decision Making and Dispute Resolution. United Kingdom: Intersentia. Accessed in 1 January 2025.

¹⁹ Mashamba, C. J. (2014). *Op Cit*.

serves as a foundation for creating a constructive environment that encourages peaceful resolution, reducing the likelihood of escalation and promoting long-term solutions.²⁰

3.1 CHALLENGES IN PROMOTING PROFESSIONAL VALUES IN ADR IN TANZANIA

3.1 Lack of standardized guidelines

In Tanzania, one of the primary challenges in promoting professional conduct, ethics, integrity, and etiquette in ADR is the absence of standardized and enforceable guidelines specifically tailored to the practice of ADR. While general principles of justice and ethics are well established, there is no comprehensive framework that governs the behavior and responsibilities of ADR professionals.²¹ This lack of standardized guidelines creates a situation in which practitioners may follow their personal interpretations of ethical norms, resulting in inconsistencies in how disputes are handled. For example, without clear rules on neutrality and impartiality, an ADR professional might inadvertently display bias, which undermines the fairness of the process. Additionally, GN148²² has encountered some challenges that's lead to the lack standardized guidelines such as, procedures of appeal, powers of the registrar, and punishment to the conduct.

3.2 Inadequate training

A significant challenge in promoting professional values in ADR in Tanzania is the inadequate training of practitioners. Many individuals involved in ADR processes, including mediators, arbitrators, and lawyers, may not have received formal training on the ethical principles, professional conduct, or the etiquette required for effective ADR practice. For instance, the lack of training on neutrality may result in biased decision-making, while insufficient knowledge of confidentiality rules could lead to inadvertent breaches of trust.²³ Moreover, the absence of training can hinder practitioners from understanding the specific challenges that come with cross-cultural communication, which is crucial in a diverse society like Tanzania. The lack of proper training programs also impacts the ability of practitioners to handle complex disputes, which require both legal knowledge and an understanding of the ethical frameworks that guide ADR processes. Inadequate training, therefore, contributes to inconsistent practices, poor decision-making, and an overall reduction in the quality of ADR outcomes.²⁴

²⁰ Ibid.

²¹ Meadow. C., (2001). *Op Cit*.

²² GN 148. Code of Conduct and Practice for Reconciliators, Negotiators, Mediators and Arbitrators Regulations, (2021).

²³ Kimei, M.C., "Alternative Schemes for Resolving Banking and Financial Disputes." *The Tanzania Lawyer*. Vol. 1 No. 2, 2012, pp. 46–71, p. 54. See also Street, L., and "The Language of Alternative Dispute Resolution." *Alternative Law Journal*, Vol.66, 1992. Accessed on 2 February 2025.

²⁴ Ibid.

4. STRATEGIES FOR PROMOTING PROFESSIONAL CONDUCT, ETHICS, INTEGRITY, AND ETIQUETTE IN ADR

4.1 Developing a comprehensive code of conduct

One of the most effective ways to promote professional conduct, ethics, integrity, and etiquette in ADR is through the establishment of a detailed, enforceable code of conduct. This code would serve as a set of binding rules and guidelines that ADR practitioners must follow in their work. The code should clearly define ethical principles such as neutrality, impartiality, confidentiality, and fairness, as well as outline specific behaviors expected in ADR proceedings, including respect for all parties, maintaining professionalism, and avoiding conflicts of interest. For example, the code might explicitly prohibit any form of bias or favoritism based on personal relationships, and it should include mechanisms for reporting violations. An enforceable code of conduct would not only guide ADR professionals in their practice but also provide a tool for holding them accountable for unethical behavior. To ensure compliance, Tanzania could establish a regulatory authority with the power to oversee ADR practices, investigate complaints, and impose sanctions when necessary. The existence of such a code would foster trust in the ADR process by assuring the public that disputes are being handled by qualified, ethical practitioners who adhere to high standards.

4.2 Enhancing training and capacity building

Inadequate training is one of the key challenges hindering the promotion of professional conduct and ethics in ADR in Tanzania. To address this, comprehensive training programs focusing on professional conduct, ethics, and integrity should be introduced. These programs should be designed not only for individuals entering the ADR field but also for those already practicing.²⁵ Legal education curricula in Tanzanian universities could be updated to include specialized courses on ADR that cover both the theoretical and practical aspects of professional ethics in dispute resolution.²⁶ These training initiatives should be monitored to ensure that all practitioners meet a certain level of competence, and failure to complete such programs could result in penalties or restrictions on their practice. By enhancing training, Tanzania can ensure that ADR professionals are well-equipped to manage disputes ethically, impartially, and effectively.²⁷

²⁵ Rogers. C., (2002). 'Fit and Function in Legal Ethics: Developing a Code of Conduct for International Arbitration. Accessed in 1 January 2025.

²⁶ Ibid.

²⁷ Ibid.

4.3 Strengthening the regulatory framework

The current regulatory framework governing ADR in Tanzania is insufficient to monitor and enforce the high standards necessary for professionalism in the field. Strengthening this framework is essential to ensure that ADR is conducted in an ethical and transparent manner.²⁸ A robust regulatory framework would include the establishment of a dedicated ADR regulatory body, tasked with overseeing the qualifications and behavior of ADR practitioners, monitoring compliance with ethical standards, and addressing any complaints or grievances from disputants.²⁹ Furthermore, this body could serve as a central point for reporting unethical behavior or misconduct, with established protocols for investigating and taking appropriate action. The existence of such a regulatory body would provide oversight and accountability, helping to ensure that ADR processes in Tanzania are fair, transparent, and professional.³⁰

4.4 Promoting public awareness

Public education and awareness campaigns are crucial in promoting the importance of ADR, especially concerning the role of ethics, integrity, and professionalism in the process. Many Tanzanians may be unaware of the benefits of ADR or may have misconceptions about how ADR processes work.³¹ By conducting public awareness campaigns, both at the community and national levels, Tanzania can help the public understand the advantages of ADR, such as its cost-effectiveness, faster resolution times, and the confidentiality it provides. These campaigns should also focus on educating the public about the ethical standards expected of ADR professionals, including the importance of selecting qualified, trustworthy practitioners.³² For example, the government, through the Ministry of Justice or relevant legal bodies, could organize workshops, media campaigns, or outreach programs in communities to raise awareness about the ADR process and the need for professionalism. By increasing public awareness, there will be a growing demand for qualified ADR professionals who adhere to high ethical standards, which in turn will create pressure on practitioners to maintain professionalism.

²⁸ Meadow. C., (2001). *Op Cit.*

²⁹ Ibid.

³⁰ Kimei, M.C, (2012).

³¹ Muigua. K., (2017). 'Resolving Conflicts through Mediation in Kenya.' Glenwood Publishers Limited, 2nd Edition. Accessed on August 2025.

³² Muigua. K., 'Promoting Professional Conduct, Ethics, Integrity & Etiquette in ADR.' Available at <http://kmco.co.ke/wp-content/uploads/2022/05/Promoting-ProfessionalConduct-Ethics-IntegrityEtiquette-in-ADR.pdf>. Accessed 1 August/2025.

5. LESSONS LEARNED FROM OTHER COUNTRIES IN PROMOTING PROFESSIONAL CONDUCT, ETHICS, INTEGRITY, AND ETIQUETTE IN ADR

Several countries have successfully implemented strategies to promote professionalism, ethics, integrity, and etiquette within their ADR systems. By analyzing the experiences of these countries, Tanzania can learn valuable lessons on how to improve its ADR framework, ensure ethical practices, and enhance the public's trust in alternative dispute resolution processes.

5.1 United States of America (US)

In the US, ADR has been widely embraced, especially through mediation and arbitration, across both private and public sectors.³³ One significant lesson Tanzania can learn from the U.S. is the importance of establishing robust training and accreditation systems. In the U.S., mediators, arbitrators, and other ADR practitioners are required to complete specialized training programs and certifications before they can practice.³⁴ Many states have created formal ADR certification bodies, such as the American Arbitration Association (AAA),³⁵ which offers accreditation to professionals based on their education, training, and experience. Additionally, the U.S. has incorporated State ADR Laws and Certification Standards, Example in Texas, they incorporated in Chapter 154³⁶ provide for Alternative Dispute Resolution Procedures. In California ³⁷ Establishes rules for arbitration, including neutrality requirements and ethical standards. The American Arbitration Association (AAA) Rules³⁸ is a leading ADR institution in the U.S. It offers training, accreditation, and ethical oversight for arbitrators and mediators.

5.2 United Kingdom

The United Kingdom has developed a strong regulatory framework for ADR, especially with respect to arbitration and mediation. One notable example is the Civil Mediation Council (CMC)³⁹, which oversees the professional conduct of mediators. The CMC sets clear ethical guidelines for practitioners, including rules on impartiality, confidentiality, and professional behavior. Additionally, the UK has a well-defined regulatory body for arbitrators, the Chartered Institute of Arbitrators (CIArb)⁴⁰ which monitors and enforces

³³ Muigua. K., (2017). 'Promoting Professional Conduct, Ethics, Integrity & Etiquette in ADR.' Op Cit.

³⁴ Ibid.

³⁵ Available at <https://www.adr.org/>. accessed on 2 August 2025.

³⁶ Chapter 154 of Texas Civil Practice and Remedies Code. 2023.

³⁷ California Code of Civil Procedure of 2023.

³⁸ Canon I, II & IV of the AAA Code of Ethics for Arbitrators in Commercial Disputes. Accessed on August 2025.

³⁹ Civil Mediation Council (CMC) of England & Wales recognition of International Mediation Institute (IMI). Certified Mediators. Available at <https://civilmediation.org/>. Accessed on 1 August 2025.

⁴⁰ The Chartered Institute of Arbitrators (abbreviated as CIArb) is a professional organization representing the interests of alternative dispute resolution (ADR) practitioners. Founded (1979). https://en.wikipedia.org/wiki/Chartered_Institute_of_Arbitrators. Accessed on 1 August (2025).

ethical practices within the field of arbitration.⁴¹ The CIArb also provides continuing education programs to keep practitioners updated on the latest ethical standards and best practices.

5.3 Singapore

Singapore is a leader in ADR in Asia, with a highly structured and professional approach to dispute resolution. The Singapore International Arbitration Centre (SIAC)⁴² and the Singapore Mediation Centre (SMC)⁴³ are prime examples of institutions that uphold the highest professional and ethical standards. These institutions have set comprehensive rules⁴⁴ that govern the conduct of arbitrators and mediators. Singapore also incorporated ADR into its legal system by enacting laws that encourage its use in commercial disputes. A key lesson from Singapore is the integration of ADR into the legal system⁴⁵. In Tanzania, similar efforts could be made to formalize ADR in areas such as business and family disputes. Encouraging the use of ADR within the legal framework, while ensuring adherence to ethical standards, would improve the system's credibility and accessibility.

6. CONCLUSION

Promoting professional conduct, ethics, integrity, and etiquette in ADR is crucial for enhancing the credibility and effectiveness of the process in Tanzania. By addressing existing challenges and implementing the proposed strategies, Tanzania can establish a more robust and reliable ADR system. Such advancements will not only enhance access to justice but also contribute to fostering a culture of professionalism and accountability in dispute resolution.

⁴¹ Ibid. Part 2, of CIArb, Rule 1,2,3, -9.

⁴² SIAC Rules (2016") are the primary rules of arbitration at the SIAC and have come into force on 1 August 2016. it administers arbitrations under its own rules of arbitration and the UNCITRAL Arbitration Rules.

⁴³ Rule 6,8&10 of the Singapore Mediation Centre (SMC) Rules.

⁴⁴ Rule 13, Rule 19. Of the SIAC Rules.

⁴⁵ For example, in the State Courts of Singapore, certain civil cases are automatically referred to mediation as part of the case management process. The Community Justice and Tribunals System (CJTS).