

Legal and institutions challenges in resolving tax disputes through alternative dispute resolution in Tanzania

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Abstract

Alternative dispute resolution (ADR) is a structured process of dispute resolution which involve settling of the disputes amicably out of court. It is an attempt by litigants and their lawyers to resolve their disputes amicably other than the adversarial litigation process. Alternative Dispute Resolution in Tanzania has its legal basis in the Constitution of the United Republic of Tanzania, 1977(as amended from time to time). This article examines both legal and institutional challenges on resolving tax disputes through alternative dispute resolution in Tanzania. The challenges include; the uncertainty of laws, lack of clear procedures, lack of tax professionals, legislation and technology, non-adherence to the principles of natural justice, haphazard and several amendments of the tax laws, lack of procedures of handling tax disputes at the Court of Appeal of Tanzania, delay of cases, backlog of cases at Tax Revenue Appeal Board (TRAB) and Tax Revenue Appeal Tribunal(TRAT), unreadiness to settle disputes by Commissioner General, lack of adequate officers and small number of officers dealing with tax disputes, unrepresented parties and advocates. This article emphasizes that these challenges devastate the performance of the institutions dealing with tax dispute resolution through alternative dispute resolution and the whole process. Thus, it calls upon for the amendments of laws, regulations and rules, and the need for the institutions to solicit more resources and assistance from government and stakeholders.

Keywords: Dispute; Taxation; Tax Dispute; Alternative Dispute Resolution; Tax; Dispute Resolution; Institutions; Commissioner General; Challenges

1. Introduction

Globally, the role of traditional dispute resolution mechanisms has long been significant, as formal courts of law typically handle only a fraction of all disputes that occur in society (Menkel-Meadow, 2006). Traditional dispute resolution is a common feature in most African societies and represents the oldest method of conflict management compared to other formal mechanisms (Snyder, 2006). The reason for this persistence is that pre-colonial societies had their own established ways of resolving disputes, and many African countries continue to apply customary laws where traditional dispute resolution is common, emphasizing community harmony and togetherness (Murray, 2013).

In Tanzania, alternative dispute resolution (ADR) can be traced back to the pre-colonial period, whereby every culture had a mechanism for resolving disputes that arose between its members (Ishengoma, 2014). However, there is no documented proof that these specific traditional dispute settlement methods were formally integrated into what is now known as ADR for tax disputes.

In 1920, a few years after Tanzania became a British colony, the British enacted the Tanganyika Order in Council, which established a formal system of court adjudication based on written law, common law, and equity as applicable in England at the time (Tanganyika Order in Council, 1920). In that Order, the British Government stipulated that

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customary law could be applied in circumstances that permitted deciding cases according to substantial justice, "without undue regard to technicalities of procedure and without undue delay" (Tanganyika Order in Council, 1920, s. 9). However, there is no written proof that this provision was applied in relation to disputes concerning tax matters.

After independence, a number of laws were enacted to provide for ADR procedures, aiming to reduce the backlog of cases before the law courts, tribunals, and boards. The Civil Procedure Code is one such law that provides for ADR. Specifically, Order VIII Rule 24 of the Civil Procedure Code states that, subject to the provisions of any written law, "the court shall, where it deems fit, refer every civil action for negotiation, conciliation, mediation, arbitration or similar alternative procedure before proceeding to trial" (Civil Procedure Code [Cap. 33 R.E. 2019], Order VIII, r. 24).

In 1986, the Law Reform Commission of Tanzania made a crucial remark that "it is a matter of consensus that the interest of all parties involved in the administration of justice is that justice should be speedy, inexpensive and fair" (Tanzania Law Reform Commission, 1986, p. 15). The commission noted that delayed justice causes numerous social and economic disruptions, and that the quality of a legal system is measured by the time it takes to complete litigation. This principle was affirmed in the case of **Commissioner General of Tanzania Revenue Authority v. JSC Automredtzoloto*, where it was held that in determining tax disputes, two principles must be adhered to: first, the desire to ensure that tax cases are disposed of expeditiously and are not subject to undue delay (**Commissioner General v. JSC Automredtzoloto*, 2019).

Historically, ADR was not applicable to tax disputes in Tanzania because it was not recognized by the specific laws governing taxation. However, significant developments have been made in ADR since Tanzania's independence, including its application to tax disputes. Since 2018, there has been formal recognition of ADR for resolving tax disputes. The Tax Revenue Appeals Act, the Tax Revenue Appeal Board Rules, and the Tax Revenue Appeals Tribunal Rules now all provide for ADR in matters relating to tax (Tax Revenue Appeals Act [Cap. 338 R.E. 2019]; Tax Revenue Appeal Board Rules, 2018). Despite these improvements, there are still challenges facing the implementation of ADR in settling tax-related disputes. This article therefore highlights some of the legal and institutional challenges facing Alternative Dispute Resolution in settling tax disputes in Tanzania.

2. Research methodology

This study employed a qualitative doctrinal research methodology to conduct an in-depth examination of the legal and institutional challenges hindering the effective use of Alternative Dispute Resolution (ADR) in Tanzanian tax disputes. This approach was deemed most appropriate as the research objective centers on a systematic analysis and interpretation of existing legal frameworks, institutional structures, and judicial pronouncements. The primary aim was not to collect new empirical data, but to synthesize and critically evaluate the current state of the law and its practical application, thereby identifying the specific legal ambiguities and operational deficiencies that impede the ADR process.

The data for this article was collected through an extensive and systematic review of primary and secondary legal sources. Primary sources included the Constitution of the United Republic of Tanzania, 1977, the Tax Revenue Appeals Act, the Tax Administration Act, and various Finance Acts that have amended the core legislation. Furthermore, the procedural rules of the Tax Revenue Appeals Board and the Tax Revenue Appeals Tribunal, along with key judicial decisions from the High Court and Court of Appeal of Tanzania interpreting these statutes, were critically analyzed. Secondary sources, such as reports from the Tanzania Law Reform Commission, academic legal journals, scholarly commentaries on tax law, and official publications from the Tanzania Revenue Authority, were consulted to provide contextual depth and scholarly perspectives on the identified challenges.

The analysis of the collected data was structured around the two central themes of the article: legal and institutional challenges. This involved a critical examination of the statutory provisions to identify internal inconsistencies, such as the conflicting terminology regarding "amicable settlement" and "mediation, conciliation, and arbitration." The study also evaluated the adequacy of procedural rules by assessing their silence on critical implementation steps. For institutional challenges, the analysis focused on interpreting the operational impact of factors like case backlogs, resource constraints, and the potential for conflicts of interest, drawing inferences from the legal mandates and institutional designs. This process of synthesis allowed for a comprehensive understanding of how the separate legal and institutional elements interact to create systemic barriers to effective ADR.

It is important to acknowledge the limitations of this doctrinal methodology. While it provides a robust analysis of the law "on the books," it may not fully capture the law "in action"—the undocumented practices, discretionary decisions, and lived experiences of tax officials, practitioners, and litigants. Future research could complement this study with empirical methods, such as semi-structured interviews with key stakeholders, to gain richer insights into these practical

dimensions. Throughout this study, however, a strict commitment to academic integrity was maintained, with all sources meticulously cited to ensure the credibility and verifiability of the findings and to honor the intellectual property of the original authors.

3. Tax dispute resolutions through alternative dispute resolutions in Tanzania

Tax dispute resolution by using alternative dispute resolution has a legal benchmark of the Constitution. Alternative dispute resolution has a legal benchmark from the Constitution Article 107A (2) (a) (d) of the Constitution, it provides that; in delivering decisions in matter of civil and criminal nature in accordance with the laws, the court shall observe the principle of not to delay dispensation of justice without reasonable ground and to promote and enhance dispute resolution among persons involving in the dispute.

The tax laws allow the use of alternative dispute resolution in resolving tax disputes. Before the year 2000 tax disputes were resolved through the specific law where the dispute emanates. In the year 2000 the Government established the unified law for tax dispute resolution machinery whereby The Tax Revenue Appeals Act was enacted. Section 17(1) (b) of the Tax Revenues Appeals Act recognizes alternative dispute resolution in settling tax disputes. The Act provides for specific machinery to deal with tax disputes. It established the Tax Revenue Appeal Board under section 4 of the Act and the Tax Revenue Appeals Tribunal under section 8 of the Act. In 2018 rules were promulgated to regulate the Board and the Tribunal.

Rule 16(1) of the Tax Revenue Appeals Board Rules provides for alternative dispute resolution whereby a Board can settle the dispute through mediation, conciliation and arbitration. Rule 15(8) of Tax Revenue Appeals Tribunal Rules provides for alternative dispute resolution whereby the Tribunal can resolve tax dispute through mediation, conciliation and arbitration.

Although the Act and the Rules recognize the use of alternative dispute resolution in settling tax dispute, no procedures were laid down on how the alternative dispute resolution machinery can be implemented. In the year 2012, section 22 of the Tax Revenue Appeals Act was amended by the section 71 of the Finance Act whereby subsection 7 was introduced which required that a party to an appeal may at any stage before judgment is delivered by the Board or Tribunal apply for the appeal to be settled amicably through mediation. That amended did not last for long, again in 2022, section 22 was amended by section 117 of the Finance Act by deleting the words through mediation appearing under section 22(7) of the Act and by deleting the word mediation appearing under subsection 8 of the Act and substituted for it the word amicably settlement.

The wonder here is that while the parent Act under section 22 as amended by the Finance Act of 2022 provides for amicable settlement, section 17(1) (b) of the same Act provides the matter to be settled through mediation, conciliation and arbitration. Not only that, but also the Rules of the Board and Tribunal provide for the disputes to be settled through mediation, conciliation and arbitration leading to legal and institutional uncertainty.

4. Institutions for resolving tax disputes

The legal framework for resolving tax disputes in Tanzania establishes a multi-tiered system of institutions, encompassing both administrative bodies and formal judicial structures. The primary statutes governing this system are the Tax Administration Act (TAA) and the Tax Revenue Appeals Act (TRA). The TAA provides for administrative mechanisms like the Tax Ombudsman and the Commissioner General of the Tanzania Revenue Authority (TRA), while the TRAA establishes the formal "tax courts": the Tax Revenue Appeals Board (TRAB), the Tax Revenue Appeals Tribunal (TRAT), and the Court of Appeal of Tanzania. The distinction is crucial; as affirmed in **Commissioner General Tanzania Revenue Authority v. Milambo Limited**, only TRAB, TRAT, and the Court of Appeal are vested with exclusive judicial jurisdiction over tax disputes (Commissioner General v. Milambo Limited, 2015).

4.1. The Office of Tax Ombudsman Service

The Office of the Tax Ombudsman Service was established to provide an independent avenue for addressing taxpayer grievances concerning administrative and procedural matters. Established under Section 28A of the TAA, its mandate is to review and address complaints about services rendered by the TRA, the Commissioner General, or their staff (Tax Administration Act, 2019). The office is headed by a Tax Ombudsman, appointed by the Minister for a three-year term, who is required to possess competence in tax administration matters (Tax Administration Act, 2019, s. 28B).

While the Ombudsman is mandated to carry out functions "independently and impartially without interference," a significant structural tension exists. The Ombudsman's findings and recommendations must be submitted directly to the Minister, who then issues binding directives to the TRA (Tax Administration Act, 2019, s. 28B(3), as amended by Finance Act, 2020). A 2021 amendment further solidified the Ombudsman's role by making their decisions binding on the complainant taxpayer (Finance Act, 2021). The Ombudsman's duties include reviewing complaints, resolving them amicably through mediation or conciliation, and ensuring procedures are fair and cost-effective. However, the office's jurisdiction is limited; it cannot review legislation, tax policy, or the substantive merits of a tax decision, focusing instead on service delivery and procedural administration (Tax Administration Act, 2019, s. 28D).

The procedure for lodging a complaint is detailed in the Tax Administration (Tax Ombudsman Services Complaint Procedure) Regulations. A complainant must first exhaust all internal remedies with the TRA before approaching the Ombudsman. The complaint must be lodged in a prescribed form within ninety days of the event giving rise to the grievance, supported by relevant correspondence (Tax Administration (Tax Ombudsman Services Complaint Procedure) Regulations, 2018, Reg. 6 & 7). Upon receipt, the Ombudsman investigates, may resolve the matter through mediation or reconciliation, and is required to determine the complaint within thirty days, after which the findings are submitted to the Minister for final directives.

4.2. The Commissioner General of Tanzania Revenue Authority

As the chief executive officer of the TRA, the Commissioner General (CG) is not only responsible for tax collection but also serves as the first point of contact for many disputes. The CG is empowered by law to resolve disputes through several distinct mechanisms: amnesty (remission of interest and penalties), compounding of offences, and the formal objection process.

4.2.1. Amnesty (Remission) Procedure

Amnesty, legally termed remission, is an offer to a taxpayer to pay only the principal tax, waiving associated interest and penalties. This mechanism aims to improve compliance and revenue collection. The power to remit rests with the CG under Section 70 of the TAA, which requires the CG to be satisfied that there is "good cause" to do so (Tax Administration Act, 2019, s. 70). A 2021 amendment centralized this power in the hands of the CG, removing the Minister's prior authority to prescribe eligibility and procedures (Finance Act, 2021).

Historically, regulations like the 2018 Tax Administration (Remission of Interest and Penalties) Regulations provided for a formal "settlement agreement," which functioned as an explicit form of Alternative Dispute Resolution (ADR) where the taxpayer agreed to conclude their liability "with no further grievance or dispute" (Tax Administration (Remission of Interest and Penalties) Regulations, 2018, Reg. 5). However, subsequent regulations and the current law are silent on the procedural aspects of ADR, framing remission more as a unilateral administrative application process where the CG's final determination is not subject to appeal.

4.2.2. Compounding of Offences

Compounding allows the CG to settle a criminal tax offence out-of-court by requiring the offender to pay a fine equivalent to what a court conviction would likely impose, thereby avoiding prosecution. This process is governed by Section 92 of the TAA. It is initiated by the CG serving a notice of offence, after which the offender must admit guilt in writing and accept the proposed terms within seven days (Tax Administration (General) Regulations, 2019, Reg. 99 & 100).

The resulting compounding order is final, conclusive, and not subject to appeal (Tax Administration Act, 2019, s. 92(3)). This lack of an internal appeal route creates a significant power imbalance. However, the law provides a remedy through the judiciary. As held in **Commissioner General v. Mohamed Al-Salim Omary Hassan**, a final decision from a quasi-judicial body like the CG that is not appealable can be challenged by seeking a judicial review in the High Court (Commissioner General v. Hassan, 2017). The regulations do not provide for negotiation; the process is largely compulsory, requiring the offender to comply with the CG's terms.

4.2.3. Objection to Tax Decision

The objection process is the primary mechanism for a taxpayer to formally challenge a tax assessment or decision made by the CG. It is an internal administrative review governed by Sections 50 to 52 of the TAA. An aggrieved person must file a written notice of objection within thirty days of receiving the tax decision (Tax Administration Act, 2019, s. 51(1)).

A critical prerequisite for filing an objection is the payment of the undisputed tax amount or one-third of the total assessed tax, whichever is greater, before the objection deadline (Tax Administration Act, 2019, s. 51(7)). Failure to make this payment results in the objection being deemed not to have been filed, and the assessment becoming final. The CG is then required to determine the objection within six months. If the CG fails to do so, the assessment is treated as confirmed, granting the objector the right to appeal to the TRAB (Tax Administration Act, 2019, s. 52(11)). This structured objection process serves as a mandatory first step in the dispute resolution ladder before escalating to formal adjudication.

4.3. The Tax Revenue Appeals Board (TRAB)

If the objection is unsuccessful or not determined within the statutory period, the taxpayer's next recourse is to the Tax Revenue Appeals Board (TRAB). Established under Section 4 of the TRAA, TRAB is the first-instance judicial body for hearing appeals from the CG's decisions (Tax Revenue Appeals Act, 2020, s. 4). Its jurisdiction is exclusively civil in nature and is conditional on the taxpayer having complied with the objection procedures outlined in the TAA (Tax Revenue Appeals Act, 2020, s. 7A).

The Board is composed of a chairman, three Vice-Chairmen (one from Zanzibar), and other members appointed from across Tanzania's regions, all of whom must possess expertise in legal, tax, or commercial matters (Tax Revenue Appeals Act, 2020, s. 4). Appeals to TRAB are subject to strict timelines: a notice of appeal must be served within thirty days, and a full statement of appeal must be lodged within forty-five days of the CG's final decision (Tax Revenue Appeals Act, 2020, s. 16(3)).

A significant feature of TRAB is its statutory power to resolve disputes through ADR. Section 17(1)(b) of the TRAA and Rule 16(11) of the Tax Revenue Appeals Board Rules explicitly empower the Board to determine matters through mediation, conciliation, or arbitration (Tax Revenue Appeals Act, 2020; Tax Revenue Appeals Board Rules, 2018). However, this power is clouded by legal uncertainty. A 2022 amendment to Section 22 of the TRAA replaced the term "mediation" with the broader "amicable settlement" (Finance Act, 2022). This creates a direct conflict with Section 17(1)(b) and the Board Rules, which continue to specify "mediation, conciliation or arbitration." Furthermore, the Rules explicitly state that the procedural rules of the Civil Procedure Code and the Arbitration Act do not apply to the Board's proceedings, leaving the practical implementation of ADR without a clear procedural framework. This legislative ambiguity presents a significant challenge to the consistent and effective use of ADR in Tanzania's tax dispute resolution system.

5. Challenges in resolving tax disputes through alternative dispute resolutions

The integration of Alternative Dispute Resolution (ADR) into Tanzania's tax dispute resolution framework represents a progressive step towards achieving the constitutional mandate for speedy and efficient justice. However, the practical application of ADR is significantly hampered by a host of deeply entrenched legal and institutional challenges. These hurdles not only undermine the potential benefits of ADR such as reduced costs, expedited settlements, and preserved business relationships but also create an environment of uncertainty and inefficiency that often forces parties back into protracted litigation.

5.1. Legal Challenges: A Framework of Ambiguity and Inconsistency

The foundational legal challenges stem from a lack of clarity and consistency within the very statutes designed to facilitate ADR. The most prominent issue is the uncertainty of the laws themselves. The Tax Revenue Appeals Act (TRAA), the primary legislation for tax ADR, contains conflicting terminology. For instance, Section 22, as amended, introduces the term "amicable settlement," while Section 17(1)(b) and the procedural rules for both the Tax Revenue Appeals Board and the Tribunal explicitly list "mediation, conciliation, and arbitration" as the available mechanisms (Tax Revenue Appeals Act, 2020; Tax Revenue Appeals Board Rules, 2018). This legislative dissonance creates significant confusion for practitioners and parties alike, who are left uncertain as to which mechanisms are legally applicable and in what circumstances. For ADR to be effective, the legal framework must be coherent and predictable, providing clear guidance rather than generating procedural roadblocks.

Compounding this uncertainty is a lack of clear procedures for initiating and conducting ADR. Neither the parent Act, its regulations, nor the procedural rules provide a definitive roadmap. Critical questions remain unanswered: Must a party apply for ADR via a chamber summons supported by an affidavit, a specific form, or an oral request? This procedural vacuum is a major deterrent, as a party willing to settle may be dissuaded simply because they do not know where or how to begin the process. The absence of a structured procedural framework effectively renders the statutory power to use ADR largely theoretical.

These legislative issues are further exacerbated by systemic human resource and structural problems. The complexity of tax law demands a high level of expertise, yet there is a lack of skilled tax professionals in Tanzania. This shortage affects the very institutions tasked with resolving disputes, as the Board and Tribunal may lack members with the requisite dual knowledge of legal principles and intricate tax laws necessary to facilitate a fair and informed resolution. Furthermore, the structure of the dispute resolution system raises serious concerns regarding the non-adherence to the principle of natural justice, specifically the rule of *nemo judex in causa sua* (no one should be a judge in their own cause). The Commissioner General of the Tanzania Revenue Authority (TRA) is both a party to the dispute—with a clear pecuniary interest in securing revenue for the government—and an integral part of the tax administration system. This inherent conflict of interest can undermine the perception of impartiality, making it difficult for a taxpayer to feel they will receive a fair hearing, especially within institutions that operate under the broader umbrella of the TRA.

The legal landscape is also characterized by instability, with several amendments to the same law in quick succession. The provisions governing ADR in the TRAA have been repeatedly altered, creating a moving target for those who must implement the law. This constant legislative flux fosters inconsistency and disrupts the development of institutional memory and best practices. Finally, the framework fails to keep pace with modern practice, showing a clear disconnect between legislation and technology. The current system relies on physical service of documents and in-person appearances, ignoring the potential of information and communication technology to make processes faster, cheaper, and more accessible. This technological lag is particularly ironic for a mechanism like ADR, which is designed to be innovative and efficient. Moreover, the lack of ADR procedures at the Court of Appeal of Tanzania creates a significant gap in the dispute resolution ladder. The Court of Appeal Rules do not provide for ADR, meaning that once a dispute reaches this level, the parties are forced into traditional litigation unless they agree to settle and withdraw the case, precluding a court-facilitated resolution at the highest judicial tier.

5.2. Institutional Challenges: A System Strained by Capacity and Will

Beyond the legal deficiencies, the institutions responsible for administering tax ADR face profound operational challenges that cripple their effectiveness. The most visible of these are delays and the resulting backlog of cases. Tax disputes, which often involve substantial government revenue, are notorious for taking an inordinate amount of time to resolve. This directly contradicts the core purpose of ADR. The problem is not merely abstract; in the 2017/2018 period alone, long-standing cases before the tax appeal machinery accounted for an astonishing TZS 382.6 trillion in disputed taxes. Such a massive backlog not only deprives the government of revenue but also erodes public confidence in the system's ability to deliver justice efficiently.

A critical behavioral challenge is the non-readiness of the Commissioner General to settle. As the representative of the government's fiscal interests, the CG is often more amenable to settlement when the outcome requires a payment from the taxpayer. However, when the liability rests with the Authority, the willingness to settle diminishes significantly. This imbalance is exacerbated by the current financial system. Following the repeal of Section 92A of the Tax Administration Act and the centralization of government payments under the Finance Act, 2020, the CG no longer has direct control over a dedicated settlement fund, making it procedurally and politically more difficult to agree to refunds or favorable settlements.

These issues are magnified by severe capacity constraints. There is a lack of adequate office space, with institutions primarily concentrated in Dar es Salaam, forcing officers to travel extensively to hear matters from other regions, which is time-consuming and costly. This is compounded by a small number of officers dealing with tax disputes. The fact that the Office of the Tax Ombudsman is manned by a single individual is a stark example of this understaffing, which inevitably leads to delays, especially for matters originating outside the capital. Similarly, the Commissioner General is a single office, unable to personally address the volume of disputes across the country.

The human element on the side of the disputants also presents a challenge. Unrepresented parties, often lacking knowledge of tax law and procedural nuances, can significantly slow down the resolution process. The adjudicator is forced to spend extra time explaining the nature of the dispute and the available options, which hinders the expeditious progress that ADR promises. Paradoxically, the presence of advocates does not always alleviate this problem. Many legal practitioners in Tanzania lack specialized skills and training in tax matters. Consequently, they may be passive during proceedings, fail to adequately advise their clients on the nature of the dispute, and, crucially, may not understand or appreciate the benefits of ADR. In some instances, advocates may even persuade their clients to reject ADR in favor of traditional litigation, either due to their own unfamiliarity with the process or a belief that protracted court battles are more advantageous, thereby actively undermining the very system designed to provide an alternative.

In conclusion, while the legal recognition of ADR for tax disputes in Tanzania is a welcome development, its promise remains largely unfulfilled. The system is caught in a cycle of legal ambiguity, procedural deficiency, and institutional incapacity. Without comprehensive reforms that address these intertwined legal and institutional challenges, ADR will continue to be an underutilized and ineffective tool, failing to deliver the speedy, cost-effective, and fair justice that taxpayers and the government alike deserve.

Tax matters required skills and knowledge to handle them as they have their own procedures to handle them. Most of advocates are not familiar and skilled in tax matters thus the role of advocates in legal proceedings relating to tax dispute cannot be over emphasized. It has been witnessed that; the number of Advocates who are representing the parties have minimal knowledge and skills of tax matters. Some are very passive and do not help their clients to fully understand the nature of the dispute and the advantage of the alternative dispute resolution. Most of them persuade their clients to reject alternative dispute resolution, so that the matter could proceed in court litigation. Advocates must make sure that they acquire skills of tax matter before representing a person in tax disputes.

6. Discussion of findings

The findings of this doctrinal research reveal that the challenges to Alternative Dispute Resolution (ADR) in Tanzanian tax disputes are not isolated issues but rather deeply interconnected systemic failures. The legal ambiguities, such as the conflicting terminology in the Tax Revenue Appeals Act and the absence of clear procedural rules, directly fuel the institutional incapacities observed. A member of the Tax Revenue Appeals Board or Tribunal, faced with statutory uncertainty and no clear roadmap for mediation or conciliation, is likely to default to the familiar, albeit slower, adversarial process of litigation. This creates a vicious cycle: legal ambiguity breeds institutional inertia, which in turn manifests as case delays and backlogs, thereby highlighting the very inadequacies of the legal framework. This symbiotic relationship between legal and institutional deficiencies means that piecemeal reforms are unlikely to be effective; a holistic overhaul is required to break this cycle.

Beyond mere inefficiency, these findings point to a significant erosion of procedural fairness and public confidence in the tax administration system. The structural conflict of interest inherent in the Commissioner General's role as both a party to the dispute and a key figure within the institutions that adjudicate it fundamentally challenges the principle of *nemo judex in causa sua*. For a taxpayer, this arrangement creates a perception of bias before the process even begins, undermining the legitimacy of any outcome. This perception is exacerbated by the system's technological backwardness, which relies on cumbersome physical processes that are not only slow but also inaccessible to many. Collectively, these factors create a formidable barrier to justice, contradicting the constitutional guarantee of a fair and timely hearing and transforming the tax dispute process into an ordeal of power imbalance rather than a neutral search for resolution.

The economic and fiscal consequences of these systemic failures are profound and cannot be overstated. The staggering backlog of cases, amounting to hundreds of trillions of Tanzanian shillings in disputed taxes, represents not just locked-up government revenue but also a significant source of uncertainty for the business community. A tax dispute system that is unpredictable, protracted, and perceived as unfair acts as a major disincentive for both domestic and foreign investment. The reluctance of the Commissioner General to settle disputes where the government is liable further distorts the fiscal landscape, creating an uneven playing field that damages taxpayer morale and can inadvertently discourage future voluntary compliance. In essence, the current challenges translate into a direct economic cost, hindering the government's revenue collection efforts and undermining the nation's broader economic growth and stability.

Ultimately, the most critical finding is the profound paradox between the *de jure* existence of ADR and its *de facto* marginalization. The fact that ADR is enshrined in the Constitution and primary legislation, yet is functionally inoperable, suggests that its adoption may have been more a legislative formality than a genuine commitment to transforming the dispute resolution culture. This disconnect between legislative intent and operational reality indicates a critical failure in implementation. The law provides the tools, but the institutional will, human resource capacity, and procedural infrastructure to use them are absent. This hollow recognition of ADR renders it a symbolic gesture rather than a practical mechanism, leaving the promise of a faster, cheaper, and more amicable tax dispute system largely unfulfilled and highlighting a critical gap between the law on the books and the law in action.

7. Conclusion

In conclusion, this study has systematically demonstrated that while the legal framework for Alternative Dispute Resolution (ADR) in Tanzanian tax disputes is formally established, its practical efficacy is severely undermined by a confluence of legal and institutional challenges. The doctrinal analysis reveals a system paralyzed by legislative ambiguity, where conflicting terminology and a profound absence of procedural guidelines render the statutory power to use ADR largely theoretical. These legal deficiencies are compounded by institutional frailties, including critical capacity constraints, significant case backlogs, and a perceptible reluctance by key actors, particularly the Commissioner General, to embrace settlement. Collectively, these issues cripple the very objectives of ADR speed, cost-effectiveness, and fairness leaving taxpayers and the government entangled in a protracted and inefficient litigation cycle.

Therefore, the most urgent and foundational recommendation is the immediate and comprehensive reform of the governing legislation. Parliament must prioritize amending the Tax Revenue Appeals Act to harmonize the conflicting provisions between Section 17(1)(b) and Section 22, establishing a clear and consistent legal definition of the available ADR mechanisms. Concurrently, the responsible Ministry must promulgate detailed procedural regulations that provide a definitive roadmap for initiating and conducting mediation, conciliation, and arbitration, specifying application forms, timelines, and the conduct of proceedings. This legislative overhaul must extend to the highest level of the judiciary, with the Court of Appeal of Tanzania Rules being amended to incorporate ADR provisions, ensuring that the opportunity for amicable resolution is available at every stage of the dispute resolution ladder.

Beyond statutory amendments, addressing the deep-seated institutional challenges requires a strategic investment in human capital and technological infrastructure. A concerted effort involving the Judiciary, the Tanzania Revenue Authority, and academic institutions is essential to develop specialized training programs for judges, Board and Tribunal members, and legal practitioners, thereby bridging the critical gap in tax-specific expertise. Furthermore, the government must allocate adequate funding to expand the physical infrastructure of tax dispute bodies, including establishing regional offices to improve access and reduce delays. Crucially, the system must be modernized through the integration of information and communication technologies, such as e-filing systems and virtual hearing platforms, to make the ADR process faster, cheaper, and more aligned with contemporary administrative practices.

Finally, fostering a genuine culture of settlement necessitates a deliberate shift in procedural norms and stakeholder mindsets. To overcome the Commissioner General's disincentive to settle, the government should explore creating a more flexible financial framework, perhaps through a dedicated settlement fund, to depoliticize refund decisions and empower the TRA to resolve disputes where the liability rests with the Authority. The Tanganyika Law Society, in collaboration with the TRA, should implement Continuing Legal Education focused on tax ADR to equip advocates with the skills to effectively advise their clients on its benefits. Simultaneously, a robust public awareness campaign is needed to educate taxpayers, particularly unrepresented parties, about their rights and the advantages of ADR, thereby demystifying the process and encouraging its use.

In essence, the promise of ADR in Tanzania's tax regime remains an unrealized potential, constrained by a web of legal ambiguities and institutional incapacities. The failure to address these challenges not only perpetuates inefficiency and perceived injustice but also undermines the broader business environment and discourages voluntary tax compliance. However, the path forward is clear. By implementing these multi-pronged reforms harmonizing the law, building institutional capacity, and cultivating a culture of settlement Tanzania can transform its tax dispute resolution system from a site of contention into a model of efficiency and fairness, ultimately fostering greater trust between taxpayers and the state and contributing to sustainable economic prosperity.

Recommendations

Therefore, the most urgent and foundational recommendation is the immediate and comprehensive reform of the primary legislation. Parliament must prioritize amending the Tax Revenue Appeals Act to harmonize the conflicting provisions between Section 17(1)(b) and Section 22. This amendment is critical to establish a clear and consistent legal definition of the available ADR mechanisms, eliminating the current ambiguity that paralyzes practitioners and parties. Without this foundational legal clarity, any subsequent efforts to improve the system will be built on an unstable base, perpetuating the uncertainty that currently undermines the entire ADR framework for tax disputes.

Building upon this legislative clarity, the next crucial step is the development and formalization of detailed procedural rules. The responsible Ministry, in consultation with the Judiciary and tax law experts, must promulgate comprehensive regulations that provide a definitive roadmap for initiating and conducting ADR. These regulations should specify

application forms, timelines, the conduct of mediation, conciliation, and arbitration sessions, and the enforcement of settlement agreements. Furthermore, this procedural overhaul must extend to the highest level of the judiciary by amending the Court of Appeal of Tanzania Rules to formally incorporate ADR provisions, ensuring that the opportunity for amicable resolution is available at every stage of the dispute resolution ladder.

Beyond statutory and procedural reforms, addressing the deep-seated institutional challenges requires a strategic investment in human capital and technological infrastructure. A concerted effort involving the Judiciary, the Tanzania Revenue Authority, and academic institutions is essential to develop specialized training and certification programs for judges, Board and Tribunal members, and legal practitioners, thereby bridging the critical gap in tax-specific expertise. Concurrently, the government must allocate adequate funding to expand the physical infrastructure of tax dispute bodies, including establishing regional offices to improve access and reduce delays. Crucially, the system must be modernized through the integration of information and communication technologies, such as e-filing systems and virtual hearing platforms, to make the ADR process faster, cheaper, and more aligned with contemporary administrative practices.

Finally, fostering a genuine culture of settlement necessitates a deliberate shift in procedural norms and stakeholder incentives. To overcome the Commissioner General's institutional disincentive to settle when the government is liable, the Ministry of Finance should explore creating a more flexible financial framework, perhaps through a dedicated settlement fund, to depoliticize refund decisions and empower the TRA to resolve disputes more equitably. The Tanganyika Law Society, in collaboration with the TRA, should implement mandatory Continuing Legal Education modules focused on tax ADR to equip advocates with the skills to effectively advise their clients on its benefits and strategic use. Simultaneously, a robust public awareness campaign is needed to educate taxpayers, particularly unrepresented parties, about their rights and the advantages of ADR, thereby demystifying the process and encouraging its use as a viable alternative to litigation.

Compliance with ethical standards

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This study acknowledged all literatures and other sources which are presented from parties other than the authors. Even when previous works of the authors have been used proper citations have been done and well referenced.

Disclosure of conflict of interest

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

Statement of ethical approval

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

Statement of informed consent

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

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