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LEGAL GAPS AND CHALLENGES IN TANZANIA'S FINANCIAL CONSUMER PROTECTION: THE MISSING ROLE OF ALTERNATIVE DISPUTE RESOLUTION

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Abstract

The expansion of Tanzania's financial sector has led to an increase in disputes between banks and consumers, particularly regarding issues of fairness, transparency, and accountability. Despite this, the Bank of Tanzania (Financial Consumer Protection) Regulations of 2019 provide for complaint determination. Still, they fail to integrate Alternative Dispute Resolution (ADR) mechanisms, such as mediation, conciliation, and arbitration. This article examines the legal gaps and challenges within Tanzania's consumer protection framework, focusing on the absence of structured ADR procedures. Drawing on doctrinal and international standards, it argues that the lack of ADR integration not only limits access to justice but also hinders consumer's confidence in financial services. This article concludes by recommending regulatory reforms, including the establishment of an independent financial complaint desk, which will comply with international consumer protection guidelines and enhance awareness and fairness in financial dispute resolution.

Introduction

The development and rapid increase of Tanzania's financial sector have contributed to the expansion of consumer access to banking products and services[1]. However, this development has been accompanied by an increase in disputes between financial institutions and their clients, which is caused by unauthorized deductions, hidden charges, unfair lending practices, and poor customer redress[2]. Traditionally, consumers who are seeking remedies have relied on the formal court system, which is often more costly, delay, and procedurally technical[3]. Thus, through this situation, there is a need for having effective and affordable mechanisms that can ensure timely, less costly, and friendly procedures in the resolution of financial disputes.

The Bank of Tanzania, as a regulator in the financial sector in Tanzania, decided to come up with the Financial Consumer Protection Regulations, 2019, which were amended by the Bank of Tanzania (Financial Consumer Protection) (Amendment) Regulations, 2025, published as Government Notice No. 298 of 2025 on 23 May 2025. The main objective is to strengthen consumer protection and ensure

[1]World Bank Group. *(2013). Tanzania Diagnostic Review of Consumer Protection and Financial Literacy: Volume 1. Key Findings and Recommendations.* Washington, DC: World Bank. Pg 6

[2]World Bank Group. (2013). Tanzania Diagnostic Review of Consumer Protection and Financial Literacy: Volume 2. Comparison with Good Practices. Washington, DC: World Bank. Pg 2

[3]Mashamba, C.J. (2014). *Alternative Dispute Resolution in Tanzania: Law and practice*, Mkuki na Nyota Publishers 2014

redress mechanisms[4]. Although the regulation contained several shortcomings. Mostly is what is provided under Regulation 53, which gives power to BoT to make a binding and conclusive determination on consumer complaints without providing a clear avenue for independent procedures that will be used by the Bank to determine such matters or complaints.

This provision was widely criticized for undermining timely to resolve complaints and impose sanctions against failure to comply with decisions of the Bank, which placed consumers in a weaker bargaining position[5]. Recognizing this criticism, the Bank of Tanzania enacted the Bank of Tanzania (Financial Consumer Protection) (Amendment) Regulations, 2025, published as Government Notice No. 298 of 2025 on 23 May 2025. Under Regulation 32 of the amendments, Regulation 53 was revised in an effort to address concerns over additional of timely for resolving complaints and sanctions against financial service providers for failure to comply with decisions of the Bank[6]. But still the amendment lacks incorporation of structured ADR procedures such as mediation and conciliation, leaving consumer redress mechanisms only still impartial[7]. Therefore, this article examines the legal gaps and challenges facing consumer protection in Tanzania and discusses the Tanzanian framework in relation to international standards.

The legal framework for consumer protection in Tanzania

The Bank of Tanzania Act CAP 197 R.E 2023, which was enacted in 2006 and has been revised in 2023, establishes the Bank of Tanzania as the central bank with the power to regulate, monitor, and supervise the function of banks and financial institutions[8]. This supervisory role includes setting standards for how banks handle consumer complaints. The provision gives the banks legal authority to design an ADR mechanism, such as mediation or conciliation in complaint resolution, since effective dispute settlement falls within the proper regulation of banks. Thus, under Section 70, the BoT gives legal foundation for the BoT to issue the Financial Consumer Protection Regulations, 2019, which outline how to protect consumers in different aspects of the services that financial institutions provide to their customers[9].

The Bank of Tanzania (Financial Consumer Protection) Regulations 2019 and their amendments of 2025 were enacted to provide a structured framework for safeguarding the interests of financial consumers by promoting fairness, transparency, accountability, and responsible business practices within the banking sector[10]. In the context of financial disputes between banks and consumers, these regulations serve as the principal legal assurance that defines how complaints are to be managed at the institutional level and provide an alternative to purely judicial processes.

However, despite this comprehensive framework, the regulations remain limited in their ability to provide independent ADR mechanisms such as mediation, conciliation, or arbitration, as they place

[4]The Financial Consumer Protection Regulations, 2019, long title.

[5] Ibid,

[6]Regulation 32, The Bank of Tanzania (Financial Consumer Protection) (Amendment) Regulations, 2025, published as Government Notice No. 298 of 2025 on 23 May 2025.

[7]Ibid,

[8]Section 6 The Bank of Tanzania Act CAP 197 R.E 2023

[9]The Bank of Tanzania (Financial Consumer Protection) Regulations 2019

[10]The Bank of Tanzania (Financial Consumer Protection) Regulations, 2019, long title

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significant reliance on internal determinations by banks, which may not always guarantee impartiality or fairness to consumers.

In reality, the law provides that handling consumer disputes start internally and is done by financial service providers as per Regulations 42-49 of The Bank of Tanzania (Financial Consumer Protection) Regulations, 2019, which provides a redress mechanism for a consumer to complain to the specific financial service provider. By doing so, these provisions collectively establish a structured administrative redress system within each financial institution[11]. They enhance procedural fairness by obliging banks to have complaint mechanisms that are both accessible and transparent. The time limits for resolution requirements promote efficiency and predictability.

Despite these positive aspects, there are notable gaps that exist within these Regulations, such as the complaints mechanism does not entirely provide for mandatory independent ADR processes, such as mediation or negotiation at this stage, which could be the best way to be used internally, hence it affects the full autonomy of parties. Lastly, the enforcement of fair compensation policies is weak, and the law lacks explicit penalties against banks that fail to comply with their obligations, leaving customers dependent on escalation to the Bank of Tanzania only.

Regulations 50 to 53 primarily introduce a significant escalation framework designed to enhance consumer protection beyond the internal complaint processes of financial institutions. Specifically, these provisions empower a consumer who remains dissatisfied with the resolution offered by a financial service provider to seek redress directly from the Bank of Tanzania[12]. Regulation 50 formally grants this right of escalation, while Regulation 51 prescribes a clear procedure for lodging complaints, and Regulation 52 outlines the conditions under which the BoT may admit such complaints, ensuring that only genuine and substantive grievances are entertained, which helps safeguard regulatory efficiency.

Most importantly, Regulation 53 stipulates that any determination made by the BoT is binding and conclusive upon all parties, thereby offering finality and certainty to the complaint process. This provision signifies an important administrative mechanism designed to bolster consumer redress and foster confidence in the financial system.

Strengths and weaknesses of the complaints handling and redress mechanism

a) Strengths of complaints handling and redress mechanisms

Tanzania's financial consumer protection framework has several strengths. Firstly, it provides formal recognition of complaint handling as an essential component of financial regulation. The Bank of Tanzania (Financial Consumer Protection) Regulations, 2019 require financial institutions to establish internal mechanisms for receiving, recording, and addressing consumer complaints. This acknowledgment represents progress toward aligning Tanzania with international standards that emphasize the right to redress as a cornerstone of consumer protection. By mandating banks to handle complaints, the framework aims to provide consumers with a first point of contact that is accessible, relatively informal, and free from cost.

Secondly strength is on the emphasis on transparency and disclosure obligations. Financial institutions are compelled to inform consumers of the procedures available for submitting

[11] Regulations 42-49, The Bank of Tanzania (Financial Consumer Protection) Regulations, 2019

[12] Regulations 50 to 53

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complaints and to provide timelines for addressing them. This requirement enhances consumer awareness and promotes accountability by ensuring that banks cannot ignore or dismiss a consumer's grievances without due consideration.

b) weaknesses of complaints handling and redress mechanisms

The complaints handling and redress mechanisms suffer from some weaknesses. The main concern is the lack of procedural clarity in how complaints are to be investigated and resolved. While the regulation imposes obligations on the banks to receive and determine complaints, it fails to provide detailed guidance on procedures to follow. This leaves banks with high discretion, which can result in inconsistency, delay, or outcomes that favor financial institutions at the expense of consumers.

Another weakness is the absence of Alternative dispute resolution (ADR) mechanisms within the redressing process. The regulations do not provide for mediation, conciliation, or arbitration. As a result, consumers who are dissatisfied with a bank's determination often face the difficult choice of their accepting an unfavorable decision or resorting to a formal court process, which is are highly costly, slow, and complicated procedure. This undermines access to justice for lower-income consumers who lack the financial and legal support to litigate the disputes.

Challenges in Resolving Banker-Customer Disputes Using ADR of Tanzania

Legal Challenges

1) Absence of Clear Procedures in Tanzania

The BoT, its complaints are resolved by virtue of Regulation 53 of The Bank of Tanzania (Financial Consumer Protection) Regulations, 2019, which provides the power to make a final determination on consumer complaints[13]. The law does not prescribe clear procedures or steps to be followed when resolving disputes. This regulatory gap means that banks may handle complaints differently, often relying on internal processes without formal mechanisms for mediation, conciliation, or arbitration. Such ambiguity reduces transparency and may limit fairness, as consumers are left without a structured pathway for redress.

For resistance in the case of *Emmanuel Simon Mshindo vs Bank of Africa Tanzania Limited (Commercial Case No. 6729 of 2025) [2025] TZHCComD 206*[14], insisted that the consumer has to follow the BoT complaint handling procedures, including seeking a revision from the governor, before instituting a suit in court. The judgment noted that the plaintiff, being dissatisfied with the BoT desk's closure of his complaint, should have followed the statutory steps under the Regulations rather than filing a case directly in the court. This means the regulation should be clear and the only thing that a consumer has to follow, rather than going to the court, so the regulation should provide a clear procedure.

2) Party Autonomy in Consumer Redress

One of the essential principles of ADR is party autonomy, which ensures that the disputing parties actively participate in the process and have a role in shaping the resolution of their disputes. This principle also applies in resolving financial consumer disputes. However, the Tanzanian framework

[13]Regulation 53 of The Bank of Tanzania (Financial Consumer Protection) Regulations 2019 has been amended by Regulation 32 of the Bank of Tanzania (Financial Consumer Protection) (Amendment) Regulations, 2025, published as Government Notice No. 298 of 2025 on 23 May 2025.

[14]Emmanuel Simon Mshindo vs Bank of Africa Tanzania Limited (Commercial Case No. 6729 of 2025) [2025] TZHCComD 206 p 5-6

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under the Bank of Tanzania (Financial Consumer Protection) Regulations, 2019, does not expressly safeguard party autonomy[15].

An impact of this is seen into the practice, as shown in the case of *Emmanuel Simon Mshindo vs Bank of Africa Tanzania Limited (Commercial Case No. 6729 of 2025) [2025] TZHCComD 206*, parties are largely excluded in the process, thus, the court held that the BoT's complaint Desk made determinations and closed disputes without affording the consumer meaningful involvement beyond the initial filing of forms[16].

3) Lack of a Legal Representative

One of the critical gaps in the Bank of Tanzania (Financial Consumer Protection) Regulation, 2019, is the absence of any provision guaranteeing the right of parties to be represented by legal counsel in the complaints process[17]. In practice, advocates are restricted from participating in proceedings before the Bank of Tanzania's complaints desk. This limits the consumer's ability to be presented effectively in complex claims or defend their rights, especially when dealing with powerful financial institutions that possess greater legal and technical resources. The denial of legal representation undermines the principle of equality of fair dispute resolution of which is against the principle of natural justice[18].

This weakness was indirectly reflected in *Emmanuel Simon Mshindo vs Bank of Africa Tanzania Limited (Commercial Case No. 6729 of 2025) [2025] TZHCComD 206* , where the court recorded that both parties were represented by an advocate only after the matter had entered formal litigation[19].

The fact that legal representation was excluded at the BoT stage, while there are legal procedures a consumer has to follow when he dissatisfied with the decision of BoT[20]. For example, in the case of Swiftline Logistics Limited v. EXIM Bank Tanzania Limited, [2024] TZHC 6890, held that that being the decision of the Bank on the plaintiff's complaint, she ought to have followed the procedure under the Regulation and move the Governor for a Revision. Running to this court and skipping the procedures prescribed did not in any manner confer any jurisdiction to this court to determine the suit beforehand, because the fact remains, jurisdiction is a creature of the statute and cannot be assumed by the court to accommodate the comfort of the litigant[21].

This proves that there is a complicated procedure to follow, which is difficult to implement by a consumer, and the result they decide to follow court procedures, which amounts to a lack of jurisdiction since at the court representation is allowed. This highlights the imbalance in consumer protection. Hence, consumers remain without representation until the matter has become more complex and costly.

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[15]The Bank of Tanzania (Financial Consumer Protection) Regulations, 2019

[16]Emmanuel Simon Mshindo vs Bank of Africa Tanzania Limited (Commercial Case No. 6729 of 2025) [2025] TZHCComD 206 Page 4-5

[17]The Bank of Tanzania (Financial Consumer Protection) Regulation, 2019

[18]Regulation 53(3), of The Bank of Tanzania (Financial Consumer Protection) Regulations 2019 has been amended by Regulation 32 of the Bank of Tanzania (Financial Consumer Protection) (Amendment) Regulations, 2025, published as Government Notice No. 298 of 2025 on 23 May 2025.

[19]Emmanuel Simon Mshindo vs Bank of Africa Tanzania Limited (Commercial Case No. 6729 of 2025) [2025] TZHCComD 206 p 1-3

[20]Regulations 53,55, 56 of The Bank of Tanzania (Financial Consumer Protection) Regulation, 2019

[21]Swiftline Logistics Limited v. EXIM Bank Tanzania Limited, [2024] TZHC 6890

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4) Lack of Independent Appeal Mechanisms

The right to appeal is a fundamental safeguard in dispute resolution as it ensures fairness, accountability, and the correction of errors. Under Regulation 55 of The Bank of Tanzania (Financial Consumer Protection) Regulations, 2019, a complaint or financial service provider dissatisfied with the BoT's determination may, within seven days, request the Governor to revise the decision[22].

However, this revision process is conducted solely by the Governor, either by considering further written submissions or without requesting them[23]. This arrangement concentrates appellate authority in a single office, which undermines impartiality and raises concerns about the fairness of the determination. The lack of an independent appellate body creates the risk of biased or unbalanced outcomes, as the Governor is part of the same regulatory institution that made the initial determination.

The weaknesses of this Regulation were evidently in the case of *Emmanuel Simon Mshindo vs Bank of Africa Tanzania Limited (Commercial Case No. 6729 of 2025) [2025] TZHCComD 206*, where the court emphasized that a complainant who is dissatisfied with the complaints desk's decision was obliged to request revision by the Governor before approaching the court[24]. This left the plaintiff with no opportunity to present his grievance before an independent forum, demonstrating how the absence of a neutral appellate mechanism limits consumer protection.

Practical Challenge

Effectiveness of Redress Mechanisms

The effectiveness of ADR in resolving financial consumer disputes in Tanzania remains questionable. Although the Bank of Tanzania (Financial Consumer Protection) Regulation, 2019 requires banks to establish complaint-handling mechanisms, the absence of explicit ADR procedures undermines fairness and consistency in practice. This effectiveness mostly depends on how banks interpret their obligations, which results in varied outcomes for consumers.

From the legal and compliance officers, an informal negotiation has been useful in addressing minor disputes, especially those concerning customer relations. However, in complex cases involving contractual interpretation or significant financial claims, the absence of a structured ADR framework limits its utility. And this was acknowledged that ADR outcomes are heavily influenced by party autonomy and internal institutional based on discretion rather than procedures.

The consumers are not dissatisfied with the redress process because they mostly expressed that at the time the Bank determines the complaint, it works with the bank to listen to their complaints, but excludes consumers, and the final decisions still favor the institutions. This leads to a bad perception of bias. A consumer remarked, The process is fast, but it is not fair because the bank is both the judge and the party. Others noted that the lack of independent oversight reduced their trust in the process, making redress ineffective in protecting their interests. Therefore, the effectiveness of the redress

[22]Regulation 55(1), The Bank of Tanzania (Financial Consumer Protection) Regulations, 2019
[23]Regulation 55(2), The Bank of Tanzania (Financial Consumer Protection) Regulations, 2019
[24]Emmanuel Simon Mshindo vs Bank of Africa Tanzania Limited (Commercial Case No. 6729 of 2025) [2025] TZHCComD 206 p 4-5

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mechanism in Tanzania's banking sector is affected by practical challenges, and consumers continue to mistrust the process.

Administrative or Institutional challenges

Absence of an Independent Complaints Body

Another significant of institutional challenge in Tanzania's financial consumer protection framework is the lack of a legally established and independent body dedicated to resolving consumer complaints. The Bank of Tanzania laws and its regulation, does not provide for the establishment of a specialized redress institution. Instead, complaints are handled administratively through the BoT's *Dawati la malalamiko* complaints desk[25], which operates as a department within the regulator itself rather than as an autonomous dispute resolution forum.

This arrangement limits impartiality, as the same regulator that supervises financial institutions is also tasked with resolving disputes between consumers and those institutions. The absence of a distinct statutory body undermines the credibility of the process and leaves consumers with little confidence in the neutrality of outcomes.

This gap was evident in *Emmanuel Simon Mshindo vs Bank of Africa Tanzania Limited (Commercial Case No. 6729 of 2025) [2025] TZHCComD 206,* where the court noted that the plaintiff had referred his complaint to the BoT's Complaint Desk. Although the Desk issued directives, the dispute was later closed without ensuring compliance, leaving the consumer dissatisfied. The court stressed that the plaintiff should have sought revision before the governor, and if still dissatisfied, judicial review[26]. This shows that the system relies entirely on internal BoT structures, without an independent body empowered by law to resolve disputes conclusively and fairly.

Recommendations

The recommendations presented here are directed to the main actors in Tanzania's financial sector. They aim to strengthen the framework for resolving banker and customer disputes through ADR and to enhance fairness, transparency, and consumer confidence.

To the Government and Policymakers

The Government of Tanzania has the primary responsibility to ensure that all citizens enjoy fair and timely access to justice, as emphasized under Article 8(1)(b) of the Constitution of the United Republic of Tanzania of 1977 [CAP 2 R.E 2010], which provides that the welfare of the people is the primary objective. Thus, it is recommended that the Bank of Tanzania that Bank if Tanzania (Financial Consumer Protection) Regulations, to be amended to explicitly provide for ADR mechanisms such as mediation, conciliation and arbitration. The government should also establish an independent financial ombudsman to handle consumer complaints impartially and enact a comprehensive consumer protection act that consolidates consumer right and incorporates ADR as a central mechanism of dispute resolution.

To the Bank of Tanzania and Financial Regulators.

[25] The Bank of Tanzania (Financial Consumer Protection) Regulation, 2019

[26] Emmanuel Simon Mshindo vs Bank of Africa Tanzania Limited (Commercial Case No. 6729 of 2025) [2025] TZHCComD 206 p 6

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There is a need to review and strengthen of the regulatory framework to integrate ADR into complaint handling procedures. The Bank of Tanzania should issue specific ADR guidelines to financial institutions, setting out clear timelines, procedures, and fairness standard. Furthermore, banks should be requiring to adopt internal mechanisms that adopt prioritize negotiation, conciliation and mediation before escalation to the regulator.

Capacity Building and Specialization of ADR Practitioners in Financial Disputes

In order to strengthen the effectiveness of ADR mechanisms in resolving financial consumer disputes, it is recommended that Tanzania establish a structured framework for capacity building and specialization of ADR practitioners within the financial sector.

At present, most mediators and arbitrators focus on general commercial, labour or construction disputes, and lack tailored expertise in financial consumer protection. Yet, financial disputes involve unique considerations such as transparency, disclosure obligations, fiduciary duties, and regulatory compliance.

Without specialized knowledge of ADR practitioners may fail to address many consumer disputes in the financial market.

Tanzania already has several institutions that use ADR in resolving their dispute, like insurance, they have the Tanzania Insurance Ombudsman Regulation, where Regulation 9 of The Insurance Ombudsman Regulations, 2013, provides that for effective performance of the function of the ombudsman, the ombudsman shall appoint such number of persons who possess adequate knowledge and experience in dispute resolution as mediators to assist the ombudsman in resolving disputes between insurance consumers and insurance registrants.

This illustrates that building a professional mediator within a regulated sector is possible and effective. The Bank of Tanzania could replicate this model by issuing regulations that mandate the appointment and training of mediators and conciliators with expertise in financial consumer protection disputes.

Conclusion

Advancing ADR in Tanzania's financial sector is essential not only for ensuring consumer protection but also for promoting trust, efficiency, and accountability within the financial system. By addressing existing legal and institutional weaknesses and showing comparative best practices, Tanzania can establish a more inclusive, transparent, and effective dispute resolution framework that meets the needs of its financial consumers and strengthens the overall justice system.

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2) Swiftline Logistics Limited v. EXIM Bank Tanzania Limited, [2024] TZHC 6890

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