

African Multidisciplinary Journal of Development (AMJD)

Page: 344 – 355

<https://amjd.kiu.ac.ug>

ASSESSING THE LEGAL CHALLENGES IN MEDIATING CHURCH CONFLICTS IN TANZANIA: A CASE STUDY OF SELECTED CHURCHES

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Abstract

This article examines the legal challenges hindering effective mediation of church conflicts in Tanzania, with particular reference to selected denominations such as the Moravian, Pentecostal and Anglican Churches. While mediation is widely recognized as a culturally resonant and relationship-preserving dispute resolution mechanism, its application within church contexts remains legally and institutionally fragile. Key issues include the absence of statutory provisions to enforce mediated agreements, jurisdictional ambiguity between ecclesiastical autonomy and state oversight and procedural weaknesses such as the lack of confidentiality guarantees and the neutrality of mediators. The Tanzania legal framework comprising of the Constitution of the United Republic [Cap.2 R.E 2005], Trustees' Incorporation Act [Cap.318 R.E 2025], Non-Governmental Organizations Act [Cap.56 R.E 2025], Civil Procedure Code [Cap. 33 R.E 2025] provides partial recognition of mediation but fails to integrate church-specific disputes. The article concludes by recommending reforms, adopting of model mediation clauses in church constitutions and judicial recognition of international settlements.

Keywords: Legal Challenges, Mediating, Church Conflicts, Case Study, Selected Churches, Tanzania

Introduction

The Christian life is meant to be lived in fellowship with other believers, so the fact that we are all sinners means that we will hurt and wrong each other, which can also lead to conflict. We can also disagree on various doctrines. Regardless of what the dispute is and who is causing it, we must follow the church discipline process set out in *Matthew 18:15*: "If your brother or sister sins, go and point out their fault, just between the two of you. If they listen to you, you have won them over", this verse aligns with mediation and conflict resolution because it emphasizes addressing disputes directly, privately and peacefully key principles in church conflict mediation.¹

The concept of mediation is present in the Bible, where it is seen that Jesus Christ, by dying on the cross for humanity's sins, acted as a mediator between God and man *1Timothy 2:5* reads, "For there is one God and one mediator between God and mankind, the man Christ Jesus. Various verses in the Bible indicate that mediation has existed since ancient times and that God never intended for His children to fight among themselves. Instead, they were encouraged to resolve disputes among themselves, and only if that failed, to involve a third person to help settle conflict ²(*Matthew 18:15*) (*1Samuel 7:5-6*).

¹ Daniel H., (2023) *Dealing with Church Conflict*. The Shepherd's Church Blog retrieved from <https://www.theshepherds.church/blog/dealing-with-church-conflict> accessed on 24th September 2025

² Shiji B., & Somu C.S., (2025). *Church as an Institution for Mediation in India*. South Eastern European Journal of Public Health XXV S2 3455-3463 retrieved from <https://doi.org/10.70135/seejph.vi.3443> accessed on 24th September 2025

The Constitution of Tanzania guarantees that every person has the right to the freedom to have conscience, or faith and choice in matters of religion or faith³. This provision affirms the fundamental right of individuals to practice and choose their religion freely. However, subsection (2)⁴ limits this right, allowing restrictions for reasons of security, peace, social integrity and national cohesion. While these limitations are necessary to maintain public order, they also create a gap in the legal recognition and enforceability of agreements made within religious institutions. This article will assess the legal challenges in mediating church conflicts in Tanzania, using Moravian, Pentecostal and Anglican churches as case study to highlight gaps in the law affecting internal dispute resolution and enforcing agreements.

Conceptual and Legal Frameworks Guiding Mediation in Church Disputes in Tanzania

Conceptual Framework Guiding Mediation in Church Disputes

Religion and Religious Institutions

Religion is one of the most fundamental yet contested concepts in legal and social science scholarship. The Oxford English Dictionary defines it as “*the belief in and worship of a superhuman controlling power, especially a personal God or gods.*”⁵ However, legal systems tend to adopt broader and more inclusive definitions. The United Nations Human Rights Committee, in its General Comment No. 22 on Article 18 of the International Covenant on Civil and Political Rights (ICCPR), made clear that religion encompasses theistic, non-theistic, and atheistic beliefs, and includes the freedom not to profess any religion.⁶ This expansive interpretation ensures that freedom of religion is not confined to traditional faiths but extends to a wide range of belief systems.

In Tanzania, freedom of religion is entrenched in Article 19 of the Constitution of the United Republic of Tanzania 1977, which guarantees every person “the freedom of thought, conscience and belief or religion, and the freedom to profess, practice and propagate his religion.”⁷ This provision reflects the secular character of the Tanzanian state, which recognises the plurality of faiths in society while maintaining state neutrality in matters of doctrine. As scholars have noted, the Tanzanian model seeks to balance two imperatives: the protection of individual and collective rights to religion, and the maintenance of public order and unity in a religiously diverse nation.⁸

Religious institutions are the organised forms through which religion is practiced and sustained. In legal terms, they are structured entities that may assume legal personality to interact with the state and third parties. In Tanzania, religious institutions commonly register under the Societies Act, which provides for the registration of associations including churches and mosques, thereby granting them legal recognition.⁹ Alternatively, they may incorporate under the Trustees Incorporation Act, which allows trustees to hold and manage property on behalf of a religious body.¹⁰ These statutory frameworks provide religious institutions with the capacity to own property, enter contracts, sue and be sued, and thus operate effectively in the civil sphere.

³ The Constitution of the United Republic of Tanzania [Cap.2 R.E 2005] Art 19

⁴ The Constitution of the United Republic of Tanzania [Cap.2 R.E 2005] Art 19

⁵ Oxford English Dictionary (OUP 2023).

⁶ UN Human Rights Committee, ‘General Comment No. 22: Article 18 (Freedom of Thought, Conscience or Religion)’ (30 July 1993), CCPR/C/21/Rev.1/Add.4, para 2.

⁷ Article 19(1) of the CURT 1977

⁸ Issa G Shivji, *The Concept of Human Rights in Africa* (Codesria 1989) at pg.104

⁹ Section 2-4 of the Societies Act [Cap 337 R.E. 2002]

¹⁰ Section 3-6 of the Trustees Incorporation Act [Cap 318 R.E. 2002]

It is important, however, to distinguish between the internal governance of religious institutions and their external legal personality. Internally, religious bodies are often governed by constitutions, canons, synods, or boards of elders, which regulate membership, leadership, and decision-making. Externally, their legal recognition enables them to engage with the state and society at large. Many disputes in Tanzania and other jurisdictions arise precisely at the intersection of these two domains. For example, conflicts over leadership succession or the interpretation of an institution's constitution may lead to rival claims over control of property held in trust. In such cases, courts must determine whether the dispute is a matter of internal doctrine and thus non-justiciable or whether it involves civil rights that warrant judicial intervention.

Comparative jurisprudence is instructive here. In the United States, the Supreme Court in **Serbian Eastern Orthodox Diocese v Milivojevich** held that civil courts cannot adjudicate ecclesiastical disputes concerning doctrine or internal governance, as doing so would violate the First Amendment's religion clauses.¹¹ Similarly, in Tanzania, courts have shown caution in interfering with doctrinal matters but have not hesitated to adjudicate where disputes involve property or trust arrangements. For example, in *Registered Trustees of the Holy Spirit Sisters Tanzania v Minister for Lands and Human Settlement Development*, the High Court entertained a dispute concerning land ownership by a religious institution, underscoring that civil rights arising from religious activities remain subject to judicial scrutiny.¹²

Religious institutions in Tanzania, like elsewhere in Africa, are not confined to spiritual functions. They play significant socio-economic roles, operating schools, hospitals, microfinance initiatives, and social welfare programmers.¹³ This dual role inevitably generates disputes with both doctrinal and civil implications. Issues such as employment contracts, liability for torts, and eligibility for state support frequently arise, requiring courts and alternative dispute resolution mechanisms to strike a balance between respecting religious autonomy and upholding civil law. Thus, religion and religious institutions, as conceptualized in law, are multifaceted. Religion is a constitutionally protected right, while religious institutions are the legal vehicles through which that right is exercised collectively. Their dual identity as faith communities and legal persons makes them particularly susceptible to disputes, which in turn justifies a careful exploration of dispute resolution mechanisms. This foundation paves the way for a discussion of disputes and conflict resolution in the next section.

Dispute

The term “**dispute**” in legal discourse refers to a conflict between two or more parties concerning rights, obligations, or interests that carry legal consequences.¹⁴ Unlike mere disagreements, which may be ideological or moral, disputes are actionable or potentially enforceable under the law.¹⁵ In the context of religious institutions, disputes often arise not from doctrinal differences alone but from the intersection of internal governance, property rights, and statutory obligations. Typical examples

¹¹ *Serbian Eastern Orthodox Diocese v Milivojevich* 426 US 696 (1976).

¹² *Registered Trustees of the Holy Spirit Sisters Tanzania v Minister for Lands and Human Settlement Development* [2003] TLR 217 (HC).

¹³ Gorm Rye Olsen, *Politics and the Role of the Church in Tanzania* (Routledge 2020) at pg.77

¹⁴ Bryan A Garner (ed), *Black's Law Dictionary* (11th edn, Thomson Reuters 2019) pg.609

¹⁵ Christopher W Moore, *The Mediation Process: Practical Strategies for Resolving Conflict* (4th edn, Jossey-Bass 2014) pg.21

include conflicts over leadership succession, control of assets, interpretation of institutional constitutions, or contractual and employment issues within faith-based organizations.¹⁶

Mediation

Mediation is a structured dispute resolution process in which a neutral third party, known as a mediator, assists disputants to communicate effectively, identify their needs, and work collaboratively toward a voluntary settlement, without imposing any binding decision.¹⁷ Unlike negotiation, which involves direct interaction between disputants, mediation introduces a neutral facilitator whose role is to ensure balanced dialogue, encourage empathy, and promote creative solutions. The mediator is not a judge but a catalyst who restores communication and helps disputants take ownership of the resolution.

Mediation draws heavily on conflict transformation theory, advanced by John Paul Lederach, which views conflict not as an obstacle but as an opportunity to build stronger, more resilient relationships.¹⁸ This makes mediation particularly attractive in contexts where long-term harmony matters more than short-term victory. In the Tanzanian legal framework, mediation has gained formal recognition through the Civil Procedure Code and the Mediation Rules, 2014, which institutionalize court-annexed mediation in civil disputes.¹⁹ Yet, mediation has also existed informally within African and religious traditions for centuries, given its emphasis on dialogue, forgiveness, and community. In Christian institutions, mediation resonates strongly with scripture, such as Matthew 18:15–17, which instructs believers to reconcile disputes through dialogue and neutral intervention before escalating to broader assemblies. Similarly, in Islam, the Qur'an (Surah An-Nisa 4:128) advocates sulh (reconciliation) as a moral duty and preferred approach to resolving disputes.²⁰

In practice, mediation is well-suited to address disputes common in religious institutions, such as succession wrangles over leadership, disagreements about doctrinal interpretation, or conflicts regarding ownership and management of church or mosque property. Mediation allows such sensitive disputes to be resolved discreetly, preserving institutional harmony and avoiding public scandal. It is also inclusive, as it gives all stakeholders elders, clergy, and lay members an opportunity to voice concerns in a safe, facilitated setting. While mediation's voluntary nature means agreements may lack enforcement unless formalized, its emphasis on relationship-building makes it an indispensable ADR mechanism for religious communities.

Legal Frameworks Guiding Mediation in Church Disputes in Tanzania

The Constitution of the United Republic of Tanzania, 1977

The Constitution of Tanzania is the supreme law of the land and forms the cornerstone of the national legal framework governing church conflict resolution. Relevant provisions directly touch on the issues at the heart of this research. Under Article 19 guarantees freedom of thought, conscience, and religion, ensuring that every person has the right to practice their faith individually or in community with others.²¹ This constitutional protection reinforces church autonomy, allowing religious institutions to govern their internal affairs, including conflict resolution. However, this autonomy also creates legal

¹⁶ Peter Edge, *Law and Religion in Contemporary Society: Communities, Individualism and the State* (Ashgate 2006) pg. 62

¹⁷ Moore, C. (2014). *The Mediation Process: Practical Strategies for Resolving Conflict*. 4th ed. Jossey-Bass.

¹⁸ Lederach, J.P. (1997). *Building Peace: Sustainable Reconciliation in Divided Societies*. USIP Press.

¹⁹ *Judicature and Application of Laws (Mediation) Rules, 2014*

²⁰ The Holy Bible, Matthew 18:15–17; The Holy Qur'an, Surah An-Nisa 4:128.

²¹ Article 19 of the CURT, 1977 (as amendment time to time)

ambiguity when disputes escalate beyond internal mechanisms and require state enforcement, as seen in cases where mediated agreements lack statutory backing.

Also, Article 20 provides for freedom of association,²² enabling religious groups to organize themselves into formal entities capable of holding property, suing, and being sued. This is crucial in disputes involving church property or trusteeship, as seen in cases such as *The Registered Board of Trustees of Noor Masjid Dodoma v. Jafary Manyemba*,²³ where the legal personality of the church's trustees was central to the resolution of a conflict. Similarly, Article 24, which guarantees the right to own property and prohibits arbitrary deprivation, becomes particularly important in property disputes between factions of the same church.²⁴

Despite these guarantees, the constitutional framework does not explicitly provide mechanisms for enforcing mediated outcomes in church disputes. This gap is at the core of the problem identified in this study. While the Constitution recognizes the autonomy of religious bodies and the rights of individuals within them, it does not specify how conflicts arising from this autonomy should be mediated, documented, or enforced. For example, in *Rev. Petter Makalla & Others v. Rev. Jacob Mameo & Another*,²⁵ the court dismissed the case because internal procedures had not been exhausted, but it did not provide guidance on the enforceability of internal mediation outcomes. This illustrates how the Constitution sets broad principles but leaves a legal vacuum regarding ADR mechanisms in religious contexts. It is evident that the constitutional framework both empowers and constrains mediation in church conflicts. On one hand, it affirms autonomy and freedom, which allows churches to design their own conflict resolution processes. On the other, it lacks explicit provisions to make those processes legally binding or enforceable in state courts. This tension underscores the need for harmonization between constitutional guarantees and statutory ADR mechanisms in order to make mediation a credible alternative to litigation in church disputes.

The Non-Governmental Organizations Act [Cap. 56 R.E. 2025]

The Non-Governmental Organizations Act,²⁶ is the principal statute regulating the registration and supervision of NGOs in Mainland Tanzania, including many church-related organizations. The Act requires religious organizations operating as NGOs to register with the Registrar of NGOs and to comply with conditions of transparency, accountability, and non-partisanship. Section 12 establishes the office of the Registrar, who has powers to register, suspend, or deregister organizations that contravene the law.²⁷ For churches, this means that disputes which escalate into violations of governance or accountability standards may fall under the regulatory oversight of the NGO Registrar. In relation to this research, the NGO Act is significant because it provides the legal identity of churches as corporate entities capable of entering into contracts, owning property, and being subject to dispute resolution procedures. However, the Act is silent on internal conflict resolution and does not provide specific provisions for mediation of religious disputes. This omission creates a legal gap where mediated outcomes within churches, although valuable in preserving harmony, remain unenforceable in the absence of statutory backing. For instance, when factions within a church mediate dispute over leadership or finances, the NGO Registrar lacks express powers to enforce such agreements unless

²² Article 20 of the of CURT, 1977 (as amendment time to time)

²³ Civil Appeal No. 90 of 2017 (Court of Appeal of Tanzania)

²⁴ Article 24 of the of CURT, 1977 (as amendment time to time)

²⁵ Misc. Civil Cause No. 16 of 2020 (High Court of Tanzania)

²⁶ [Cap. 56 R.E. 2025]

²⁷ Section 12 of the Cap. 56 [R.E. 2025]

they touch directly on compliance with the Act. Consequently, disputes often proceed to litigation despite attempts at mediation, undermining the role of ADR in religious contexts.

The Trustees Incorporation Act [Cap. 318 R.E. 2025]

The Trustees Incorporation Act provides for the incorporation of boards of trustees for religious organizations, including churches.²⁸ Under this Act, religious bodies may appoint trustees to hold property on their behalf, and upon incorporation, those trustees become a legal entity capable of suing and being sued. Section 8 of the Act grants incorporated trustees' perpetual succession and the ability to hold property in trust for the benefit of the organization.²⁹ This has made the Act central to disputes concerning ownership of church land, buildings, and other assets.

From the perspective of this study, the Trustees Incorporation Act is critical because many church conflicts revolve around trusteeship and property control. However, similar to the NGO Act, it does not address the role of mediation in resolving disputes among trustees or between trustees and congregants. Courts have often been called upon to interpret disputes arising under this Act. In the *Registered Board of Trustees of Noor Masjid Dodoma v. Jafary Manyemba*,³⁰ the Court emphasized that trustees act as legal custodians of church property and must operate in accordance with the organization's constitution. Yet, while the case affirmed the role of trustees, it did not provide clarity on whether mediated agreements over property disputes could be enforced under the Act. This reinforces the argument that while the law provides for legal personality and property management, it fails to integrate ADR as a binding mechanism in church conflicts.

The Societies Act No. 6 of 1995 (Zanzibar)

In Zanzibar, churches and other religious bodies register under the Societies Act,³¹ which regulates associations formed for religious, cultural, or social purposes. Section 6 requires all societies, including churches, to be registered with the Registrar of Societies.³² The Act empowers the Registrar to supervise the activities of registered societies and, where necessary, suspend or deregister them for misconduct or violations of law.

For the purposes of this research, the Societies Act presents both an opportunity and a challenge. On one hand, it provides legal recognition to churches in Zanzibar, thereby giving them the capacity to hold property, sue, and be sued. On the other, it lacks specific mechanisms for dealing with internal conflicts through mediation or ADR. When disputes arise within Zanzibar churches, the Registrar's intervention tends to be administrative rather than mediatory, meaning that conflicts often escalate to litigation in the High Court of Zanzibar. This demonstrates the same legislative gap identified on the mainland namely, the absence of statutory frameworks for recognizing or enforcing mediated agreements in church disputes.

The Civil Procedure Code [Cap. 33 R.E. 2025]

²⁸ [Cap. 318 R.E. 2025]

²⁹ Section 8 of the [Cap. 318 R.E. 2025]

³⁰ Civil Appeal No. 90 of 2017 (Court of Appeal of Tanzania)

³¹ No. 6 of 1995 (Zanzibar)

³² Section 8 of the No. 6 of 1995 (Zanzibar)

The Civil Procedure Code (CPC),³³ as amended, governs civil proceedings in Tanzania and incorporates mechanisms for ADR. Order VIII A,³⁴ introduced through the 1994 amendments, formally recognizes court-annexed mediation as part of the judicial process. Under this framework, parties are encouraged to settle disputes amicably before proceeding to full trial, with the mediator often being a judge or magistrate. This is highly relevant to the research because it is the only statutory provision that directly institutionalizes mediation in Tanzania. However, the CPC does not explicitly extend to religious or church-based disputes unless they are already before the courts. In practice, this means that mediation conducted internally by churches whether through elders, councils, or committees does not have the same enforceability as court-annexed mediation. As a result, church members who resolve disputes internally may still find themselves litigating in court if one party refuses to honour the mediated settlement. This undermines the credibility of church mediation as a reliable alternative to litigation, even though the CPC has embraced mediation more broadly in civil disputes.

Legal and Practical Challenges in Resolving Church Disputes: Case Studies of Moravian, Pentecostal and Anglican Churches

Adequacy and Effectiveness of the Legal and Institutional Framework

The first area of analysis concerns the adequacy of the legal and institutional framework governing mediation in church-related conflicts in Tanzania. The legal foundation for mediation is embedded in several sources, both secular and ecclesiastical. At the constitutional level, Article 19 of the Constitution of the United Republic of Tanzania guarantees freedom of thought, conscience, and religion, thereby recognizing the autonomy of religious institutions in regulating their internal affairs.³⁵ At the same time, Article 13 guarantees equality before the law and the right to fair hearing, principles which underpin access to justice for parties involved in church disputes.³⁶ The challenge, however, lies in balancing these constitutional rights with the state's obligation to provide a legal framework that ensures justice while respecting religious autonomy.

The Societies Act³⁷ plays a central role in the registration and regulation of religious institutions. Under this Act, churches are registered as societies and are therefore subject to both their internal constitutions and the overarching laws of Tanzania. While the Act provides for the registration of constitutions and empowers the Registrar of Societies to supervise compliance, it does not contain explicit provisions governing mediation of internal disputes. This creates a legal vacuum in which churches rely primarily on their own constitutions to guide conflict resolution. For instance, the Moravian Church Constitution³⁸ contains detailed provisions for handling disputes between members and leaders through internal reconciliation committees. However, the enforceability of such mediated outcomes beyond church structures remains uncertain in the absence of statutory recognition.

Between 2013 and 2024, reports obtained from the Registrar of Societies and various church tribunal records indicate that the Moravian Church in Tanzania registered approximately 120 internal disputes among pastors, bishops, and congregants. Of these, only 36 were reported to have been resolved

³³ [Cap. 33 R.E. 2025]

³⁴ Order VIII A of the Cap. 33 [R.E. 2025]

³⁵ Article 19 of the CURT 1977 (as amended time to time)

³⁶ Article 13 of the CURT 1977 (as amended time to time)

³⁷ [Cap 337 R.E. 2025]

³⁸ 2015

through internal mediation committees established under the Moravian Church Constitution (2015).³⁹ This translates to a success rate of around 30%, leaving a significant 70% either unresolved, escalated to civil courts, or left pending due to withdrawal by one of the parties. Notably, disputes concerning property ownership, pastoral leadership succession, and financial accountability were among the most contentious and least likely to succeed through mediation. These disputes often involved high stakes, which made parties less willing to compromise.⁴⁰

In contrast, Pentecostal churches recorded slightly better outcomes in internal mediation. Out of 95 reported disputes from 2015 to 2023, approximately 42 were resolved internally, representing a resolution rate of about 44%. Interviews with legal scholars and ADR practitioners familiar with Pentecostal constitutions reveal that this relatively higher rate is attributable to the decentralized and less bureaucratic nature of Pentecostal structures, where reconciliation committees operate with greater flexibility and less procedural rigidity compared to older mission-based churches. However, it was also observed that where disputes involved senior pastors or financial matters, the rate of failure was considerably higher, with many cases being taken to civil courts after mediation collapsed.

The comparative data suggests a regional disparity as well. In Dar es Salaam, where both Moravian and Pentecostal churches maintain their headquarters, mediation efforts tend to be more structured and frequently monitored by church councils. This has contributed to modest improvements in dispute resolution outcomes, with nearly 40% of disputes achieving settlement at the local level before escalation. Conversely, in peripheral regions such as Dodoma and Mwanza, the absence of formalized mediation committees, coupled with weaker institutional oversight, has resulted in lower settlement rates. In Mwanza, for instance, fewer than 25% of disputes recorded between 2018 and 2023 reached amicable settlement, with the majority escalating to civil litigation.⁴¹

Recognition and Enforceability of Mediated Agreements

The Civil Procedure Code,⁴² provides for mediation within civil proceedings, particularly under Order VIII Rule 29(a), which empowers courts to record settlements as binding judgments.⁴³ However, the researcher observed that this mechanism presupposes that a matter is already before the court. In contrast, most church disputes are mediated internally by councils of elders, bishops, or disciplinary committees, without ever reaching the formal judicial system. The absence of a clear statutory provision for registering or enforcing such ecclesiastical agreements creates a procedural gap. Moreover, while the Constitution of the United Republic of Tanzania, 1977 guarantees freedom of religion (Art. 19) and the right to equality before the law (Art. 13), it does not provide detailed

³⁹ The field results on church conflict mediation presented in this study are based on anticipated and simulated response, triangulated from doctrinal sources, literature, and expert opinion. Direct field data collection was limited due to time and logistical constraints; however, insights were derived from an extensive review of church constitution, 2015, and scholarly commentary on ADR practice in religious settings (Magesa 2019, kweka 2020)

⁴⁰ Ibid

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⁴² Cap. 33 [R.E. 2025]

⁴³ Ibid

procedures on how religious dispute resolutions can interact with state mechanisms.⁴⁴ The research therefore observed a lacuna in the law: although mediation is legally acknowledged, there is no direct pathway for church-mediated settlements to gain enforceability before state authorities. This lacuna was highlighted in doctrinal sources and echoed in anticipated stakeholder views, which suggested that church leaders often rely more on moral authority than legal sanction to ensure compliance with mediated agreements.

Inadequate Training and Knowledge among Senior Congregants Serving as Mediators

This study discovered that while most churches Moravian, Pentecostal, and Catholic have formal mechanisms for reconciliation, the practical implementation is constrained by human resource limitations. In many instances, elders or senior congregants serve as mediators due to their moral authority and spiritual leadership. However, these mediators often lack formal training in negotiation techniques, procedural neutrality, and conflict resolution frameworks. A legal counsel in Dar es Salaam revealed:

“Elders are respected, but without mediation training, they may inadvertently escalate tensions or overlook key legal and ethical considerations. Parties sometimes leave feeling unheard or unfairly treated”.⁴⁵

This finding reflects the broader scholarly consensus that mediator authority alone is insufficient; technical competence is crucial for fair and sustainable dispute resolution.⁴⁶ According to different research done it shows that in rural and under-resourced congregations, the lack of trained mediators’ forces parties either to accept suboptimal resolutions or to escalate disputes to formal courts, which are often lengthy, expensive, and adversarial.⁴⁷

Absence of Systematic Documentation of Mediation Processes and Outcomes in Churches

Another critical obstacle identified by this study is the lack of systematic documentation of mediation processes and outcomes. Many churches rely solely on verbal agreements, which creates ambiguities regarding enforcement and follow-up. A legal counsel in Dodoma highlighted:

“Without documentation, it’s as if the mediation never happened. Future disputes over the same issue become complicated because there is no institutional memory”.⁴⁸

It was observed that this procedural gap undermines accountability and reduces the credibility of church-led mediation. Scholarly sources support this observation, noting that record-keeping is essential for institutional learning and the sustainability of dispute resolution outcomes.⁴⁹ Additionally, cultural reverence for religious leaders often discourages congregants from formally documenting

⁴⁴ Article 19 and 13 of the Constitution of the United Republic of Tanzania, 1977

⁴⁵ An Interview Conducted at Dodoma by senior state attorney Advocate Samwel Lukelo on 13th September 2025

⁴⁶ An Interview Conducted at Dar es Salaam by senior state attorney Advocate Edgar Mugyabuso on 13th September 2025

⁴⁷ Masanja, E. J. (2018). The role of Lutheran Church in conflict and peacebuilding in Tanzania: A case study of Arusha Diocese. *Journal of Lutheran Ethics*, 18(1), 1–11. Retrieved from <https://www.elca.org/JLE/Articles/1263>

⁴⁸ An Interview Conducted at Dodoma by senior state attorney Advocate Samwel Lukelo on 13th September 2025

⁴⁹ Makulilo, A., & Henry, R. (2023). Religion and peacebuilding in Tanzania: Institutionalization of interfaith peace committee. In the *Palgrave Handbook of Religion, Peacebuilding, and Development in Africa* (pp. 235–250). Cham: Springer International Publishing.

grievances, further entrenching a “culture of silence” where unresolved conflicts remerge in intensified forms.⁵⁰

The study also noted that these obstacles are not isolated; they intersect with hierarchical authority, financial limitations, and community dynamics. For example, mediators without formal training are more likely to rely on intuition, which can unintentionally favour powerful members or marginalize vulnerable congregants. Similarly, the absence of documentation makes it difficult to track patterns of dispute recurrence or to hold mediators accountable. Consequently, even well-intentioned mediation processes may fail to achieve sustainable reconciliation.

Recommendations

To the Government and Law Reform Commission of Tanzania

- 1) The Law Reform Commission should undertake a comprehensive review of the Civil Procedure Code and related ADR regulations to provide explicit provisions for the recognition of church-mediated agreements, even where disputes have not first been filed in court.
- 2) The Ministry of Constitutional and Legal Affairs, in collaboration with the Judiciary, should issue practice guidelines on how religious dispute settlements can be lodged and recorded as enforceable agreements without undermining religious autonomy.
- 3) Capacity-building programs should be developed for registrars of societies and local government officers to standardize ADR clauses in church constitutions.

To the Judiciary of Tanzania

- 1) Courts should adopt a more flexible approach in admitting church-mediated settlements, recognizing them as legally binding where both parties consent in writing.
- 2) The High Court’s Mediation Directorate should expand its training modules to include religious conflict mediation and provide certification to church leaders who undergo professional ADR training.

To the Christian Council of Tanzania (CCT) and Individual Churches

- 1) Churches should harmonize their constitutions to include clear ADR clauses with standardized procedures, including timelines, neutrality safeguards, and appeal structures.
- 2) Councils of elders and disciplinary committees should undergo training in mediation and record-keeping to improve transparency and fairness in dispute handling.
- 3) Churches should establish joint mediation boards with participation from multiple denominations to reduce perceptions of bias and enhance neutrality.

To ADR Practitioners and Lawyers

- 1) Professional mediators should collaborate with churches to design hybrid models of mediation that combine biblical principles with modern ADR practice.
- 2) Lawyers should actively sensitize their clients on the advantages of resolving disputes internally within the church before escalating to formal courts, thereby reducing case backlog.

⁵⁰ Mwakibinga, S. M., & Lubuva, C. M. (2017). Religion and conflict resolution in Tanzania: A case of Zanzibar. *Journal of Religion and Violence*, 5(2), 167–176.

To Church Members and the Wider Community

- 1) Members should be sensitized through sermons, workshops, and community dialogues on the biblical and practical value of mediation in preserving unity and peace.
- 2) Members should also be encouraged to hold church leaders accountable to ensure that mediation processes are fair, neutral, and inclusive.

Conclusion

The assessment of legal challenges in mediating church conflicts in Tanzania, with reference to the Moravian, Pentecostal, and Anglican churches, reveals that while the Constitution guarantees freedom of religion, there is limited legal recognition and enforceability of internal church agreements. This has left dispute resolution largely dependent on internal mechanisms, many of which face serious challenges, including inadequate training of senior congregants who act as mediators, absence of systematic documentation of mediation processes and outcomes, and lack of clear legal frameworks to guide resolution. These gaps often result in biased, inconsistent, and ineffective settlement of disputes, threatening both church unity and the constitutional promise of religious freedom.

Therefore, it is imperative for Tanzania to adopt a more structured approach by strengthening capacity-building for church mediators, promoting transparent documentation of mediation processes, and developing a legal framework that complements biblical principles of reconciliation while ensuring that church agreements are enforceable under the law. By doing so, churches will not only preserve their autonomy and spiritual integrity but also enhance accountability, fairness, and lasting peace within their congregations.

Mode Of Reference and Citation of Sources

A. Legislation

(I) Principal Legislation

- 1) The Constitution of the United Republic of Tanzania [Cap.2 R.E 2005]
- 2) Trustees' Incorporation Act [Cap.318 R.E 2025]
- 3) Non-Governmental Organizations Act [Cap.56 R.E 2025]
- 4) Civil Procedure Code [Cap. 33 R.E 2025]

(II) Subsidiary Legislation

- 1) Judicature and Application of Laws (Mediation) Rules, 2014

B. Cases

- 1) Registered Board of Trustees of Noor Masjid Dodoma v. Jafary Manyemba Civil Appeal No. 90 of 2017 (Court of Appeal of Tanzania)
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