

**Keeping peace in Tanzanian labour conflicts: Mediation as a governmental response**

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## **Abstract**

Africa is one of the regions most affected by conflict. Tanzania, however, is one of the most peaceful countries within Africa and is described as an “oasis of peace”. Since a few years, the Tanzanian government emphasises peace and conflict resolution on a national level. Therefore, mediation has gained importance in the political and socio-economical arena and has been applied with regard to the Tanzanian labour law since 2007. Labour mediation has since then become an important tool to resolve occurring labour conflicts throughout the nation.

The purpose of this article is to contribute to the discourse on peacekeeping through mediation in the Tanzanian labour context and thereby fills the void of scientific research within this area of expertise by presenting findings on labour mediation in the Tanzanian context.

## **Introduction**

Africa is one of the regions most affected by conflict, including civil wars and social disintegration.<sup>1</sup> The future prospects for African peace are often described as being disheartening.

African regional and sub-regional labour and governmental organizations have a major influence on the promotion of peace in African societies continent. However, the question arises whether African states are prepared for “the challenge of assuming primary responsibility for responding to conflicts” in a peaceful and non-violent way.<sup>2</sup> In addition, it is of major importance what African states can do to enhance their peacekeeping capabilities in their countries.

Tanzania is one of the most peaceful countries in Africa and is therefore described as an “oasis of peace”.<sup>3</sup> The country can look back at 40 years of peace without any civil wars, and ethnic, religious, political or social clashes. However, there have always been minor conflicts with regard to different interests, identities, opinions and demands of individuals and groups of different backgrounds, as in every society. With regard to these minor conflicts, the Tanzanian government has developed an informal conflict management system within in rural as well as in urban areas during the time of “Ujamaa”.<sup>4</sup> This system includes the implementation of conflict managers and mediators within the society who resolve communal conflicts internally through mediation.

The purpose of this article is to contribute to the discourse on peacekeeping and peacebuilding through mediation in the African context, particularly Tanzania. In the following, some theoretical background information will be presented with regard to aspects of peace in Tanzania, mediation as a tool of peaceful conflict management and the government's efforts in labour mediation in Tanzania to keep peace and prevent major conflicts within the country. Selected data on governmental approaches to the peaceful resolution of conflicts in labour contexts will be analysed and interpreted referring to the Tanzanian context. Thereby, the main aim of this article is to improve the understanding of labour mediation as a tool for peaceful conflict resolution in the described context.

### **Peacebuilding and peacekeeping in Tanzania**

Studies in peace research took particular prominence in the second half of the 20<sup>th</sup> century after the devastation of the first and second world wars. Peace research was eventually promoted by the UNESCO in 1946. At this time, peace research was mainly based on the background of war.<sup>5</sup> Particularly with the independence struggles in developing countries and African contexts, peace became more a matter of and social categories and how individuals and groups who belong to different social classes live together in peace.<sup>6</sup> Despite the controversy of the definition of peace, there is agreement that peace and/or conflicts “can only be understood in the general notion of the social system”.<sup>7</sup>

The debate on peacekeeping and peacebuilding in African contexts is extensive.<sup>8</sup> With regard to the Tanzanian context it is worth mentioning that peacekeeping and peacebuilding activities can be found particularly within the Great Lakes Region, near the border to Rwanda and Burundi, due to the situation of refugees' camps that exist in these provinces of the country. However, in Tanzania, Nyerere (1969),<sup>9</sup> the former president (1964-1985), has strongly influenced the peace-building scenarios by, for example, constructing a common, nation-wide accepted language (Kiswahili) and implementing (traditional) mediators in the villages and the rural areas. Therefore, Tanzania has experienced a very peaceful situation across the ethnic and religious groups and with regard to the entire society. Nelson Mandela said that Nelson Mandela pursuit of development, peace and justice not only in African countries, the region and the African continent, but throughout the world.<sup>10</sup> However, since the effects of globalisation have increased in Tanzania and the societal structure has changed, conflicts in the field of labour and labour relations have increased as well. The courts have been overwhelmed by the growing number of Labour conflicts and therefore the government

introduced mediators at the Ministry of Labour to keep peace in organisations and in the country.

### **Mediation as a tool of peaceful conflict management**

Different approaches to peacekeeping and peacebuilding have been developed across the world.<sup>11</sup> One of these approaches is mediation.<sup>12</sup> Mediation can be viewed as the creative act of re-constructing conflict realities through third party intervention<sup>13</sup> and might be defined as a situation where one or two individuals or a group would take a third party in to mediate between the parties.<sup>14</sup>

In the Global South, it can be noted that strong traditions of mediation exist.<sup>15</sup> As it emerged in the North Atlantic nations, the professional field of Alternative Dispute Resolution (ADR) drew early inspiration from descriptions of dispute settlement processes among the Kpelle of Liberia and others.<sup>16</sup> Resolving disputes by courts and legal actions was minimised and mediation as an incorporation of specific communication methods, such as respectful and mutual communication, and procedures was encouraged.<sup>17</sup>

With regard to the African context, mediation has gained importance in the political arena in Sub-Saharan Africa, such as in Rwanda,<sup>18</sup> in international organizations<sup>19</sup> in medical contexts between doctors and patients,<sup>20</sup> in religious and spiritual contexts, such as mediations between individuals and ancestors and individuals who are possessed by spirits,<sup>21</sup> in ethnic conflicts, such as in Kenya,<sup>22</sup> or in school contexts,<sup>23</sup> as well as in family interactions, such as joking relationships.<sup>24</sup> Mediation can therefore be viewed as a technique and method of peacekeeping and at the same time peacebuilding which has gained importance in the Tanzanian context during recent years.

In Tanzania, mediation – as a form of third-party-intervention – has traditionally played an important role in different contexts of society<sup>25</sup> and has therefore gained even more importance in organizations and different socio-cultural and juridical contexts recently.<sup>26</sup>

Most of the recent literature on intercultural mediation in Sub-Saharan Africa and also in Tanzanian contexts has been written and published by non-African researchers using *etic* perspectives.<sup>27</sup> This article particularly focuses on an *emic* perspective of Tanzanian mediators working in governmental institution to resolve labour conflicts and keep peace within the labour field.

## **Governmental efforts in labour mediation in Tanzania**

For the Tanzanian context, the existing literature body on mediation as a peacekeeping and peace building tool is quite limited. This article aims to start to fill the void of research on labour mediation in Tanzania. Only recently, the Tanzanian government has published a handbook on mediation<sup>28</sup> regarding mediation in labour conflicts with regard to the law on employment and relationships at work.<sup>29</sup> This law with regard to mediation was passed in parliament (Ubunge) in 2004 and was implemented in Tanzania in 2007. On this legal basis a lot of decrees were published by the Government. The publication comprises five decrees of which decree numbers 66 and 67 of March 2007 deal with mediation and arbitration. Several ways to deal with grievances (malalamiko) are presented.<sup>30</sup> If grievances can not be resolved informally the manager of an enterprise is supposed to resolve them formally in a meeting where three types of conflict resolution are discussed:

- facilitation (uwezesaji);
- mediation (usuluhishi); and
- arbitration (uamuzi).

In case these types of resolution do not work successfully the above mentioned law on employment and relationships at work comes into action. The handbook of mediation<sup>31</sup> is published in Swahili to empower workers and employees who are not familiar with English which is the official language in Tanzania for legal texts.

Danish mediation systems have been analysed by Tanzanian experts and have now been implemented into the Tanzanian Labour law to build the basis of official labour mediation in Tanzania. At the same time, South African concepts have been analysed and implemented by Tanzanian officials, as indicated by interviewees of this study.<sup>32</sup> Since the Danish legal system is said to be one of the best in the world and since South Africa's transformation from Apartheid to Post-Apartheid has been supported successfully by mediation, these two countries of been chosen as ideals for Tanzanian experts.<sup>33</sup> The background to why mediation has been implemented in Tanzania by the government is based on the fact that labour court processes often take years until they come to a resolution. In contrast, mediation processes are limited to a maximum of 30 days of mediation and revision. If a conflict can not be settled through mediators within a period of 30 days, the case is forwarded to the arbitration section and will be resolved through arbitration procedures.

## **Research study**

The research study is based on the phenomenological and interpretative paradigms.<sup>34</sup> Within these paradigms, the theoretical and methodological approaches used are found on both the epistemological tradition of constructivism<sup>35</sup> and interpretative hermeneutics.<sup>36</sup>

This qualitative research focuses on exploring a research issue and gaining a deeper understanding of the research issue,<sup>37</sup> deep data and “thick descriptions”.<sup>38</sup>

As part of a broader research project, four in-depth interviews in governmental organisations were conducted with the four mediators from the Tanzanian government who have been employed as part of a pilot project in two cities (Arusha and Dar-es-Salaam) to resolve conflicts through mediation. Within the government organizations, there are two managing directors, one principle, and one president who are the first mediators in the described positions at the moment.

Data were collected by using in-depth interviews. The in-depth understanding was achieved making use of in-depth interviews. The interviews were guided by using predetermined research questions, which focused on the subjective experiences of interviewees with regard to conflict and mediation experiences in the labour field. An interview structure was developed containing ten questions as main measuring instrument for this study. In parallel to the interviews, organizational documents and secondary literature were also analysed to guarantee triangulation of data.

The interviews were recorded in full to ensure precise transcription. The transcripts were viewed as selective constructions that reproduced aspects of the conversation and which were transcribed, according to Von Steinke,<sup>39</sup> in a “manageable” way which is “simple to write, easy to read, easy to learn and to interpret”. The transcription procedure focused mainly on the verbal aspects of the communication in the interest of analysis and evaluation controlled by factual words. Analytical data evaluation was included (as described in Data analysis, Level 4), subsequent to the texts being transcribed.

Four major concepts – conformability, credibility, transferability, and trustworthiness – were defined as criteria for judging this qualitative research. Johnson<sup>40</sup> supports the approach that constructivism may facilitate the aim of qualitative research – which is fundamental to this research – to create a deeper understanding of the research objective with regard to changing multiple-reality constructions<sup>41</sup>.

Data analysis was conducted according to the five-step process of Terre Blanche, Durrheim and Kelly<sup>42</sup>: Step 1: Familiarisation and immersion, Step 2: Inducing themes, Step 3: Coding, Step 4: Elaboration, and Step 5: Interpretation and checking, to ensure a transparent process of data analysis and reconstruction. However, “in reality, interpretative analysis rarely proceeds in as orderly a manner as may be suggested by step-wise presentation.”<sup>43</sup> Following these steps in data analysis enhances the “thick description”.<sup>44</sup>

The findings can not be generalized, but give an explorative in-depth insight into the described Tanzanian contexts and might be replicated in other African countries or in different contexts in Tanzania.

### Research results

Four major conflicts were narrated by the interviewees from the Ministry of Labor. They mainly experience conflicts regarding salaries and benefits, conflicts regarding the issues of duties and responsibilities at work and “forged signatures” and labour contracts. In all these conflicts, mediation has been used to resolve the conflict. However, the interviewees mention explicitly that the conflicts are “real labour conflicts”. They define these conflicts as pure work or labour-related conflicts without any cultural, gender-based or ethnic background.

Table 1: Governmental executives

Organisation	Field of conflict	Topic of conflict
Ministry of Labor	<ul style="list-style-type: none"> <li>• payment</li> <li>• crime</li> <li>• law</li> </ul>	<ul style="list-style-type: none"> <li>• claims on benefits and salaries (i7)<sup>1</sup></li> <li>• forged signature (i12.1)</li> <li>• cartoonist's contract, (i12.2)</li> </ul>

For interviewees from the governmental organizations, values such as harmony, neutrality, peace and fairness which are extremely important in labour mediation. They have to be expressed by the mediator, because these values reflect the base of the Tanzanian law. Mediation and its results can therefore only be in accordance to the law. Values which are not in accordance with the law are not accepted in labour mediation.

<sup>1</sup> i7 indicates, e.g. interview number 7, i12.1, for example, refers to interview number 12, conflict narration 1. The interview number is indicated behind the conflict topics to guarantee transparency.

Interviewees from governmental executive organizations prefer to pursue their organizational objectives in line with the aims of mediation and with the law. Often, the aims of mediation are project and conflict specific. The interviewees mention that “making peace” and “peaceful conflict resolution” to fulfill the needs of the parties, are very important in Tanzania. At the same time, mediation aims at a process of conflict resolution that is very fast – mediation is not allowed to take longer than 30 days - and according to the law.

Regarding the structure of labour mediation in Tanzania, interviewees state that the governmental executive organizations have elaborated a strictly structured process of mediation. They emphasize that they follow a 5 step-model which was recently introduced by “invited experts from Denmark” and with regard to organizations and institutions in South Africa. In this process, interviewees describe the following phases that they follow:

- Introduction
- Information gathering
- Option seeking
- Conclusion and consensus
- Sign agreement.

The interviewees from government organizations emphasize that counselling and guiding are basic aspects of the mediation process. The introduction phase is used to “get to know each other and the process”. Information is collected in the second phase and options to resolve the conflict are discussed with the mediator. The mediator is expected to give advice with regard to finding an adequate solution. A conclusion will finally be given by the mediator, conflict parties need to agree with consensus and an agreement needs to be reached, which is sealed by the parties shaking hands and hugging.

Personal characteristics a mediator should have are being “impartial”, “forcing”, “advising”, “being knowledgeable” and “acting according to key ethics”. These key ethics include values, such as honesty, independence and fairness, which should guide the mediator and influence the communication during the mediation process. Additionally, mediators should be willing to support the conflict parties, be committed to their job, facilitate with regard to all aspects of the mediation, be tolerant, sympathetic and devoted.

With regard to the mediator's role, the mediator is viewed as a "peace keeper". According to the interviews conducted in governmental executive organizations, mediators have to undergo a specific training course to qualify for the position of a mediator. The government usually prefers to employ postgraduate trainees, lawyers, religious elders, retired government employees and individuals who work in high positions. Interviewees in the governmental context highlight on the one hand that the government prefers mediators with experience in so called "Western mediation". On the other hand, the government is interested in lawyers, religious and governmental elders who mediate on the basis of "traditional African values" and an "experienced person's wisdom". These mediators are expected to force parties to agree to particular solutions and accept the mediator's ideas about resolving the conflict. Mediators therefore contribute to "peaceful labour relations within the country" and therefore to the peacekeeping and peacebuilding in Tanzania.

### **Example of a narrated mediation process**

In the following, an excerpt of a described mediation process within the labour field will be presented. It shows how the professional mediator guides the conflict parties through the process of mediation and how he, as a mediator by profession, defines his role with regard to the above mentioned key ethics.

The excerpt starts at a time when the mediator explains the conflict which occurred in the publishing industry.

### ***Forged signatures***

*"Ah, the employer is dealing with the, ah, managing marketers and you know, practically there, in their industry, actually they employ some of the experts here in this cartoons, the drawing cartoons think it is and, ah, in their mind, in their mind, if you, you bring a cartoon and it's already looked at and, ah, and it's, and it's on the gazette, then you are paid a certain amount. Then it came the time when the employer said, no, ah, there's no contract here, I think, ah, I'm, I'm, your, you can go and I don't have anything to pay you because you know you, you, you, you didn't, you were not an employee, per se, like monthly employees. Then the employees came here and, ah, filed a dispute here. Then it came before me.*

The mediator explains the conflict between an employer who employed a cartoonist without any written contract. The employee worked for him on free-lance-base without any contract and one day the employer told the cartoonist that he did not need him anymore. The employee went to the Ministry of Labour and was referred to the mediator.

The narrator explains the process of mediation in the following.

*I introduced myself, I'm Mr ,,,, I've been, ah, appointed by the Commission to be a mediator in this case and I want to know you, who are you [question]. And he said, I'm an employer from, ah, from... and I'm powered here, I, to come here to represent the organization. In actual fact I'm [emphasis] the director and owner of that company. And I said okay, well. And the employee they say, we are here and of course we are the victims and the, the one who, we appealed in this case. Then I said, okay, ah, let me know what are you disputing, apart the, apart that, ah, the, the referral form, the employer got it and everything [question]. Yes. The employer said [...] you, you know, first these are not my employees because I didn't employ them. Of course they were working with me but they are not employees under the law. Then I ask, before giving that, ah, opening statement you said you are employees. Ye, ye, yes, we are employees [exclamation], we have got, ah, all the evidences to show that we are employees. Then I said, okay, let me give you two days, you submit with a written statement why you are saying you are employee and why you say this is not an employee. Maybe I can determine that this is not a case to be brought before CMA. They said yes.*

The narrator states how he guides the conflict parties through the process.

First, the mediation starts with an introduction of the mediator and the conflict parties. Both parties are then allowed to explain their personal view on the conflict. The mediator intervenes by asking the conflict parties to write down why they see themselves as employees respectively why they are not employees. On the base of this intervention the mediator will decide if this is a case for mediation or a case for the juridical way within the Labour department. He goes on explaining what was happening:

*Then the employees, they wrote a statement, ah, giving the salary slip which says the monthly paid salary is 160 000 per month. And then secondly they brought an identity*

*card which shows that he has been employed as a cartoonist and thirdly they brought a letter that you are no longer an employee in this company, we don't want your services. Then I turned to the employer and I said, where is your written submission and he said, ah, I have changed my mind, these are my employees. You see the point [question]. He said, these are my employees. Then I said, you are very clever. You went to make some, ah, some, some counselling somewhere. Then I said, good, now [emphasis] you agree that you are, you are, these are your employees yes, you know you must be very carefully you are talking to whom. When you come and say a statement that this is not your employees, well you know that these employees is very.... Don't repeat such statements again because you are wasting the time of the Commission and unnecessary. Clear [question]. He said yes.*

With the intervention, asking for a written statements, the mediator gives the conflict parties time to reflect on their statements and interests in this conflict. Thereby, he provides a common base from which he starts negotiations after the conflict parties have agreed on the fact that the employees were employees:

*Okay, now, before I decide anything, let's go for mediation. You know exactly these are your employees and you said these was not your employees. Now you agree. Okay, come and sit down and negotiate. These are, add that and you add that and you know. Negotiate. Then I will advise you later how to treat such employees who are cartoonist cause you are in mind of employing this people. Then they said, okay, can you give us, ah, ah, 4 million, 4 million each. He said, for what [exclamation]. Ah, no, we want this for twenty, twenty months, see. Then I said, aah, you're here, when you want to negotiate you must negotiate in good faith. He has terminated your services and now you want twenty months' salary. If he, he, he, he's having such a salary in his pocket, you think why didn't he let you work for the twenty months. You, you, you must be reasonable when you are talking. Talk things like this job, now, maybe, is no longer or you return to job, he pay you as a cartoonist and you continue with your thing like this, or [emphasis] you say, okay, because you don't know what else, maybe you pay his lunch. Claim in good faith. Then they said, okay, okay, okay... Pay us the level you think you are capable of paying us, the employees they asked the employer. Then the employer said, okay I'm going to pay you three, three million each and, but I'm going to pay in instalment of three [...] ah, after one month I pay, and the third month I pay*

*and then I, I finish. Then they say, no, no, no, ah, no, no, no. now is not clear. If you were paid per month 160 and now he's dividing the three million in three months and you say no. Ah I don't agree, you are not bargaining. Ah, okay, okay, okay mediator, we have agreed. "*

Finally, the mediator sees his role in managing the negotiations and explaining the way of negotiation to the parties. He claims that it is necessary to negotiate in "good faith" and "reasonable". At the end, the conflict parties come to an agreement of payment by negotiating and bargaining.

This example shows the role of the mediator as a moderator who focuses on the ethical guidelines of negotiating and the common social responsibility of both conflict parties. They do not only resolve the labour conflict, but are taught how to negotiate in a reasonable and non-violent way by reflecting the needs of themselves and the others involved.

## **Conclusion**

Mediation as a conflict resolution tool in African context has advanced from a intervention strategy that was primarily used in communities towards a professional conflict resolution intervention in labour conflicts within the Ministry of Labour. Through labour mediation, mediators promote a way of non-violent conflict resolution and at the same time sensitize conflict parties to be empathetic, act socially responsible and reasonable.

Labour mediation is a new governmental response to manage and resolve labour conflicts on the base of participation of the conflict parties, professionally and non-violently within a 30 days process period.

Tanzanian experts are in the process of expanding, developing and professionalizing their governmental system of combining mediation models from Denmark and South Africa and adapting them to the Tanzanian context. The new labour conflict resolution system thereby contributes to keeping peace in the Tanzanian labour market.

However, further research is needed with regard to labour mediation processes in the Tanzanian context and their consequences for the Tanzanian society and their peace keeping aspects.

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