

Court based mediation of labour disputes settlement in Tanzania

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Mediation is one of the alternative dispute resolution mechanisms. The essence of mediation is the introduction of a third party to a dispute between two parties, namely plaintiff and defendant. The role of a third party is to facilitate parties to reach a consensus resolution to a dispute in hand on their own. Court - based mediation is one of the mediation machineries where the Court of Law attempts to settle a dispute out of an ordinary litigation process. In court- based mediation a Court Magistrate is transformed to be a mediator. The court process was adopted in Tanzania in 1994. There is, however, a problem with this process, which is that the settlement rate is too low as compared with other countries. While the settlement percentage in Tanzania 2004 was 19.2% it was 60% in South Africa. In the same year in Sweden the average settlement of disputes was 62.5% and Canada the rate was 73%, the gap is too big. In 2005 the rate dropped by 1.6% whereby Tanzania recorded a settlement rate of 17.6%. In this study questionnaire and interview methods were used collect data where private employers and employees, court mediators, advocates and representatives from ATE, TUCTA and ICU were involved. The aim of this study was to investigate the limiting factors encountered in this court process. The study findings have revealed that lack of public awareness and lack of impartiality by mediators have contributed to the failure of the process to have a satisfactory settlement rate as compared with the cited countries. The study has recommended that much more effort should be directed to knowledge dissemination to the public and more training programs should be given to mediators.