

The discrepancy of labour institutions and the three metrics for labour dispute settlement in Tanzania

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Abstract

In the past fifteen years, the Tanzanian government enacted new labor institution Act no.7 of 2004 as a part of labor law reforms. The purpose of the reforms was first, to address the problem of the pre-existing discrepancy in the labour institutions and second, to develop the labour institutions which reflect the current socio-economic and political development in the country. One of the institutions created under labour institution Act of 2004 is the commission for mediation and arbitration (CMA) which is responsible for labour dispute settlement. Despite these reforms, the pace of unsettled labour disputes is increasing. The objective of this paper was therefore twofold: first to explore the practice of the current labour institutions in resolving labour dispute in Tanzania and second was to explore the extent to which the current dispute settlement process meet the preconceived standards of dispute settlement namely: efficiency, equity and voice. In doing this, the paper used a qualitative sample of 60 respondents selected purposely from the commission for Mediation and Arbitration and the high court labour division in Dodoma region in Tanzania. The data from the respondents were collected through documentary review and interviews and analyzed through content analysis and thematic approach. The research shows that, the efficiency and equity of dispute settlement procedures are affected by various factors including lack of resources, the long procedures and the lack of willingness of the parties to resolve the dispute on time. The study recommends that the mediation process should be strengthened to reduce unnecessary delays. But also enough resources including financial and human resource should be allocated to facilitate the mediation process and finally training should be provided to both employees and employers to increase their awareness concerning dispute settlement procedures.

Key words: Labor Disputes, Labor Dispute Resolution, Industrial relations

Introduction

Labour dispute is an inherent part of both the workplace and organizational life (Zhou, 2017). The presence of dispute is a result of diverse interests, priorities and high level of awareness among management and workers at workplace (Budd, 2006). The dispute may result into loss of production, low employee income and employment, management unwillingness to discuss disputes with its employees, and a high rate of discharged or dismissed workers (Ajayi *et al.* 2016). Therefore, although dispute may be beneficial, it is generally perceived as harmful and dysfunctional, especially when it involves employers and employees

within an organization (Zhou, 2017). Workplace disputes can be interest or right based (Martinez *et al.* 2008). Historically, labor dispute can be traced back to 1960s, when lack of recognition of trade union and the refusal of collective bargaining became popular. But recently labour disputes are compounded by not only lack of recognition of trade union but also anti-union discrimination and victimization such as very slow increases in salaries, and the lack of promotion of union leaders by management (Achu 2018). In Tanzania, industrial dispute can be traced back to the period between colonial and post-colonial period. Before independence, dispute resolution was guided by Employment Ordinance (Cap 366), Security of Employment Act (Cap. 574) and the Industrial Court Act, of 1967. All these established substantive and procedures for labour dispute resolution (Mtaki 2005). In many cases dispute resolution procedures were too lengthy and complicated, cases could take even a decade before a resolution was reached”, thus causing a lot of sufferings to families of affected employees as well as loss to employers in regard to productivity. Following these huddlers, Tanzania like other countries in the past fifteen years reformed its labour institutions to cope with the current changes (Mtaki 2005, Mwalongo 2019). The new labour institutions provide the procedure for dispute settlement which are streamlined and shortened. For example, the labour institutions Act direct all labour disputes to be referred to the Commission for Mediation and Arbitration and that the Commission is required to appoint a mediator to mediate the parties within 30 days. If the mediator fails within 14 days and if it is a dispute of interest the parties in dispute can give notice of its intention to commence a strike. If it is right dispute, the parties can refer a dispute to arbitration. The arbitrator finally provides a decision and if the parties are dissatisfied with the decision, they can refer the matter to the Labour Court (Mtaki 2005; Kapinga 2018)

Therefore, the overall purpose of labour law reforms was to create consistency in legal framework for dispute settlement. Nevertheless, the literature shows that the trend of reported labour disputes is increasing in Tanzania. Besides, settlement of some disputes takes longer than expected and in some other cases the disputes remains unsettled. The question is what goes wrong? The literature on labour disputes assumes that, if the dispute settlement framework is well designed and implemented it should realize the three metrics: efficiency, equity and voice. To this end, efficiency implies the productive use of limited or scarce resources in order to produce effective result, equity entails a fair treatment and compensation, and voice encompasses level of involvement and participation of individuals in matters concerning their interest (Budd 2005; Colvin 2008).

Although Budd & Colvin (2005) suggested the three metrics as an important yardstick to gauge the effectiveness of industrial dispute settlement and although many countries including Tanzania have reformed their dispute settlement system to achieve the three metrics mentioned above, the trend of unsettled labour dispute is still increasing. The question is what goes wrong? why industrial dispute is still increasing despite the introduction of these reforms? To uncover this question, this paper discusses the trend and practice of labour dispute settlement in Tanzania, the three dimensions of labour dispute settlement and the extent to which the current practice of labour dispute settlement realize the three metrics namely: efficiency, speed and voice.

The concept of industrial disputes resolution

Industrial dispute is defined as the perceived or actual opposition in needs, interests, and values caused by misunderstanding or disagreement among the workplace actors (Mareschal, 2005). The main cause of dispute includes human interaction and the incompatibility of values, attitudes, and goals. The literature

suggests that industrial disputes can be resolved by parties themselves through peaceful negotiation and through third part intervention which is referred as mediation, arbitration and litigation (Heron & Vandenabeele 1999). According to Smith (2019) mediation is a process whereby the opposing parties come together with an independent party whose aim is to help them to secure a resolution of the dispute in question. Also, arbitration is referred to as the settlement device where by the interest of two or more parties are entrusted to the third party who holds power vested by private agreement and make decision basing on laws, received evidences and provide binding award (Clark1954; Best 2007). Litigation on the other hand is defined as the formal legal process of resolving industrial disputes by following a set of rules and procedures applied by court of law (Smith 2019). It involves court processes and procedures as applied by judge or magistrate (Pon2020). This article used mediation because it is one the method of dispute settlement which uses less cost but also settle dispute peacefully and voluntarily between employees, employers through negotiation. This explanation matches closely with the objective of this article which is to discuss the trend of labour dispute settlement through mediation in the lens of three metrics: speed, efficiency and equity.

Analytical frame

This article uses the analytical framework proposed by dispute Budd (2004) and Budd & Colvin (2005). To begin with the Budd's framework suggests that competing rights of different stakeholders of employment relationship can be harmonized through balancing the three dimensions: efficiency, equity and voice in the dispute resolution system. To this end, efficiency implies the productive use of limited resources to produce effective result. This suggest that, efficiency relies much on the management of resources, and it can be gauged through time, speed, client's satisfaction and the cost associated with the dispute resolution system. Therefore, an efficient dispute resolution system is one that conserves scarce resources, especially time and money. Systems that take shorter timeframes to produce a relatively quick resolution are considered to be efficient while systems that are slow and take a long time to produce a resolution are considered to be inefficient. Besides, dispute resolutions systems with less cost are considered to be efficient while dispute resolution systems that are costly are considered to be inefficient (Budd & Colvin 2005). Furthermore, equity implies a fair treatment and fair compensation. The presence of equity is gauged in relation with fairness and consistency in dispute resolution system. Besides, equity can be ensured through sensitivity, privacy, neutrality, secrecy, transparency, accountability and accessibility in workplace matters by the stakeholders of employment relationship.

Moreover, voice implies the level of involvement and participation of individual employees in the matters concerning their interest. It allows workers to be part of the resolution because they are given opportunity to participate throughout the process. The literature shows that, participation of employees in the dispute resolution system is threatened by the bureaucracy of dispute settlement procedures and lack of recognition on the importance of trade union officials. But this argument is counted by the fact that, although duty of fair representation is important, union carriage of grievances may reduce employee voice when there is a difference between the interests of the union and the individual employees (Klare, 1988; Stone, 1981). On the other hand, effective system of dispute resolution is a function of many factors. One of these factors is consensus. The literature suggests that the work place dispute must begin with consensus. Consensus here implies mediation, conciliation, negotiation, and dialogue or collective bargaining (ILO 2013). According to Heron (1999) collective bargaining implies the process of arriving at, or attempting to arrive at collective agreement. It involves voluntary negotiation of agreed terms between the employer

and employee. The main goal of collective bargaining is the formation of rules that govern employment relationship. Therefore, collective bargaining can be said to be a means rather than an end in itself. It rather provides a cushion to accommodate, reconcile and in many instances compromise the diverse interests' employment relationship stakeholders (Achu 2018). On top of that the need for collective bargaining is compounded by employment legislation which provides for the duty of the employers to bargain with the recognized trade unions but also the duty of the employers and employees to bargain in good faith. This duty suggests that for effective bargaining employers must supply necessary information to trade unions (Mtaki 2005).

Apart from that, the behavior of the parties towards the dispute can also affect the dispute resolution system. The behavior here can be competitive, compromising, or collaborative (Tosi *et al.* 1986). Finally, (Naik, 2015) suggested that forming works committees and strong trade unions that consist of representatives of both employers and employees can as well increase the voice of the parties in dispute resolution. We can subsume these factors into institutional framework that provides guidelines for negotiations, formation of trade unions, work committees and the informal social rules that guide the behavior of parties. Those factors are assumed to determine the efficiency, equity and voice of the industrial disputes resolution.

Methodology

In this article, qualitative approach with a case study design was adapted to answer the research question: What is the dispute resolution system in Tanzania and to what extent does it achieve the three dimensions of effective dispute resolution systems namely: efficiency, equity and voice as proposed by Budd (2004 & 2005). To answer this question, the research a case study of the commission for mediation and arbitration in Dodoma region in Tanzania. A qualitative sample of 60 employees was selected from CMA staff working in Dodoma Region. Out of the employees, 39 were male equivalent and 21 were female. Concerning their education qualifications, 16 employees were advocates, 15 were Record Management Assistants, 10 were Litigants, 8 were Personal Secretaries, 5 were mediators and arbitrators, 4 were Trade Union Representatives, and 2 were Deputy Registrars.

The data collection from the case study involved the number of phases: Phase one began with documentary review which includes the annual reports on the disputes referred for mediations and arbitration, quarterly reports, minutes of meetings (internal meetings and stakeholder's meetings) and other reports. The phase two was interviews with mediators, arbitrators, advocates, trade union representatives and ordinary workers. Finally, the data were analyzed through content analysis for documentary reviews and thematic approach for interviews.

Demographic analysis of respondents

This section analyses respondents in terms of their gender, working experience and education qualifications. With respect to this, 39 respondents involved in the research were male while 21 were female. Concerning their education qualifications: 15 respondents were degree holders, 12 respondents were diploma holders, 3 had secondary school education and 6 had primary school education. Concerning their working experience; 19 respondents had 3-5yrs working experience, 13 respondents had 0-2yrs working experience, 10 respondents had 11 years working experience while 8 respondents had 6-10yrs working experience (CMA Staff profile 2021).

Mediation Process as dispute resolution system in Tanzania

The mediation process in Tanzania is handled by the Commission for Mediation and Arbitration which formally commenced its operation in Tanzania Mainland on 04th May 2007 in all regions. The vision of the commission is to promote peace and harmony at workplaces through resolving industrial disputes which arises between workers and the management. The establishment of the commission is given under section 12 of the Labor Institutional Act of 2004 and granted power under section 15 to resolve industrial disputes through mediation and arbitration.

Furthermore, according to this Act, mediation of Industrial disputes begins when parties refer their disputes to the commission for resolution and fill form No. 1 of CMA that is made under Regulation 34(1) and GN.No.47 whose purpose is to show the intention of the party to refer the dispute to the commission as prescribed by section No. 86(1) of Employment and Labor Relation Act of 2004. Application must be submitted to the commission within 30 days since the dispute occur, but if they fail, applicant are obliged to fill form No.2 of CMA that is known as condemnation form that justify the reasons for delay. After completing the early processes of register the dispute, the Commission will engage the mediator who will facilitate parties to reach agreement by scheduling time, venue, and date of hearing and serve summonses to parties to notify the intention of the commission by using form No.3, and if needed form No.4 is used to call upon witnesses during mediation.

Finally, mediation process is expected to be completed within 30 days since registration of the dispute, but if it is not completed for any reason, form No.5 is filled for extension of time. After completion, form No. 6 & 7 are filled showing agreement or non-agreement of terms. The commission grants right of representation to the parties under section 86(6) (a-c) of LIA of 2004. The representative can be a trade union, employers association, personal representative, or advocate. During mediation, analysis on history and factors that lead to rise of dispute is traced by the mediator, and sometimes witnesses are summoned so as to assist the commission to resolve a dispute. In case of dissatisfaction of parties on the resolution, room for seeking remedies through arbitration is granted, and form No.8 is filled in order to refer the dispute to arbitration (sect 10(a) of Industrial Dispute Act).

Commission for mediation and Arbitration (CMA) in Dodoma

CMA Dodoma Region is amongst 26 CMA's offices found in Tanzania mainland located at Dodoma municipal council (CMA website, 2021). Dodoma region as a capital city of Tanzania is congested with various public and private institutions operates in order to provide basic services to the people. Geographically, Dodoma region is located at latitudes 6'57' and 3'82 and longitudes between 36'26' and 35'26' east of Greenwich. Just like other regions, it comprised of 7 districts, 29 divisions, 209 wards, 199 streets and 607 villages with land area of 41.311 KMSQ with a total of 2,083,588 people (population census report of 2012) and main economic activities conducted at the region is agriculture, trading, and industry (Dodoma urban profile, 2016). Iringa, Singida, Manyara and Morogoro encircle the region.

Administratively, CMA is headed by the Chairperson who is assisted by the Director and Deputy Director of the Commission in administering the commission's operations in Tanzania. For effective operation, the Commission has several units that operate cooperatively, those are finance and account unit headed by chief accountant who hold responsibility over all financial resources of the commission, internal audit unit that is headed by chief internal auditor with the responsibility over inspecting all financial and non financial

resources of the commission, planning and account unit headed by principal economist, procurement unit headed by principle supplies officer and administration and human resources management unit headed by director of administration and human resources. CMA is also having two core directories that report directly to the Director of the Commission, which is Mediation Unit headed by Director of Mediation and Arbitration Units headed by Director of Arbitration. Lastly in the structure, there is Regional Offices headed in charges of the stations that are Mediator/ Arbitrators.

Nature of disputes taken before CMA for resolution

Various kinds of disputes are taken before the Commission for resolution, and most of them are basically caused by reasons like unfair termination, discrimination, humiliation, exploitation and others. The following table indicates the nature of disputes taken before CMA.

Table 1: Nature of disputes taken before CMA for resolution

SN	Nature of Industrial Dispute
1	Termination of employment
2	Salary Claim/ unpaid salaries
3	Application, Execution, and interpretation
4	Organizational rights
5	Discrimination
6	Breach of contract
7	Constructive termination
8	Tort
9	Disclosure of information
10	Negotiation about terms and conditions of work etc

Source: (CMA case registration form 2021)

Registration of labor dispute at the CMA in Dodoma

Registration of labor disputes at the Commission is in respect of jurisdiction based on the geographical, time, money and subject matter. For the case of geographical or territorial jurisdiction, matters registered before CMA Dodoma are disputes that arises within 7 Districts of Dodoma region that is Dodoma, Bahi, Chamwino, Chemba, Kondo, Kongwa and Mpwapwa as obliged by rule number 10 of GN 64/2004 as stated below; -

“(1) A dispute shall be mediated or arbitrated by the Commission at its office having responsibility for the area in which the cause of action arose, unless direct otherwise”.

Source: Rule No.10 of GN 64/2004

On the side of time limit, dispute settlement and enforcement mechanisms require timely resolution of industrial disputes so that both employers and employees could concentrate on their productive activities rather than wasting much time on tribunals and courts waiting for the resolution of their disputes. The law provides a time limit on registration and resolution of the case to improve efficiency. According to reviewed documents, the research shows that registration should be within 30- 60 days as seen in the quotation below by one of the senior arbitrators” narrative is expressive:

“According to the law that is rule no 10(1) & 10(2) of GN 64/2007, a matter must be registered within 30 – 60 days from termination. And if there will be any valid reasons for the delay, application for registering a case out of time must be submitted before its registration and if the tribunal or court will be satisfied with the reasons for the delay, the case will be registered”.

Time limit help to avoid registration of outdated claims that lead to more challenges on the provision of evidence, availability of parties, witnesses, properties, and other factors that can cause any kind of delay in the delivery and execution of justice. For the case of subject matters, CMA has authority to resolve industrial disputes according to labor laws with no monetary limit.

The trends of labor disputes referred to CMA in Dodoma

Concerning this, through documentary review, the research provides statistical data of industrial cases that are formally registered and decided before the commission for mediation and arbitration in the past four consecutively financial years from the year 2016/17, 2017/18, 2018/19 and 2019/20. This includes the type of the cases, the leading sector in registering cases, and the root cause of those disputes that are registered before the commission.

Statistics indicate that there is a rise in the number of cases registered and decided in the commission and labor division each year, the reason behind the rise despite having a legal framework for control of industrial disputes includes globalization, increased public trust on CMA and increased awareness of workers on CMA services inflate the trend of labor cases. Several respondents presented this during the interview with the management, workers and their representatives and litigants as seen from one of the senior trade union representatives below: -

“Through the use of technology and information we acquired from various sources – human being inclusive, we are aware of the right places to submit our grievances for resolution”.

Basing on his explanation, it is assumed that, in previous years workers were not aware of their rights or the right place to submit their grievances for effective resolution. But due to the development of science and technology that improve access to the right information to all, grievances are now taken to the right place for resolution. In connection to that is the rise of public trust towards legal institutes and increase of cases taken before them for fair resolution as seen from the interview below with one of the litigants;

“I think the current government that insists on responsibility, transparency, and accountability helps us to restore our trusts to legal institutions like CMA”.

Source: Interview with Litigant, 2021

The government has contributed a lot in the restoration of trust from citizens towards its institutions – legal institutions inclusive, through improving transparency, fairness, and accountability in resolving industrial disputes. This helps to allow people to manifest and undoubtedly see how justice is been done. And in case of dissatisfaction with the process, procedure, environment, or any other valid reason, room for review, revision, or appeal, and other remedies according to the law are provided to both parties. Findings also revealed that the rise in the number of cases that are brought to CMA for resolution is influenced by accountability and responsibility of service providers that improve assurance to the people on attaining their rights as seen from the interview below with one of mediator from CMA;

“For us, as public servants, we are trying our level best to serve the people so that whatever they face injustices at their workplace, they will use a proper channel of resolving their disputes, and for labor disputes, the proper channel is CMA”.

Source: Interview with Mediator, 2021

Apart from that, the trust of people toward legal institutions leads to the rise of the number of cases brought before them for resolution. This is because people who receive legal services can act as agents who spread the good news to others who need the same kind of help. Therefore, the increase of responsibility and accountability of public workers at CMA influenced the rise of the trend of cases.

Findings also indicate that rise of the trend of industrial cases brought to CMA is influenced by the increase of population.

“The rise of population reflects on industrial context, for it will lead to the need to open up new offices and employ more workers. And whatever there are many people placed in the same context who are having different objectives, the conflict became inevitable.”

Source: Interview with Advocate, 2021

The number of cases registered from 2016/17, 2017/18, 2018/19 and 2019/20. The researcher noted that statistics provided a picture on the trend of cases of CMA, the results were as shown below: -

Table 2: CMA Annual Statistical Report from the year 2016 – 2020

Mediation					Arbitration		
SN	YEAR	Case registered	Case decided	Pending	Case registered	Case decided	Pending
1	2016/17	8,517	927	7,590	5,610	4,752	858
2	2017/18	9,379	1,362	8,017	5,209	4,195	1,014
3	2018/19	9,646	1,280	8,366	5,131	4,102	1,029
4	2019/20	10,031	8,112	1,919	6,238	4,825	1,413
TOTAL		37,573	11,681		22,188	17,874	

Source: (CMA Statistical Report 2021)

After discovering the rise of the trend of cases taken before the commission for resolution through mediation and arbitration, a researcher decided to investigate the nature of disputes that cause litigants to submit themselves and register their dispute before the commission for resolution and the number of cases registered for each cause from the year 2019/20. And the following table indicates the nature and number of the disputes: -

Table 3: Nature and Number of Cases Registered for CMA 2019/20

Sn	Nature of Dispute	No. Of Cases Registered	Percentage %
1	Termination of employment	6,431	39.5
2	Salary claims	2,456	15.0
3	Application, Execution, and Interpretation	754	4.6
4	Organizational Rights	812	4.9
5	Discrimination	731	4.4
6	Breach of Contract	624	3.8
7	Termination of Contract	2,278	14.0
8	Constructive Termination	1,289	7.9
9	Tort	568	3.4
10	Others	326	2.0
TOTAL		16,269	100

Source:(CMA Statistical Report 2021)

The result found by the researcher in table 4 on the nature of disputes with the number of cases registered for each in the commission indicates that unfair termination has been a leading cause of industrial disputes because it covers 39% of all cases registered. Unfair termination is against employee's right, that's why they decided to fight for their right in the commission and other courts. It also manifests the presence of unfair treatment and violation of worker's rights done by their employers.

This table also shows that there is a problem of exploitation found at workplaces, which leads to employees not be paid or underpaid their salaries. That's why salary claims covered 15% followed by unfair termination of work contract with 14%.

The discovery of the leading cause of grievances that lead to an increase of cases registered before the commission makes a researcher review the sectors that are having more cases than the others in four financial years, that is 2016- 2017, 2017 -2018, 2018-2019 and 2019 to 2020.

The following table indicates the number of cases registered before the commission per sector for four years.

Table 4 shows number of Cases Registered per sector from 2016 to 2020

SN	Year	Sector / Company	No. of Cases
1	2016 to 2017	Security Company	380
		Building and Construction	299
		Business	263
		Hotel	248
		Transportation	237
2	2017 to 2018	Transportation	349
		Building and Construction	336
		Security Company	263
		Industrial Sector	200
		Hotel	197
3	2018 to 2019	Transportation	820
		Security Company	754
		Education	657
		Industrial Sector	610
		Hotel	571
4	2019 to 2020	Building and Construction	2,467
		Security Companies	1,851
		Food, Drinks, and Hotel	1,496
		Business	1,156
		Transportation	1,011

Source: (CMA Annual Statistical Report 2021)

As shown in table 4 on the number of cases registered per sector for four financial years, building and construction, transportation and security companies are the leading sectors having many industrial cases in the commission compared to others. And according to the data, the year 2019/20 statistics abruptly rise from the total of 3,412 in the year 2018/19 up to 7,981 cases equivalently to 42.7%.

Time frame for dispute settlement through mediation at Dodoma

According to labor law standards, resolution of industrial disputes in the commission through mediation is not supposed to take more than 30 days. In order to measure the extent to which the labour dispute resolution is efficient, the researcher used client's satisfaction as one of the measures. The client satisfaction was identified as the element that helps CMA to maintain efficiency of the system. The satisfaction is measured through the formal and informal forms like suggestion box, stakeholders meetings, outreach programs, conferences and informal discussions.

The research shows that most of workers interviewed are satisfied with the resolution system and services provided by CMA than other institutions like High Court as indicated in the following interview with one of the litigants: -

"I'm satisfied with the service provided by the commission. Procedures are based on the law and everything is in order but I faced a kind of hardship at high court, there are so many postponements, we usually go hoping our cases will proceed, but they always postpone cases".

Source: Interview with Litigant, 2021

Second, the efficiency was measured through flexibility which is the ability of the system to change in order to comply with changes that occur in the industrial context that are influenced by local and international factors. It was discovered that the current disputes resolution system is flexible because it responds immediately after changes occurs in laws, directives, environmental and technological changes found in the society. At CMA, flexibility is assured and practiced than in other courts of law where decisions are only based on the facts, evidence, and law, but CMA involves the use of common sense, consistency, and logic. For example during submission, the law requires submission of affidavits, but at the commission, if a client fails to submit affidavit and submit a letter instead, they consider and filled it as seen in the interview with registrar officer below:-

"During submission, the law requires the submission of affidavits, but at the commission, if the client fails to submit affidavit and submit any official identification letter instead, they put him or her into consideration and application is accepted".

Source: (Interview with Registrar Officer, 2021)

Therefore, efficiency includes the time frame used for a dispute to be resolved, speed, client's satisfaction or dissatisfaction with the system, financial and non-financial cost, and flexibility of the system towards changes that occur in the country. For the case of mediation, experience shows that the resolution took a shorter time than arbitration due to the procures that involve negotiation and collective agreement on the best ways that can help both parties to reach agreement on their disputes but arbitration, involves the use of laws, rules, and principles by the third party who is the arbitrator after hearing and submission of evidence to provide a decision or award based on facts, evidence, and laws. Therefore, the difference in the timeframe differs due to the processes involved in each method, but the Commission insists on quick resolution of disputes. These findings are consistent with the research by Mushi (2015) which shows that lack of enough resources such as budget can affect the efficiency of labour dispute settlement.

Equity of the labour dispute settlement at Dodoma

Fairness, neutrality, sensitivity, privacy, transparency and accountability were used as the indicators that can help to measure the level of involvement and participation of individuals in matters concern them in the resolution of disputes.

To explore respondent's views, opinion and experience on how equality is maintained by CMA, findings indicates that, equality was maintained in each stage from case registration, hearing, judgment, and others, as obliged by the law through constitution and other Acts. Findings also revealed that, privacy is well maintained throughout the process of disputes settlement and every party were given equal opportunity in the trial as sew in the interview with one of the litigants below; -

"During the trial, sessions were in the chamber, my trade union representative represented me and my employer was with the company's lawyer. After the trial, award was given to each part privately Interview".

(Source: Interview with Litigant, 2021)

Voice of the labour dispute settlement at Dodoma

Voice was also considered as an indicator for effective industrial dispute resolution. This is measured through the level of participation of individuals in the process of resolution and consideration of their inputs in the process. Findings revealed that CMA involve parties during the trial in order to fulfill the demand of the law, and this is practiced throughout the process from mediation where mediator assist parties to resolve the dispute through negotiation of terms up to arbitration where there is hearing, submission of evidence and cross examination of witnesses and others. CMA maintained equality throughout the process in order to make parties to be part of the resolution process in order to ensure transparency and satisfaction throughout the process as illustrated by the following quotation: -

"It is the demand of the law to involve parties with respect of fairness and equality throughout the trial. In doing so, for CMA during mediation, mediators assist the parties to negotiate and reach agreement up to arbitration during hearing, submission of evidences and cross examination of witnesses".

Source: Interview with Trade Union Representative, 2021

On the other hand, the findings indicate that in some cases especially where there is the is need for representation, the trade union often assist the parties in question and the representatives of the union arrange for the meeting with respective employees, discuss the matter with them and finally represent them in the mediation process but many times, the quality of the outcome of the mediation is affected by the interest of the parties. In Dodoma Region, the trade Union representatives always represent the interest of the workers who are represented in the mediation process. These findings are consistent with the findings by fair representation is important, union carriage of grievances may reduce employee voice when there is a difference between the interests of the union and the individual employees Klare, (1988); Stone, (1981) which shows that the interest of the parties may be affected by the trade representatives if the individual workers being represented in the mediation process have different interest with trade union representatives but also with the argument that voice is stronger in the process than in the outcome because a third party neutral unilaterally imposes the final resolution to the dispute though the parties have control over the outcome at the lower stages of the grievance procedure. In the current study, the final resolution is arrived by the parties themselves. The third party which is mediators does not interfere with unilateral decision.

Conclusion

This study explored the quality of industrial disputes resolution mechanisms and its adherence to basic standards for handling industrial disputes by using the Commission for Mediation and Arbitration as the case study. Our findings indicate that implementation of industrial disputes resolution mechanisms as established by the Labor Institutional Act and assurance of peace, harmony and access to justice is still questionable. Inaccessibility of CMA's offices at district levels in order to make easy access to the people who came from remote areas, lack of awareness of individuals rights, lack of fund enough to provide quality and affordable services to the people, lack of skilled and trustworthy human resources affect the quality of industrial dispute mechanisms and its implementation, that is why there is existing of disputes that lead to the rise of trend of industrial disputes that result to wastage of time, fund and sometimes destruct social relationship among the people at workplace. Statistics show that, disputes that end through mediation satisfy both parties because they involve mutual agreement of terms, but for those that end with arbitration and other methods like adjudication, it satisfies one part and that's makes the dispute to co-exist.

Recommendations

Therefore, there is the need of strengthening mediation procedures and processes so as it can be used to resolve all kind of disputes because literatures identified that it suits only for minor disputes, but for major disputes, there is still need for adjudication procedures. Also, there is the need of having stakeholders engagement for the review of labor laws and policies because findings revealed that LIA assumes that employee is the only one who can file the complain in the commission, but experience shows that there are employees who violate terms of contract and others that can make employer to seek remedy at the commission.

Training, workshops and seminars must be done to employees of the Commission in order to improve awareness on professional way of providing justice services to the people, internal strategies and systems for monitoring and evaluation of employees output must be monitored scientifically though setting the target in order to improve their effort and struggled to meet the target, thus increase output. Effective allocation of resources, improvement of working environment, establishment of more CMA's centers in order to improve accessibility of services, improve friendly relations with other institutions and borrow space for establishing offices, improve internal measures to deal with discipline of their employees to improve faithfulness and hardworking spirit when deliver service, strengthening feedback channels like suggestion boxes, stakeholders engagement meetings and engage research institutes in seeking customer's feedback towards the services that they receive from CMA. By doing so, the quality of industrial disputes resolution mechanisms will be improved and it will adhere effectively the quality standards of efficiency, equity and voice as suggested by Budd (2004) & (2005).

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