

AN EMPIRICAL ASSESSMENT OF EMPLOYMENT DISPUTES CAUSES IN LIBERIA

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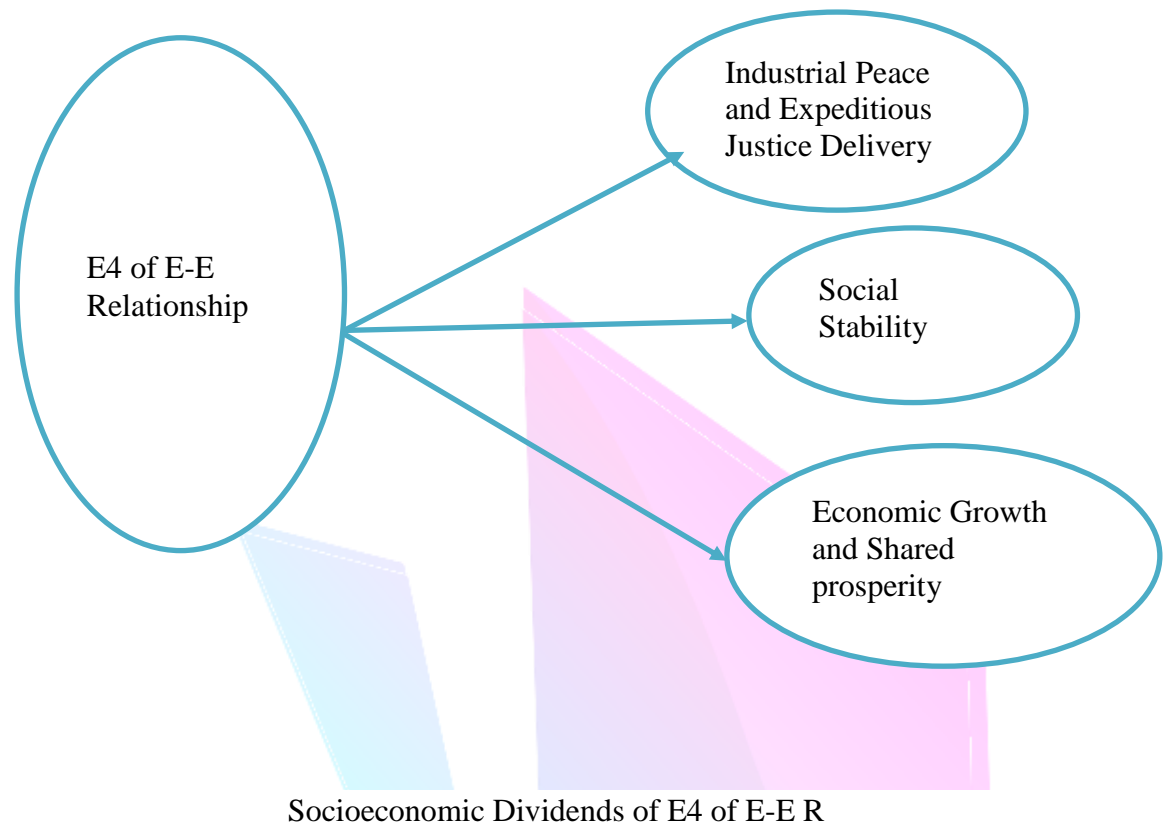
ABSTRACT

This study explored the major causes of industrial disputes in Liberia through an empirical assessment. It revealed seven leading issues that traditionally give a rise to the industrial disputes namely; wrongful dismissal, non-compliance with the laws and labour policies, alleged of committing crimes, lack of awareness of industrial relations rights and responsibilities, redundancy, failure to pay the employment benefits and alleged force retirement. The research adopted mixed mod method to reach its objectives. It had a references and inferences to the case law, observations and empirical survey through questionnaire and interviews. The paper therefore, concluded that a very high percentage of the respondents strongly agree and agree that above-mentioned factors contribute to igniting Labour Dispute in Liberia. 63.6% strongly agree, 25.6% agree, 7.8% are indifferent and only 3.1% disagreed that wrongful dismissal was a prevalent cause of Labour Dispute. However, 68.2%, representing 88% respondents strongly agree that non-compliance with laws and labour policies and regulations constitutes one of the major factors that give a rise to industrial disputes in Liberia. Further, 62% and 44.2 % of respondents strongly agree that refusal to pay employment-related benefits (salaries, pension, and payment in lieu of dismissal...) and redundancy was also considered among the leading causes of labour disputes in Liberia. The study recommended to government to make sure that employment policies and labour laws and regulations are adhered by all the stakeholders (The State, The employer, The Employees and their respective institutions; trade unions and employers organization). It also recommended the introduction Preventive Mediation Mechanism (PMM), which seeks to help avoiding disputes through social dialogue and effective communications between the profit receivers and wages earners (Employer and Employees).

Keywords: Industrial relations, labour law, employment, trade union, Liberia, labour disputes, industrial disputes, labour economics.

INTRODUCTION

It is highly believed and practical that stable employee-employer's relationship plays a significant role in socioeconomic security and harmony, industrial peace and economic healthiness of any given economy. The researcher believes that in order to yield the results of peaceful industrial relationship, there must be an effective disputes resolution system which cannot be attained without identifying the leading causes of labour and industrial disputes. Hence, this piece undertakes an empirical legal assessment on the causes of labour disputes in Republic Liberia. It adopts the mixed-method approach, which includes a survey, interviews, and case analyses. That is due to the fact that the researcher could not find any previous literature on the causes of industrial disputes in the country. As a result, the study heavily relies on empirical assignment supported by traditional doctrinal legal research method; analyses of the reported, decided and pending legal cases at the court of competent jurisdiction and the Ministry of Labour, quasi-judicial platform. The research is aimed at serving as a way forward to instituting preventive mediation (PM) of labour dispute because if the causes are well-identified and clearly earmarked, it would be less complicated to mitigate the constant occurrence of disruptive disputes. In other words, the chances of avoiding industrial disputes will become very higher by using PM. The Preventive Mediation (PM) in the labour disputes context is about policy dialogue between employers themselves or their organizations and employees or their trade unions on issues and concerns that may lead to work-related disputes. Consequently, Effective, Efficient and Expedient (E4) Employer-Employee Relationship (E-E R) yields socioeconomic dividends namely; industrial peace, social stability and economic growth with shared prosperity for the State, industries and workers as depicted in Figure No [1].



Method and Procedures FOR Data Collection

This study adopted doctrinal and non-doctrinal legal analysis in a form of empirical surveys, interviews and analysis of labour dispute cases decided by the Labour Court and the Supreme Court of Liberia. Therefore, the following methods and procedures were used to collect the empirical data.

Population and Sampling Technique (PST)

According to Pilit and Hungler population is a collective or totality of all the subjects, objects or numbers that fit into a set of description.ⁱ This study was conducted within the population of workers, ex-workers, hearing officers who are official mediators at the Labour Ministry of Liberia, lawyers, academics, judges, trade unions and the Liberia's Labour Congress. There are variety of research techniques that can be used in order to get the right sampling. However, according to Creswell, the outline of a survey study starts with a discussion about the objectives, population and correlation between variables and interpretation and analysisⁱⁱ. The

sample of this survey was taken from all the five geographic regions in Liberia namely the Western Region, the Northern Region, the Central Region, the Southern Region and the South-Eastern region.

Sample Size and Response Rate

Principally, there is an assumption that the larger the sample is, the better it is but not in all situations and cases.ⁱⁱⁱThis is because there are several factors that can influence the sample of the study which could be the overall population of targeted group in a specific country, or the constrains presented to the research or researcher^{iv}. However, the confidence interval is not dictated by the sample size.^v Therefore, the sample was drawn from the five regions earlier mentioned. As a result, 200 questionnaires were administered and distributed. The researcher received 129 copies of questionnaire, which were used to draw analysis. The proportion of the received responses from the participants was (129) which was equivalent to sixty four percent (64%). However, this figure is regarded to be adequate for this study. According to Baruch and Holtom, ‘the average response rate for studies that utilized data collected from individuals is 52.7% percent while the average response rate for studies that utilized data collected from organizations 35.7%.’^{vi}

Qualitative Survey

The qualitative survey consisted of open and closed-ended questions. It was used in order to collect relevant information from a larger sample, which could not be easily reached by interview which comprised the targeted employers, workers or ex-workers. Further, it mainly consisted of lawyers, academics at the Law School ‘student, Hearing Officers,^{vii}employees at the Labour Standard Division at the Ministry of labour, human resource managers, trade unions and the Liberian Labour Congress.

Thus, to achieve this end, questionnaires were used. The total sample size of the survey was 200 as explained above. Meanwhile, the researcher received 129 responses (64%) of the survey. The questionnaire consisted of 50 questions in 11 sections; section 1 which consisted of 5 questions provided for the demographic information about the respondents. The only Question in Section 2 provided for the respondents’ view about why labour disputes are not

reported in Liberia. Sections 3 to 7 and 9 to 10 are in the Likert format (Strongly Agree, Agree, Neutral, Disagree and Strongly Disagree). Section 3 presented the likely causes of labour disputes in Liberia. Sections 4, 5 and 6 entails the impact of a labour dispute on Government, employer and employee respectively. Section 7 gave the challenges of labour disputes resolution; Section 8 provided for the preferred mechanism by the respondents. Sections 9 and 10 provided for the respondents' thought on how to improve mediation of labour disputes and the result of labour/industrial peace in Liberia.

One-On-One Interview with Key Informants

Further, the analyses in this research conducts interviews with Hearing Officers, the Judge of the National Labour Court, professors at the law school, trade unions, the Secretary-General of the Liberian Labour Congress, and Director of Labour Standard Division at the Ministry of Labour and Director of Research and Statistics at the Ministry of Labour. Besides, the researcher met Hon. Matthew N Jaye, then the Chairman of the Senate Committee on labour and co-chair on public corporations in his office in two different times. Firstly, when he delivered the letter seeking the Senator's approval to be interviewed on Labour Disputes Resolution in Liberia and other legislative related issues after having a brief chat in his office and telling him that he was a PhD research at Ahmad Ibrahim Kulliyah (college) of Laws, International Islamic University of Malaysia (IIUM). He did welcome the idea and told researcher that he would meet the Committee then the researcher will be called to do his interview. This was on 28th of July 2017. Secondly, after several attempts, the researcher met him once again on 23rd of August 2017 but he was very busy with some other legislative concerns. Therefore, he was not able to interview Senator Jaye as he returned to Malaysia on 25th of August 2017 to submitting the progress report for the semester and meet with the supervising committee.

Analyses of Reported and Unreported Cases

Another important source of data for the research were decided cases of labour disputes at the Ministry of Labour which were not reported in a compiled document rather they were mainly reachable through Note of Release (NoR).viii However, in some instances, the NoR might not be available for the case due to the improper reporting system at the Ministry.ix On the other

hand, the research used the Liberian Law Report (LLR) both the printed and electronic versions. The latter is accessible on the website of the Liberian Legal Information Institute (Liberlii) and the website of the Supreme Court of Liberia. Finally, each of the discussed labour disputes was supported by a case law and an empirical assessment.

Demographics

An understanding of the demographics of the participants and respondents in a research survey is very paramount and important for analyzing data and making a conclusion. Therefore, participants in structural interviews and survey were carefully chosen to propose an improvement in labour disputes mediation system and reduce high number of industrial dispute cases. Besides, the questionnaires covered a wide range of demographic information of the respondents. Over a three-quarter of the respondents were male, the age group spreads between 15 to above 46. The age groups of the respondents had a close range, although about a half of the respondents fall between 26-35 years. The rates of respondents' educational status did not differ largely. Respondents with High School qualification had the largest percentage followed by those that are unskilled. Only a few of the respondents had master's degrees and vocational training.

The survey covered a sample of those who were currently working, ex-workers, employers, trade unions and others. The agricultural sector had the highest number of respondents with 22.5%, then education sector which had 15.6%. See Table [1]. However, the survey cut across all regions in Liberia. The Southern Liberia had about half of the response rate. Meanwhile, 24.8% of the respondents were from the Northern Region of Liberia. Only a few of the respondents were from the Western Region of Liberia as shown in Figure [3].

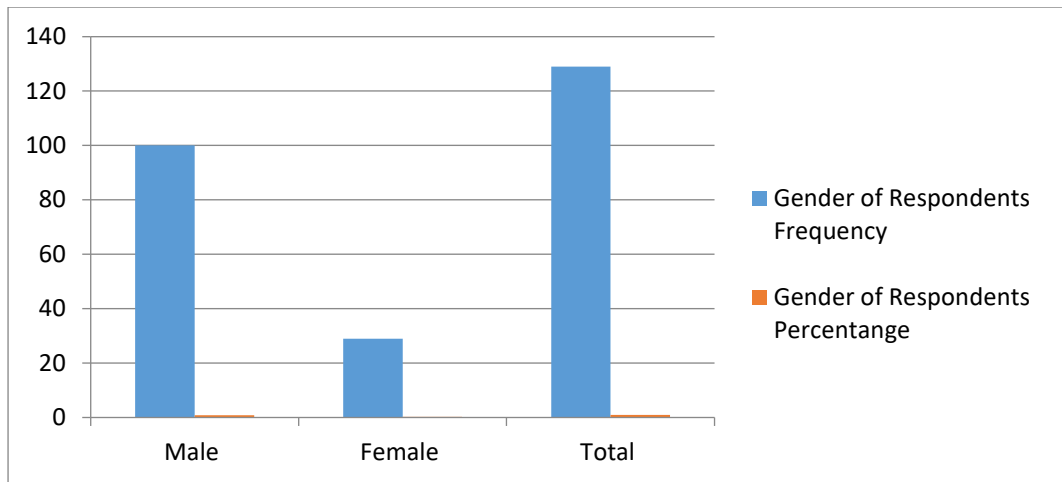


Figure 1 Genders of Respondents

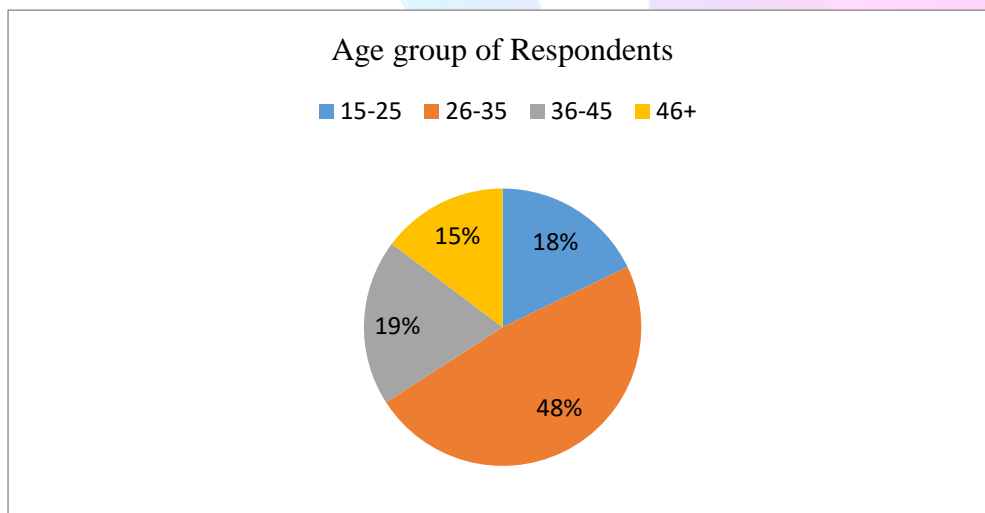


Figure 2 Age Group

Table 1 Sector of Employment

Sector	Frequency	Percentage.
Agriculture, and Mining	34	26.4
Banking and Finance	3	2.3
Communication, IT and ICT	14	10.9
Construction	4	3.2
Education	20	15.6

Government	11	8.5
Health	11	8.5
NGO	4	3.6
Legal	16	11.7
Trade and retail	12	9.3

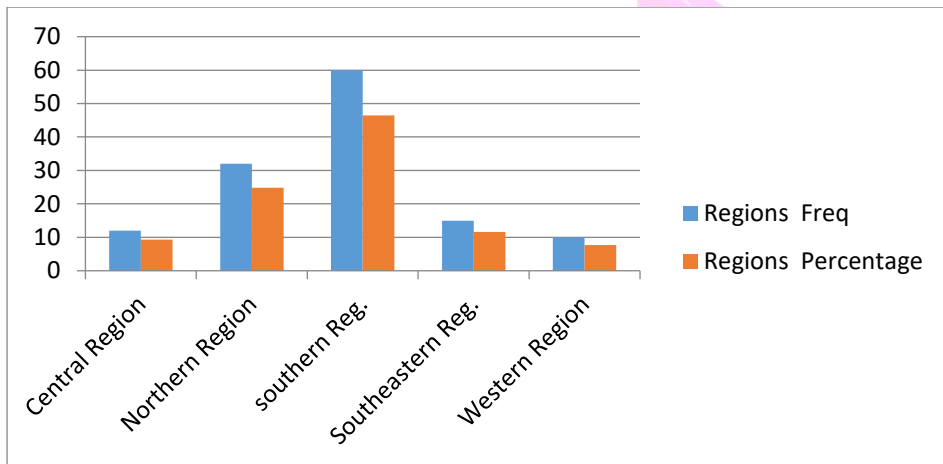


Figure 3 Regions

It is important to note here that Liberia is politically and administratively sub-divided into 15 counties and these counties are geographically located and spread in five regions.^{xi} Therefore, the survey opted to be a regional-wide rather than a county-based so that figures will not be too large and complex for analysis. Lastly, the educational backgrounds of the participants in the survey were also noted as it is depicted in the following table:

Table 2 Educational Background

Qualification	Frequency	Percentage
Bachelor's degree	29	22.5
High School	41	31.8
Master's degree	12	9.3
Unskilled	37	28.6

Vocational School	10	7.8
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DISCUSSION ON THE CAUSES OF INDUSTRIAL DISPUTES

Sander's Approaches to Causes of Labour Disputes

There are several approaches in categorizing the causes of industrial disputes. Some scholars, such as Sander,^{xii} have adopted these following approaches; union recognition contract negotiation and contract interpretation as illustrated in figure [4].

Union Recognition

Typically, this occurs when a union presents a demand to the management stating that its worker has designated to the union and thus the management refuses to recognize his or her membership. In this regard, Liberia's case law has shown that the failure or refusal of the management to recognize an employees' trade union could lead to labour disputes as it is evidenced in *Inter-Con Security System v. Doexiii*, in which, appellants, fourteen employees engaged as security personnel by the Inter-Con Security were dismissed by the management on October 3, 2000, because of their intention to engage in a collective bargaining with their employer (Inter-Con Security).

The case was heard by the Hearing Officer at the Ministry of Labour in a favour of the employer. However, it was appealed for the judicial review at the Labour Court. Further, the appellants were not satisfied with the decision of the Labour Court, which affirmed the Hearing Officer's determination. Nevertheless, the case was further appealed at the Supreme Court. And in the Supreme Court's decision, the Labour Court's determination was reversed. Justice Greaves delivered the opinion of the Supreme Court in following passage

"The right of employees to organise themselves into a union for the purpose of engaging in collective bargaining with their employer cannot be withheld or denied by the employer, and any attempt to deny the employees the exercise of that right would constitute an unfair labour practice. The Co-appellee management, as far as we can see, not only violated the appellants'

constitutional rights to assemble but also their right under Labour Practices Law of Liberia (unfair labour practice) and therefore their dismissal was wrongful.”xiv

It is clear in the opinion of the Supreme Court that the failure of the management to recognize the engagement of its employee(s) in a union constitute a violation of the law and it can fuel tension between the parties in the industrial relationship.

Contracts Negotiation

Contract negotiation has to do with the basic framework that is to govern the relationship between the parties to the employment contract. For instance, the contract might contain clauses that are subject to reopening or renegotiation between the parties such as reviewing the wages based on changing of the cost of living or increasing the price of certain basic commodities vitally affecting the industry. Therefore, if this negotiation goes wrong at times of recession or economic difficulties could cause tension to rise between the management and employeesxv.

Contract Interpretation

Labour disputes may result from misconstruing the collective agreement between the parties to the contract. The collective agreement may state that the employer has to provide healthy and safe working environments for the workers. Then there might be a dispute about what constitutes a conducive environment because of its subjective nature. This type of employment dispute has been regarded as the easiest type to be resolved as it has been observed in Sander’s words

“From the standpoint of settlement this, in many respects, is the easiest type of dispute to deal with. More and more it is being recognized that such questions can be resolved through procedures established by the parties themselves. Since many contract provisions are made for their ultimate settlement by arbitration. It should be noted that the interpretation of contracts has historically been a function of the courts.”xvi

Based on analysis of empirical study of this research and field observations, the researcher is of the view that most of industrial and labour disputes occur in Liberia based on Professor Sander's approaches as discussed and equated as follows UR (union recognition) + CN (contract negotiation) + CI (contract interpretation) = CLD (causes of labour disputes). See Figure [4].

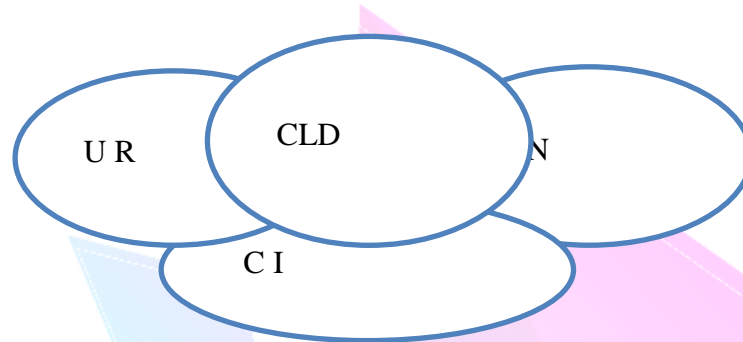


Figure [4] Prof. Sander's approach to causes of labour disputes

EMPIRICAL ASSESSMENT OF MAJOR CAUSES OF LABOUR DISPUTES IN LIBERIA

In addition to the Sander's approach stated above on the causes of labour disputes, the empirical survey and case review indicate many other sub-causes summing up in 'noncompliance with labour standards and noncompliance with Collective Bargaining Agreements' xvii as opined by Josiah. xviii Therefore, it can be derived from these two principal causes of labour disputes in Liberia that there are several other causes, as detailed below

Wrongful Dismissal

Unjustifiable or illegal dismissal constitutes the vast majority of labour disputes in Liberia. According to Her Honour, Judge Comfort Natt, xix 'among the major causes of labour disputes in Liberia is illegal dismissal' Besides, the case law is a clear evidence and testimony to this as demonstrated in hundreds of decided and undecided cases at the Ministry of Labour, the National Labour Court and the Supreme Courts of Liberia. For example, in *Oxfam v Natt et al* 2008xx in which the appellee, thru its legal representative, Tiala Law Associate, Inc. filed a

complaint about a wrongful Dismissal against the appellant at the Ministry of Labour. In the complaint, the appellee alleged that he was employed by the appellant as Health Promoter on July 27/2004 and worked roughly 11 (eleven) months. At the end, his services were terminated on May 27/2005 based on a disciplinary committee hearing conducted on May 23/2005. As a result of that, the appellee was held responsible for misapplication of entrusted property; that having been accused of said misapplication a crime under the Liberian law. However, the appellee was never prosecuted and convicted as required by law. Since then, the Hearing Officer, Mr Philip G Williams arranged pre-trial conference (mediation/conciliation) in order to amicably resolve the case. Nonetheless, the said conference into a possible out-of-court settlement failed to achieve the desired result.

Thus, the case was arbitrated by the Labour Ministry in favour of the appellee. However, the respondent, Oxfam GB filed for the judicial review at the National Labour Court, which affirmed the ruling of the Hearing Officer. In the end, the Supreme Court adhered to the decision of the Hearing Officer and National Labour Court. Justice Ja'neh delivered the opinion of the Supreme Court in the following:

“The records, in this case, having shown that Appellant filed the Petition for Judicial Review (JR) at the National Labour Court outside the time period by statute and yet sought to have this reviewed by the office of motion for Relief from judgement, we hold that the decision of the Hearing Officer denying same, was proper, final and conclusive. The Judgment of the National Labour Court affirmed the ruling of the Hearing Officer was therefore proper and legal.”^{xxi}

The focal point here is that wrongful dismissal, which was upheld by the Hearing Officer and Judge Natt in this case, constituted a cause of labour disputes. Furthermore, in *Maryland Logging Corporation v Osmolexxii*, the appellees were workers of the Maryland Logging Corporation (MLC) which dismissed them from their employment by letter without mentioning any reason for the action. However, it tendered one month's pay in lieu of notice. Thus, Appellees instituted proceedings at then the Ministry of Labour, Youth and Sports (Now the Ministry of Labour) for the wrongful dismissal, contending that the dismissals were made to circumvent the payment of retirement pensions. The labour inspector awarded the appellees two years' wages as compensation for the wrongful dismissal.

The Board of General Appeals^{xxiii} affirmed the finding of wrongful dismissal, but adjudged that appellees were entitled to five years' wages instead of two. On the appeal by the

management to the Circuit Court, the ruling of the Board was confirmed. The further appeal was filed at the Supreme Court, which confirmed that the dismissal was not legal and in conformity with the law, Justice Tulay delivered the opinion of the Court that the action of the management was wrongful as it is inked in the following passage

“The dismissal of these employees, who have been in the employ of the Corporation for several years, is nothing other than to deprive them of their retirement pension and other benefits as provided by law.”xxiv

In addition, this study conducted a survey on this cause of labour disputes (wrongful dismissal) as it is depicted in Figure [5] and Table [4] respectively. The result showed the perception of respondents on wrongful dismissal as a cause of labour disputes in Liberia. It is noticed that percentage of Strongly Agree (SD plus that of Agree (A) constitutes 89.2% of the total. That is, almost 90% of the people considered wrongful dismissal as a leading cause of industrial disputes. This perception is substantiated by mediated and litigated cases in Liberia.

Table 4 Wrongful Dismissal

Wrongful Dismissal						
Cause of Labour Disputes	SA	A	N	D	SD	Total
Wrongful Dismissal	63.6	25.6	7.8	3.1	0	100.1

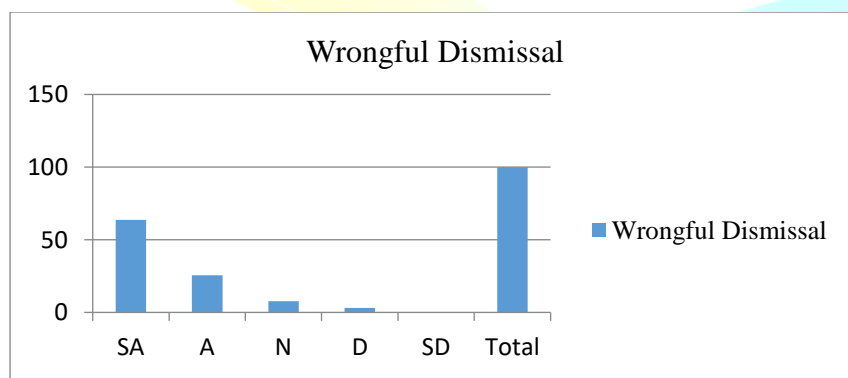


Figure 5 Wrongful Dismissal

Noncompliance with Laws and Regulations

The violation of labour laws and policies are the most prevalent causes of industrial disputes in Liberia or even elsewhere. It therefore, takes several forms ranging from unfair labour practice, firing an employee or groups of employees before the expiration of their contract without just cause or excuse, to failure to keep in line with the standard of minimum wages set by the laws and labour policies. Subsequently, there have been several cases as a result of non-compliance with laws and regulations. For instance, in *Henry KonowasSr v. The management of Lutheran Hospital*,^{xxv} where the complainant was given a contract as a Medical Director with the Lutheran Hospital that took effect on the first day of August 2007, and on October 16, 2009. However, the employer's contract was terminated by the Hospital. He then claimed against the Lutheran Hospital at the Ministry of Labour, where mediation was attempted, but the minds of parties to the dispute could not meet.

Thus, the matter was ruled to a regular hearing (Quasi-Judicial Determination or Arbitration). The ruling of the hearing was delivered by His Honour H. Nyenswa Davis, Sr. indicating that the law was not complied with by the Defendant and, as a result, the complainant's contract was unjustifiably terminated.

“Wherefore and in View of the Record, the entire case filed to include documentary evidence produced by both parties coupled with their testimonies, the complaint filed by the complainant, Dr Henry A Konowa Jr. has MERITS. Defendant/ Management is, therefore, LIABLE to reinstate the Complainant and pay to him all benefits as if he has never been dismissed or pay to him the unexpired portion (three years) salary and all benefits to include October 2009 salary, as calculated below: xxvi

The reliance was on Labour Law of Liberia –dismissal of employee, subsection 1508.1

“No employer shall dismiss an employee with whom he is bound by a contract for a definite period before the end of that period unless it is shown that the employee has been guilty of a gross breach of duty or tall lack of capability to perform. Where this has not been proven, the dismissed employee shall be entitled to claim full remuneration for the unexpired portion of the contractual period.”^{xxvii}

As it is noted, the law is clear that the management does not have right to dismiss the employee who has been hired for a definite period unless the set conditions, as provided in section 1508.1 above are met. Moreover, a survey was run by this study to examine how non-compliance with

the laws and labour policy constitutes a cause of action of industrial disputes in Liberia. The outcome is, therefore, demonstrated in Table [4] and Figure [6].

Table 4.4 Non-Compliance with Laws

Non- compliance with laws	SA	A	N	D	SD
	68.2	26.4	1.6	3.9	

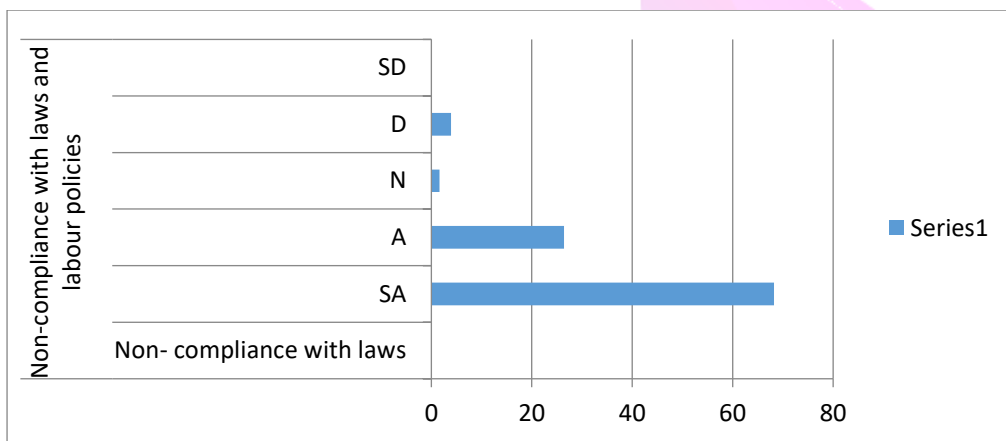


Figure [6] Non- Compliance with Laws

The above figure and table show that 94.6% of the respondents agreed that failure to comply with labour laws and regulations leads to industrial disputes, either from the management or workers. On the other hand, only 3.2% of the respondents disagree on this. It is pertinent to note that most of the labour disputes occur in Liberia not because of laws have a deficiency, rather because they are not complied with. This was affirmed by Professor John F Josiah in an interview with him.xxviii

Therefore, in order to mitigate the rate of non –compliance in Liberia, the labour inspectorate system has to be further improved and supported with needed logistics and equipment along with the technical know-how to efficiently carry out inspection on workplaces.

Alleged of Committing a Crime

An alleged stealing and abetment on other criminal activities from employee(s) are of the causes of labour disputes . In Varney Bundoo et al v. Liberia Revenues Authority (LRA).xxix

In this case, the complainants Varney Bundoo, Alphonso David and Sabata Saye were all offered an indefinite contract by the then Department of Revenue at the Ministry of Finance on various dates with salaries before their transfer to the Liberia Revenue Authority in June 2014...On June 1, 2015, Defendant/ Management suspended Bundoo et al for a period of thirty days without pay for investigation because of an alleged misconduct in their line of duty, even though the said investigation was actually conducted on May 2015.

However, on June 18, 2015, the Management (LRA) issued a letter of dismissal to Varney Bundoo et al., for facilitating the smuggling of alcoholic and non-alcoholic beverages on border crossing point in Bo-Waterside which constitutes serious criminal and administrative offences. Therefore, the dismissed employees were not given due process as provided by the Constitution of Liberia in Article (21)(1) which states the right to counsel and that the right to counsel shall be inviolable. This was never adhered to in this case before the management dismissed the complainants.

Thus, His Honor Hearing Officer Tiah Dagbe ruled in favour of complainants relying on the Supreme Court's decision in *Bong Mining Co v McDowald et al (1979)*xxx, which states that termination of services of an employee for a reason of the commission of a criminal offense, without establishing the guilt of the employee for that criminal offense, is an infringement on the constitutional rights of the employee.”xxxiTherefore, this establishes that allegation of criminal activities against employees can lead to dispute between the employer and workers, especially if the said alleged crime has not been proven and the accused was not accorded due process.

Lack of Awareness of Law

At times, an employee or worker may not be aware of his/her legal rights, as a result, the management may take advantage of that situation. This has given rise to labour disputes in Liberia. Evidently, in an interview with His Honour H. Nyenswa Davis. Sr*, he stated that he had a case, *Zico William et al v LR & Son*,xxxii in which the workers worked for five months, and the management had to pay them based on Chapter (16) section (16) of the new Labour Law known as Decent Work Act of 2015. Nevertheless, they had no knowledge about it, thus they were given an amount of money for less than what the law requires and sets for them as salaries. As a result of their ignorance, they signed it, but later, they lodged a claim at the

Ministry of Labour of Labour for non-compliance. According to His Honour Davis, lack of knowledge of law constitutes a cause of labour disputes in Liberia.xxxiii

Furthermore, the disputes may arise between the management and the worker due to the worker's failure to claim his/her right at an appropriate time. In other words, law protects the entitlement of an employee to his or her annual leave pay. However, if he/she fails to claim it until seven years elapsed - the legally allowed limit for claiming his labour rights- because he did not know that, the complaint cannot be entertained by the law. For instance, in *Liberia Telecommunications Corp (LTC) v Tyler. et al.,(1995)*xxxiv the appellees served the LTC for 31 years, he then was retired in 1992 and he received 50% of his salary as pension and other benefits. Nevertheless, the appellees filed a complaint against the management of LTC claiming 31 years accrued annual leave pay.

At the Ministry of Labour, the Hearing Officer ruled in favour of the appellees citing that the limitation for filing labour actions at the time of the retirement appellees. Thus, he awarded him \$17,902.50 USD for accrued annual leave pay for 31 years in which he did not take his annual leave. The Liberia Telecommunications Corporation (LTC) noted its exceptions and further petitioned the National Labour Court for judicial review.

However, the court affirmed the ruling of the Hearing Officer. Nevertheless, the management further appealed to the Supreme Court, which reversed the ruling and the judgement of the Labour Court. Mr Justice Smith delivered the opinion of the Supreme Court stating that the time within, which the labour action shall commence, is computed from the time the rights to relief accrues to the time the complaint is interposed; not the time the employment is terminated.

“It was therefore incumbent upon the appellee/complainant to seek relief when his right to relief first accrued and to do so within seven (7) years. The statute quoted hereinabove commands that all labour actions shall commence within seven (7) years of the time the right accrues, otherwise, such action shall not be entertained by the Ministry of Labour. There is no evidence of relinquishment shown in this case. The question of relinquishment which, under the labour, the statute must be agreed upon by the employee and the employer in writing is out of the question as there is no evidence to that effect. *Id.*, § 902, Relinquishment of the right to leave, pp.281. The time within which the action shall commence is computed from the time the

rights to relief accrues at the time the claim is interposed; and not from the time the services of the employee are terminated.”xxxv

Therefore, it can be opined that the lack of basic knowledge in employment law leads most often to this kind of labour disputes. That is, if the claim was made within the set time framework, this contestation would have been avoided.

Redundancy

Redundancy is at times called retrenchment, which occurs during recession and when the business or the economy needs to undergo some necessary adjustment that requires a reduction in its workforce. According to Liberia’s Decent Work of 2015, redundancy happens where an employer is considering terminating the employment of one or more employees by reducing the number of employees as a result of a reorganization or transfer of the business or a discontinuance or reduction of the business for economic, technological or structural reasons, including for reasons of bankruptcy, dissolution, closure, or cessation of the business.xxxvi However, different jurisdictions may use different synonyms for redundancy. For instance, in the United Kingdom, the phrase “dismissal by reason of redundancy” is used by the Employment Protection Act of 1996.xxxvii Besides, Marsono and Jusof state that

“Retrenchment may happen not only during the recession but it is also relevant when the economic situation is good. Apparently, termination of service is permitted by law for operational reasons, which is commonly known as redundancy.”xxxviii

Furthermore, in a Malaysian case of *Stephen Bong v FCB (M) Shd & Anor*xxxix, redundancy was conceptualized as

“Situations where the business requires fewer employees of whatever kind. The Industrial Court was right when it held that the applicant was redundant as there were reduced work and reduced business within the Company which made the applicant’s position as an executive director in charge of one of the groups redundant.”xl

However, based on the definition of redundancy, Liberia’s case law establishes that it is one of the leading causes of industrial conflicts. In *Miamen, et al. v Inter-Con Security* xli, the complaint was launched against the Management for unfair labour practices as 200 employees

were made redundant; the principle of Labour Standards Policy (LSP) last came first out (LCFO) was never observed.

Besides, the redundant employees were given a document to sign while receiving their redundancy payment. Nonetheless, they alleged that the Ministry of Labour was not informed and they were not given privilege to read the content of the release discharging the Defendant from any and all future liabilities relating to employer and employee relationships. Yet, they claimed that redundancy was not fair according to the law and labour practice. Therefore, the National Labour Court ruled in this case as follows:

“On September 25, 2009, Judge Comfort S. Natt of the National Labour Court for Montserrado County, heard and denied the appellants' petition for judicial review. The basis for the judge's ruling was that the appellants did not deny receiving compensation for the time of service in accordance with the Labour Law and having voluntarily signed releases void of any fraud or undue influence, said releases constituted binding contracts which relieved the respondents from all liabilities; that the failure of the respondent to notify the Ministry about the redundancy exercise did not render the redundancy illegal but was instead punishable by a fine; and that the appellants failed to establish that new employees were re-employed in their respective positions.”xlii

The case was further appealed to the Supreme Court, where the ruling of the National Labour Court (NLC) was affirmed. This study however conducted a survey that was to further affirm that redundancy is one of the major causes that give rise to the industrial disputes in Liberia. Thus, 44.2% of the respondents strongly agreed on this while 23.3% agreed that redundancy may lead to labour disputes as it is portrayed in Table [5] and Figure [6].

Table 4.5 Redundancy

Redundancy	SA	A	N	D	SD	NR
	44.2	23.3	10.9	9.3	1.6	10.9

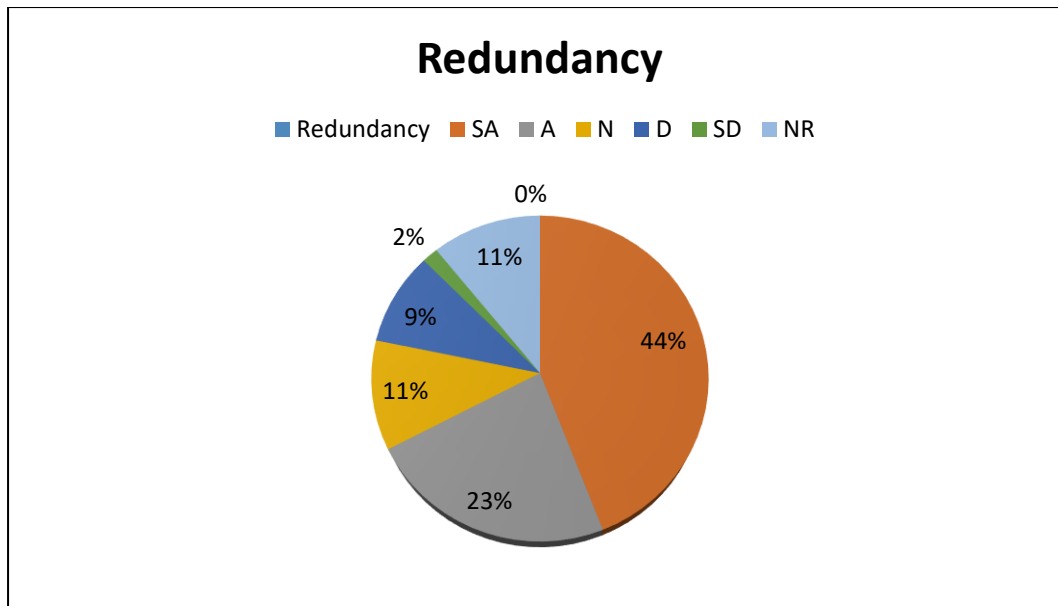


Figure [7] Redundancy

Failure to Pay the Employment Benefits

Most of the labour disputes occur in Liberia as a result of management alleged failure to pay its employees or workers their benefits and compensations in accordance to the law and the employment contract. In *National Port Authority (NPA) v Massaquoi et al*, the appellees were dismissed by the appellant the (NPA) after they had continuously worked for a period ranging from (2) to (8) consecutive years. However, the case was successfully and amicably resolved. Subsequently, the appellees instituted this instant action to the Labour Ministry for a pension refund scheme and accrued benefits claiming the sum of \$125,101.00 USD (One Hundred and Twenty-Five Thousand, One Hundred and One United States dollars). The Hearing Officer ruled in favour of the management.

The case was further appealed to the Labour Court for the judicial review and the ruling of the Hearing Officer was reversed, as the Court awarded the appellees the said amount. Nevertheless, the management was not satisfied with the ruling of the court, as a result, it appealed to the Supreme Court on the premise that those appellees were not employees, rather they were causal labourers (unskilled worker). Thus, they were not entitled to any pension as required by the law. Therefore, the Supreme Court confirmed the ruling of the Labour Court considering the appellees as employees', and not causal labourers. However, Justice Sackor delivered the opinion of the court as follows:

“The labour statute considers casual labourers as unskilled workers who are employed for the duration of less than a working day and who are therefore not considered as employees. Labour Practices Law, Lib. Code 18A:2.21(c). The records, in this case, revealed that appellant classified appellees as casual labourers after a period ranging from two to eight years of continuous service under the supervision and control of the appellant and on the premises of appellant. The appellees have alleged that this conduct denied them their insurance benefits in violation of the labour statute. Appellant has not shown any substantial reason to justify its policy in classifying appellees as casual employees after years of service with the institution, and as a result of which they were denied protection and insurance benefits by appellant management. We are in full agreement with the National Labour Court judge that the policy of the appellant management in classifying appellees as casual labourers, after a period of continuous service, is in violation of the labour laws of Liberia. We, therefore, hold that appellees should have been classified as permanent employees during their continuous service as contemplated by the Labour Practices Law, cited supra.”^{xliv}

As it is observed above, when management failed to tender employment-related benefits to its workers on grounds that they were not employees, but mere contractors, the situation gave rise to labour consternation. In the end, the Supreme Court ruled in favour of the workers as they met the legal conditions that qualified them to be permanent employees.

Alleged Forced Retirement

Forced retirement is done and practiced in most instances to circumvent the payment of lucrative salaries as compared to a pension. Hence, it constitutes a cause of labour disputes anywhere including Liberia. Evidently, in *Citibank v Rennie* (1984)^{xlv}, in which the appellee was accused of stealing \$85000.00USD after he had served the appellant (Citibank) for nearly 24 years in 1976. However, after an investigation by the Liberian Criminal Investigation Department (C.I.D), he was cleared and proven innocent. Yet, the bank constructively continued to retire him.

The complaint was filed with the Ministry of Labour, and then the Hearing Officer ruled that the retirement was extrajudicial and illegal. Because of dissatisfaction of the appellant with the ruling, he appealed to the Board of Appeal, which reversed the ruling of the Hearing Officer. Further, the case was appealed to the Civil Law Court of the Sixth Judicial Circuit

(CLCSJC),^{xlvi} in which judge ruled that the retirement was not legal. In the heat of the legal battle, the case was finally appealed to the Supreme Court of Liberia, which affirmed the ruling of the CLCSJC. Hence, Justice Morris delivered the opinion of the Court after analysis and perusal of the case as follows

“In view of what we have said and the laws cited, coupled with surrounding facts and circumstances, we hold, and it is our considered opinion, that the judgment of the lower court, as amended and modified by this Court be, and the same is hereby affirmed. And it is so ordered.”^{xlvii}

That is, the Citibank’s early retirement of its staff was only intended to bypass his deserved lucrative salary as compared to the retirement pension.

CONCLUSION

The study revealed that it is highly believed and practical that stable and cordial relationships between the management and workers/employers play a pivotal role in social harmony and security, industrial peace and economic healthiness and wellbeing of the State. The research believed that in order to achieve the results of peaceful industrial relationship, there must be an effective disputes resolution system, which cannot be attained without identifying the root causes and genesis of the disputes. Hence, this paper undertook an empirical legal assessment on the causes of labour disputes in Liberia. It adopted the mixed-method approach, which included surveys, interviews, and case analyses. That was due to the fact that the project did not find any previous literature on the causes of industrial disputes under the Liberia jurisdiction. Thus, the study heavily relied on empirical assignment supported by traditional doctrinal legal research approach by referencing to reported, decided and pending legal cases from both the court of competent jurisdiction and the Ministry of Labour, where quasi-judicial determinations are held in industrial disputes cases.

The research, therefore, recommends to the government and other stakeholders to make sure that employment laws and regulations are adhered to by employers, workers and their respective organizations. By doing so, it is highly anticipated that there will be a significant reduction on industrial disputes that always have an adverse impact and damaging consequences on the general economy, productivity of employers’ undertakings and welfare

and financial wellbeing of workers (employees). Besides, it is exceedingly recommended as well to avoid industrial conflicts through preventive mediation (PM) mechanisms, which are embodied in the full compliance with just employment standards that serve the best interest of the regulator (the government), the profit-generating party (employers) and the salary-earning party (worker). Finally, the chances of avoiding industrial disputes will become very higher by using preventive mediation. Preventive mediation in the labour disputes context is about policy dialogues between employers themselves or their organizations and employees or their trade unions on issues and concerns that may lead to work-related disputes. Consequently, an effective, efficient and expedient (E4) employer-employee relationship (E-E R) yields socioeconomic dividends namely; industrial peace, social stability and economic growth with shared prosperity for the State, industries and workers as depicted in Figure No [1].

REFERENCES

- Barakat Adebisi Raji, “ Legal Framework For Construction Dispute Resolution in Nigeria: A Reform Oriented Analysis” (PhD thesis, International Islamic University 2017) at 82
- Creswell, John W, Planning, Conducting and Evaluating Quantitative and Qualitative Research,2012, 4th Edition at 375
- Decent Work Act of 2015, Chapter Two Part IV section 14.5.
- Employment Protection Act, 1996, Chapter II.
- Gardner, Evie, & Abed Yuonis Skaik “Sample Size Calculations” International Journal of Ayurveda Research, vol.1, no 2 (2010) at 132.
- Hamidah Marsono and Kamaruzaman Jusoff, “Retrenchment in Malaysia: Employer’s Right?,” Journal of Politics and Law 1, no. 4 (2008): 22–28.
- Kadam, P., & Bhalerao, S, “Sample Size Calculation” International Journal of Ayurveda
- Labour Law of 1973, Section 1508 (1).
- Polit and Hungler “ Research Design and Research Method and Population” (na: 1999) at 37
- Sander Paul H, “Types of LABOUR Disputes and Approaches to Their Settlement.,” Law and Contemporary Problems 12, no. 2 (1947). 211-214

Cases:

Logging Corp. v Omole [1978] LRSC 28; 27 LLR 98 (1978) (30 June 1978).

Logging Corp. v Omole [1978] LRSC.

Liberia Telecommunications Corp. v Tyler et al [1995] LRSC 10; 37 LLR 801 (1995) (16 February 1995).

Miamen, et al. v Inter-Con Security [2016] LRSC 30 (8 September 2016).

Miamen, et al. v Inter-Con Security[2016]

National Port Authority v Massaquoi et al [1996] LRSC 6; 38 LLR 195 (1996) (26 January 1996

National Port Authority v Massaquoi et al [1996] LRSC 6; 38 LLR 195 (1996) (26 January 1996).

Oxfam v Natt et al [2008] LRSC 20 (27 July 2008).

Oxfam v Natt et al [2008] LRSC 20 (27 July 2008).

Stephen Bong v FCB (M) Sdn Bhd & Anor (1999)3 MLJ 411.

Bong Mining Co v McDowald et al [1979].

Bong Mining Co v McDowald et al [1979] LRSC 2; 28 LLR 14 (1979) (14 June 1979).

Citibank v Rennie [1984] LRSC 21

Citibank v Rennie [1984] LRSC 21; 32 LLR 118 (1984) (11 May 1984).

Intercom Security et al v Doe et al [2004] LRSC 17; 42 LLR 196 (2004) (16 august 2004).

Varney Bundoo et al v Liberia Revenue Authority .

Henry A Konowa, Sir v the Management of Lutheran Hospital By & thru LCL.

Henry A Konowa, Sir v the Management of Lutheran Hospital By & thru LCL 2014 (Unreported).

ENDNOTES

- i Polit and Hungler “Research Design and Research Method and Population” (na: 1999) at 37
- ii Creswell, John W, Planning, Conducting and Evaluating Quantitative and Qualitative Research, 2012, 4th Edition at 375
- iii Barakat Adebisi Raji, “Legal Framework For Construction Dispute Resolution in Nigeria: A Reform Oriented Analysis” (PhD thesis, International Islamic University 2017) at 82
- iv Kadam, P., & Bhalerao, S, “Sample Size Calculation” International Journal of Ayurveda Research. vol. 1, no 1(2010) at 55.
- v Gardner, Evie, & Abed Yuonis Skaik “Sample Size Calculations” International Journal of Ayurveda Research, vol.1, no 2 (2010) at 132.
- vi Yehuda Baruch and Brooks C. Holtom, “Survey response rate levels and trends in organizational research” Human Relations, vol. 61 no 8 (n.a): 1139
- vii Hearing Officers are employees of the Ministry of Labour who are in charge of resolving labour disputes through mediation or quasi-judicial determination or arbitration.
- viii Note of Release (NoR) is a document that contains the outcome of mediation conducted by the Hearing Officer at the Ministry of Labour indicating that the case has been successfully resolved and closed. It has to be signed by the parties.
- ix For instance, in an interview with Mr. H Nyensawa Davis, a Hearing Officer at the Ministry of Labour, he mentions this case Zico William v LR & Son as an example of labour disputes because of lack of awareness in labour rights and responsibilities. I asked him. Where is the NoR of this case? He looked for it but could not find it. See page 117.
- x The website of the Liberian Legal Information Institute is <http://liberlii.org/>. The website of the Supreme Court is <http://judiciary.gov.lr/>.
- xi Western Region consists of Grand Capemount, Gbarpolu and Bomi Counties. Northern Region comprises Lofa and part of Nimba Counties, while Central Region is made up Margibi, Bong and part of Nimba Counties. Southern Region is Montserrado County where Capital City, Monrovia. Finally, South-eastern hosts Grand Bassa, Grand Gedeh, Sinoe, Maryland, Grand Kru, Rivercess and Rivergee Counties.
- xii Sander Paul H, “Types of LABOUR Disputes and Approaches to Their Settlement.,” Law and Contemporary Problems 12, no. 2 (1947). 211-214
- xiii Intercom Security et al v Doe et al [2004] LRSC 17; 42 LLR 196 (2004) (16 august 2004)
- xiv Intercom security et al v Doe et al [2004] LRSC.
- xv Sander Paul H, “Types of LABOUR Disputes and Approaches to Their Settlement.,” pp 211-214
- xvi Ibid.
- xvii Excerpt from an interview with Professor Josiah on 15/8/2017 on mediation of labour disputes in Liberia.
- xviii It is only Law School in Liberia established 1954.
- xix During the interview with Her Honour, she listed these as major cause of labour disputes: disagreement between employees and management over wages/ incentives, medical benefits, dissatisfaction over working condition/ environment, management approach to workers, leave pay, illegal dismissal, and insecurities for employees, denial of benefits. etc...
- xx Oxfam v Natt et al [2008] LRSC 20 (27 July 2008).
- xxi Oxfam v Natt et al [2008] LRSC 20 (27 July 2008).
- xxii Logging Corp. v Omole [1978] LRSC 28; 27 LLR 98 (1978) (30 June 1978).
- xxiii The Board of General Appeal is now the National Labour Court.

xxiv Logging Corp. v Omole [1978] LRSC.

xxv Ruling on Henry A Konowa, Sir v the Management of Lutheran Hospital By & thru LCL by The Labour Relations Section of the Division of Labour Standard, Ministry of Labour, Liberia 31st of March, 2014. (unreported)

xxvi Henry A Konowa, Sir v the Management of Lutheran Hospital By & thru LCL 2014 (Unreported)

xxvii Labour Law of 1973, Section 1508 (1).

xxviii Interview with the Labour Law Professor John F Josiah at the Luis Arthur Grime School of Law, University of Liberia on 15/8/2017.

xxix Ruling on Varney Bundoo et al v Liberia Revenue Authority by The Labour Relations Section of the Division of Labour Standard, Ministry of Labour, Liberia, 2016. (Unreported).

xxx Bong Mining Co v McDowald et al [1979] LRSC 2; 28 LLR 14 (1979) (14 June 1979).

xxxi Bong Mining Co v McDowald et al [1979]

*Nyenswa Davis. Sr is well-experienced Hearing Officer at the Labour Ministry, who had made several mediations to resolve labour disputes. He started working with the Ministry in 1991.

xxxii It is unreported case; it was mentioned by Mr. Davis during my interview with him on 17/8/2017 at the Labour Ministry.

xxxiii It is a product of an interview with Mr. H Nyensawa Davis Sr. a Hearing Officer (mediator) at the Ministry of Labour, Republic of Liberia. On 17/8/2017.

xxxiv Liberia Telecommunications Corp. v Tyler et al [1995] LRSC 10; 37 LLR 801 (1995) (16 February 1995).

xxxv Ibid.

xxxvi Decent Work Act of 2015, Chapter Two Part IV section 14.5.

xxxvii Employment Protection Act, 1996, Chapter II.

xxxviii Hamidah Marsono and Kamaruzaman Jusoff, "Retrenchment in Malaysia: Employer's Right?," *Journal of Politics and Law* 1, no. 4 (2008): 22–28. They further stated some situations where redundancy can occur in following "The word redundant however, is not as simple as it sound as it is, in fact, it is very subjective. Redundancy occurs when the employee is no longer required to work. There are situations where a contract of employment is subject to some inevitable change. Redundancy may happen due to several reasons such as a downturn in production, sales or economy, the introduction of technology, business relocation, a business merger or a business is sold or restructuring of a company" Ibid.

xxxix Stephen Bong v FCB (M) Sdn Bhd & Anor (1999) 3 MLJ 411.

xl Ibid

xli Miamen, et al. v Inter-Con Security [2016] LRSC 30 (8 September 2016).

xlii Miamen, et al. v Inter-Con Security [2016]

xliii National Port Authority v Massaquoi et al [1996] LRSC 6; 38 LLR 195 (1996) (26 January 1996)

xliv National Port Authority v Massaquoi et al [1996] LRSC 6; 38 LLR 195 (1996) (26 January 1996).

xlv Citibank v Rennie [1984] LRSC 21; 32 LLR 118 (1984) (11 May 1984).

xlvi At that time there no was Labour Court which was latter established in 1983.

xlvii Citibank v Rennie [1984] LRSC 21