



MEDIATION OF INDUSTRIAL DISPUTES  
IN LIBERIA: ENHANCEMENT PRECEDENTS FROM  
THE UNITED KINGDOM, NEW ZEALAND AND  
MALAYSIA

BY

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A thesis submitted in fulfilment of the requirement for the  
Degree of Doctor of Philosophy in Law

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OCTOBER 2019

## ABSTRACT

The industrial peace or harmony plays a pivotal role for the nations' socioeconomic growth and stability. There are lots of theories and practices through which industrial disputes can be managed and resolved. However, mediation has been proven over the years to be the most effective, efficient and expedient machinery of those practices. Therefore, this thesis explores and examines the practice of mediation of industrial disputes under Liberia's substantive and procedural laws with the aim at identifying the prospects and challenges of this important element of Alternative Disputes Resolution (ADR) in resolving industrial disputes under Liberia's labour jurisprudence. In doing so, the research was designed and carried out with a purpose to extract lessons, precedents and best practices from the following highly regulated, effective, efficient and expedient mediation jurisdictions; the United Kingdom, Malaysia and New Zealand. These prototypes were chosen due to the discovery of literature and previous research works that they have respectively better institutionalised their mediation systems of labour and industrial disputes and all of them share the Common Law legal tradition with the Republic of Liberia. Hence, the research raises and disposes no legal complication and complexity to derive lessons or the best mediation practices from these jurisdictions for Liberia. Thus, the study will help Liberia to upgrade its industrial disputes mediation structures and policies for the sustainable economic growth, social stability with shared industrial relations interests and prosperity for the employees, industries and the government. To achieve the objectives of this research and answer its questions, mixed-mood method was applied; qualitative and social legal research methods (doctrinal and non-doctrinal). The qualitative was used in all aspects of the project while quantitative or social legal research was only adopted to determine some relevant aspects of industrial disputes mediation in the Liberian labour market. As a result, the study ran an empirical survey to determine how appreciating and acceptive mediation is and what are the substantial and procedural challenges it is confronted with in Liberia? The survey therefore reveals that nearly 50% of respondents believe that mediation is the preferred method to resolve their industrial disputes. Furthermore, **82.2%** and **15.5%** respondents strongly agree and agree respectively that labour peace and amicable resolution can boost the Sustainable Economic Growth (SEG). On the other hand, the survey also reveals that **72.9%** of the respondents strongly agreed that industrial peace and harmony can lead to Social Stability (SS). The research eventually recommends, among other things the enactment of a specialized mediation or ADR Act by the national legislature to effectively formalize and institutionalize the practice. Likewise, the study calls for the establishment of a Institute of Labour Studies (ILS) and an Independent Mediation Centre (IMC) in Liberia to provide training and capacity building programmes, conduct studies and identify challenges in the nation's labour market. Besides, the thesis further calls for instituting an effective Labour Inspectorate System (LIS) making sure that industrial and employment laws and policies are adhered to by all the stakeholders. It also proposes a 'Practice Direction on Mediation of Civil Cases to the Judiciary' (the Supreme and subordinate courts) as a way forward to encouraging the court-annexed mediation and amicable resolution to some mediatable civil cases. These, along with other recommendations, will serve as prompts to the followings: i) Enhancement of industrial peace and harmony. ii); Reduction on labour disputes resulted from non-compliance with laws and policies and iii) Sustainable development, economic growth and shared interests for the workers and industries *via* healthy industrial and workplace relationship.

## مُلخَصُ البَحْثِ

للأمن والانسجام العماليين مكانة محورية في الاستقرار الاجتماعي والاقتصادي في أيِّ من البلدان، وهناك كثير من الآليات التي يمكن من خلالها فضُّ النزاعات الصناعية العمالية؛ بيد أن الوساطة (الصلح) أثبتت عبر السنين أنها أكثر تأثيراً وكفاءة من بين آليات فض المنازعات العمالية، وعليه؛ يتناول هذا البحث ممارسة الوساطة في المنازعات العمالية في ليبيريا بموجب قوانينها الموضوعية والإجرائية؛ للتعرف على تأثيرها والتحديات التي تواجهها، وجرى تصميم البحث مقارنةً مع فقه القوانين البريطاني والماليزي والنيوزيلندي؛ ذلك أن الدراسات السابقة أثبتت أن بريطانيا وماليزيا ونيوزيلاندا من أفضل الدول من حيث مؤسسية نظام الوساطة في فض المنازعات العمالية. فالمقارنة هذه، تقدم دروساً قانونية لليبيريا لرفع مستوى نظام وساطتها في المنازعات العمالية؛ لتحقيق نمو اقتصادي مستدام واستقرار اجتماعي مستمر، وقد استخدم البحث المنهج المزدوجي؛ فطُبِّق المنهج الوصفي على جميع جوانب البحث، بينما استُخدم المنهج التحليلي لدراسة بعض الجوانب ذات الصلة بالوساطة في المنازعات العمالية في ليبيريا، ومن أهم النتائج أن هناك دواعي لإصلاح نظام الوساطة في ليبيريا، إذ إن ٥٠% من المشاركين في استطلاع الآراء مثلاً؛ رأوا أن الوساطة وسيلة مفضلة لفض المنازعات العمالية، كما أن ٨٢,٢% من المشاركين راضون جداً عن أن الوساطة في فضِّ النزاعات العمالية تؤدي إلى الانتعاش الاقتصادي، بينما ظهر أن ٧٢,٩% من المشاركين راضون جداً عن أن الوساطة في فضِّ النزاعات العمالية تؤدي إلى الاستقرار الاجتماعي، ومن ثم؛ أوصى البحث بسنِّ قانون خاص للوساطة أو للوسائل البديلة لفضِّ المنازعات بعامّة؛ لأن ذلك سيكون نقلة نوعية لتطوير إدارة ممارسات الوساطة في ليبيريا، وكذلك إنشاء معهد وطني للدراسات العمالية يُتوقَّع أن يكون قوة دافعة تعزِّز الأمن والانسجام في سوق العمل الليبيري من خلال إجراء الدراسات والتدريبات وتحديد سبل معالجة التحديات التي تواجه سوق العمل.

## **APPROVAL PAGE**

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## DECLARATION

I hereby declare that this dissertation is the result of my own investigation, except where otherwise stated. I also declare that it has not been previously or concurrently submitted as a whole for any other degrees at IIUM or other institutions.

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Signature.....

Date .....

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*This dissertation is dedicated to the followings:  
My beloved parents, their parents and caring supportive family;  
my son Yusuf who's just turned three; and to you all!  
I cherish y'all.*

*"It's good to start small, but it never good to remain petty"  
"Research is a passion, business is a career, politics is reading the  
public"*

*"Entrepreneurship keeps us for life, employment keeps us for a  
while"*

*"PhD is the beginning of the research journey for researchers,  
while it's the end for degree-seekers"*

## ACKNOWLEDGEMENTS

The journey of this research was made successful by the grace of the Almighty Allah. Notwithstanding, it has been challenging and tasking. His blessings on me ease the huge task of reaching this stage.

Further, the process was rightly guided and the researcher was academically mentored by the learned, erudite legal scholar, Professor Dr Ashgar Ali Ali Mohamed, Dean of Ahmad Ibrahim Kulliyah (Faculty) of Laws and the main supervisor of this thesis. I, therefore, thank him and appreciate his efforts through his scholarly comments, constructive criticisms and encouraging words that made this project to see the light. I am, also, most indebted to Professor Dr Nurah Sabahiah and Associate Professor Dr Umar Oseni for co-supervising this thesis; their inspiration, insightful comments, useful suggestions and constructive criticism immensely improved this research and made the journey very delightful and educative. Besides, my sincere thanks and appreciation go to the entire administration and staff of IIUM, particularly those of Ahmad Ibrahim Kulliyah (Faculty) of Laws (AIKOL) for their support. More so, my memory will never make me forget to express my gratitude to and applaud the efforts of all my teachers from pre-school to this level.

I also express my thanks to Her Honor, Comfort S Natt, (the Presiding Judge of the National Labour Court of Liberia), Mr Patrick T Kenyor (Director of Research and Statistics at the Ministry of Labour), Mr Nathaniel S Dickerson (Director of Labour Standards Division at the Ministry of Labour), Prof. Kpadeson Sumo (Luis Arthur Grimes School of Law, University of Liberia), Professor John F Josiah (Luis Arthur Grimes School of Law) J. Austingno Bioh (the Librarian at the Luis Arthur Grimes School of Law) and Mr David D Sackoh ( Secretary-General of the Liberian Labour Congress). I do really applaud their contributions towards the realization of this research project.

I will like to also appreciate the contributions of my brothers and colleagues at home and in the diaspora with whom I share experiences. Dr Sidiq Omola, Dr Ahmad Sackor, Dr Ibrahim Fofona, brother Hassan Sackor, Abraham A Sumaworo, Mr Muhamad Komara. Ishaq AB Sumaworo, Dr Muktar El-Kasim, Dr Vafine Dukuly, Mr Alieu Faud Nyei, Mr Haji Sheku Dakowa, Mr AL-Hassan Kanneh, Mohamad M Konneh, Dr Ahmad Barrie and Mr Kabah M Trawally.

Lastly but not the least at all, my profound thanks and heartfelt appreciation go to my parents for their prayers, without which the journey would not have been successful.



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The Constitution of Qatar 2004 (Qatar)  
Trade Union and Labour Relations Act 1992 (United Kingdom)  
Uniform Mediation Act UMA (USA)  
United Nations Commission on International Trade Law (UNCITRAL)

## LIST OF ABBREVIATIONS

A-AJ	Anglo –American jurisprudence
ACAS	Advisory, Conciliation and Arbitration services
ACS	American Colonization Society
ADR	Alternative Disputes Resolution
AFT-CIO	American Federation of Industrial Union –Congress
All ER	All England Law Reports
ALLCO	Asian legal Consultative Organization
ASC	Anti-Slavery Convention
BGA	Board of General Appeal
BMC	Bong Mining Company
BNM	Bank Negara Malaysia
CBI	Confederation of British Industry
CEDR	Centre for Effective Dispute Resolution
CIO	Congress of Industrial Organisation
CLJ	Current Law Journal
CLSJC	Civil Law Court of Sixth Judicial Circuit
DRs	Interest Disputes
DTI	Department of Trade and Industry
DWA	Decent Work Act
EEE	Effective, Efficient and Expedient
ELIS	Effective Labour Inspectorate System
EPA	Environmental Protection Agency
ERA	Employment Relation Authority
EU	European Union
FAA	Federal Arbitration Act
FDI	Foreign Direct Investment
FMB	Financial Mediation Bureau
FRLL	Foreign Relations Law of Liberia
FSPs	Financial Services Providers
GAAWAL	General Agricultural and Allied Workers Union
GC	Grievance Committee
GCDR	Government Centre for Disputes Resolution
GoL	Government of Liberia
Harv.Negot.L.Rev	Harvard Negotiation Law Review
HO	Hearing Officer
IESES	Industrial Peace, Expeditious Justice Delivery, Social
IHM	In-House Mediation
IJ	Islamic Jurisprudence
ILO	International Labour Organisation
ILS	Institute of Labour Studies
IMC	Independent Mediation Centre
ITLOM	Industrial Tribunal or Labour Officers’ Mechanism
JCA	Judge of Court Appeal
JR	Judicial Review
KLRCA	Kuala Lumpur Regional Centre for Arbitration

KoP	Kinship of Pleasantry
L.C.I.D	Liberian Criminal Investigation Department
LAGSL	Luis Arthur Grimes School of Law
LCIA	London Court for International Arbitration
LCL	Liberian Code of Law
LCL	Lutheran Church of Liberia
LDR	Labour Disputes Resolution
LiberLII	Liberian Legal Information Institute
LIS	Labour Inspectorate System
LLR	Liberia Law Report
LRA	Liberia Revenue Authority
LTC	Liberia Telecommunication Corporation
MCSS	Monrovia Consolidated School System
MLC	Maryland logging Corporation
MLJ	Malaya Law Report
MMC	Malaysian Mediation Centre
MMU	Mittal Mechanic Union
MoL	Ministry of Labour
MRM	Mixed Research Method
NLC	National Labour Court of Liberia
NoR	Note of Release
NPA	National Port Authority
NTC	National Tripartite Council
NZ	New Zealand
NZDRC	New Zealand Dispute Resolution Centre
NZIAC	New Zealand International Arbitration Centre
ODPL	Open Door Policy of Liberia
OFS	Ombudsman for Financial Services
P-TC	Pre-Trial Conference
PCA	Permanent Court of Arbitration
PHA	Palaver Hut Alternative Dispute Resolution
PhD	Doctor of Philosophie
PMP	Preventive Mediation Programme
PN	Prime Necessity
QFC	Qatar Financial Centre
QFZ	Qatar Free Zone
RDs	Rights Disputes
SCL	Supreme Court of Liberia
SEGSP	Stability, Economic Growth with Shared Prosperity
TWP	True Wig Party
UAE	United Arab Emirates
UK	United Kingdom
ULFA	University of Liberia Faculty Association
UMA	Uniform Mediation Act of USA
UN	United Nations
UNCITRAL	United Nations Commission on International Trade Law
USA	United States of America
USD	United States Dollar
UWU	United Workers Union

WB  
WWII

World Bank  
World War II

# CHAPTER ONE

## BACKGROUND

### 1.1 INTRODUCTION

The industrial justice system reform in the last five decades largely perceived confrontational means of dispute settlement as incompatible and unsuitable to equitably deliver labour and social justices to all parties in industrial disputes. The reform led many jurisdictions around the world to introduce alternative disputes resolution (ADR) mechanisms, in particular, mediation to be adopted and institutionalised as an effective norm of industrial dispute resolution techniques. This paradigm shift and dramatic reform have sometimes been called a ‘quiet revolution’<sup>1</sup> against the traditional system of litigating labour disputes due to its rapid and swift institutionalisation in many advanced nations.

Further, adopting mediation to resolve labour and industrial disputes has proven to be effective, efficient and expedient for the State, the management and the workers as well. However, it ought to be noted that litigation is perceived as a legal practice to provide justice for all. Nevertheless, that is not the case in all disputes, especially if there is no balance in the bargaining power of litigants. On the other hand, ADR mechanisms, including mediation are socially designed systems to provide equal justice for all<sup>2</sup>. To be precise, mediation plays an important role in this aspect especially in resolving labour and industrial disputes.

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<sup>1</sup> David B Libsby, and et al, “Commentary: Research on Employment Dispute Resolution: Toward a New Paradigm,” *Conflict Resolution Quarterly*, vol. 22, no. 1–2 (2004) :175–89.

<sup>2</sup> Harry T. Edwards, “Alternative Dispute Resolution: Panacea or Anathema?,” *Harvard Law Review* vol. 99, no. 3 (1986): 668–84.

Certainly, stable/harmonious industrial relation plays a vital role in flourishing the economic well-being of corporations, which in turn has a significant contribution to, and meaningful impacts on, national development and economic healthiness. Evidently, Germany's economic revitalization and success after the second War World (WWII) were characterised by a high degree of cooperation between the management and employers' organizations. 'Both workers and firms take a long-term view of the economy and both parties recognize the importance of continuously raising productivity. Both parties understand the need to share the productivity gains.'<sup>3</sup>

Therefore, industrial dispute mediation is one of the effective machineries to keep workers and their management in a good relationship. By nature, dispute cannot be totally avoided or prevented from occurrence as it is an epidemic in human society especially when there are opposing interests, when management or employer strives to maximize the profit with low cost while employees are praying for better living standards through satisfactory remunerations, employment benefits and better working conditions.

Having said the above, Liberia has some sections in its labour laws<sup>4</sup> and regulations on the amicable resolution of labour disputes. However, the application of those laws to effectively meet the objectives of mediation and access to justice<sup>5</sup> is challenged by several factors including lack of standardization and regulatory body to govern the practice under the current system. In addition to these, is the lack of sufficiently trained labour inspectors to provide mediation services in their respective

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<sup>3</sup> Gill Marcus, "Lessons for South Africa from Germany in a Challenging Global Environment," *Mostly Economics*, 2013, <http://tinyurl.com/y72lrxt>. (Accessed 14 February, 2016).

<sup>4</sup> Labour Law 1973, s 2002. And Decent Work Act 2015, ch. 40.

<sup>5</sup> Jacqueline Nolan-Haley, "Mediation and Access to Justice in Africa: Perspectives from Ghana," *Harvard Negotiation Law Review* vol. 21, no. 59 (2015): 60–104.