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ADDIS ABABA UNIVERSITY
COLLEGE OF LAW AND GOVERNANCE STUDIES
LL.M PROGRAMME IN BUSINESS LAW

**COLLECTIVE LABOUR DISPUTE SETTLEMENT MECHANISM IN
OROMIA REGIONAL STATE**

AYANA TOLINA GURMESSA

July, 2019

ADDIS ABABA, ETHIOPIA

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OROMIA REGIONAL STATE**

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A THESIS SUBMITTED TO THE SCHOOL OF GRADUATE STUDIES, SCHOOL
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AYANA TOLINA GURMESSA

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Declaration

I, Ayana Tolina, hereby declare that the thesis entitled “**Collective labour dispute settlement mechanism In Oromia Region**”, submitted by me for the award of the Degree of Masters of Law in Business law to the School of Law at Addis Ababa University, is original Contribution. I further affirm that it has not been submitted for an award of degree at this or any other University and that all sources of data used in thesis are duly acknowledged.

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Abbreviations and Acronyms

- ILO International Labour Organization
- LRBs Labour Relations Boards
- WOLRB West Oromia Labour Relations Board
- EOLRB East Oromia Labour Relations Board
- MOLSA Ministry of Labour and Social Affairs
- BoLSA Bureau of Labour and Social Affairs
- E.C Ethiopian Calendar
- Proc. Proclamation
- Art. Article
- FDRE Federal Democratic republic Of Ethiopia
- CETU Confederation of Ethiopian Trade Union
- ILC International Labour Convention
- ILS International Labour Standard

Abstract

The study was on collective labour dispute settlement mechanism in Oromia Region. The main objective is to evaluate whether collective labour dispute settlement machineries in Oromia Region is effective in preventing labour dispute. The thesis examines the current legal framework for collective labour dispute prevention and settlement and identifies some of the shortcomings in existing procedures and operations.

Both primary and secondary data are used for the purpose of this study. Particularly Labour Proclamation No.377/2003 and relevant ILO conventions and recommendations have been analyzed. In addition interviews, questionnaires, observations, cases decided by Labour Relation Board and relevant literatures have been used to analyze how collective labour dispute are being resolved in Oromia Region.

One of the main finding of this thesis is in Oromia Region collective labour disputes are not being settled in fair and quick manner because of necessary dispute prevention and resolution institutions and processes are not in place. The lesser emphasis given on capacity building for organs mandated with labour dispute settlement and Labour Relation Boards failure to settle collective labour dispute through consensus are the major limitation to prevent and resolve collective labour dispute effectively.

To curb rampant collective labour dispute in the Region the study proposed that deep knowledge and understanding of the Labour Law is needed, and that capacity needs to be built in negotiation, in workplace co-operation, in collective bargaining and eventually in collective labour dispute resolution.

Chapter One: Introduction

1.1. Background of the Assessment

Ethiopia is a multicultural federal state divided into nine regional states¹. Oromia is one of these nine regional states making up the federation. It is even the largest regional state both in terms of land coverage and population size. Owing to its location and resource, the regional state is considered as epicenter of socio-economic activities in general and labour market in particular hosting many medium and big size industries. These industries accommodate significant number of employees. As the future strategic plan of the country shows that it is to be led by the industry, it is normal to expect that this number will increase.

After downfall of military regime in 1991 Ethiopia introduced economic system driven by market forces. Market economies recognize the divergence of interests between workers and employers, and accept that the increased level of economic activity flowing from market forces, typically, is accompanied by increased conflict and disagreements between workers and their employers². The conflict and disagreement inevitable in a market system need not, however, escalate into full-blown, disruptive and damaging labour disputes. Provided the necessary dispute prevention and resolution institutions and processes are in place, conflict can be resolved fairly and quickly, and employer-employee harmony and cooperation restored.

In Ethiopia, the 1995 FDRE Constitution conferred the power of enacting the labour code to the federal government on the ground that such laws are instrumental for establishment of one economic community as promised in the preamble³. Pursuant to the Constitution, the House of Peoples' Representatives adopted a certain number of proclamations in order to regulate labour matters, such as the Labour Proclamation No. 377/20036, which was partly amended by labour (amendment) Proclamation No 466/2005 and 494/2006. Among several issues this labour law governs, establishing and defining institutions for labour dispute settlement which mainly concern on preventive approach was one of them.

¹The Constitution of the Federal Republic of Ethiopia, 1995, art 1 cumm art.47, PRO. No 01, *Neg.Gaz.*, Year 1

²Robert Heron and Hugo van Noord ; "National Strategy on Labour Dispute Prevention and Settlement in Cambodia"; Cambodia Ministry of Labour and Vocational training, (2004), page 7.

³Cited above at note 1, Art.55 (3) &the Preamble of the FDRE Constitution, Paragraph 5.

Accordingly, the Ministry or Bureau (at regional level) of Labour and Social Affairs, courts and Labour Relation Boards are the institutions established by this law that play a pivotal role in dispute settlement. The Ministry or the Bureau has wide areas of intervention to implement the labour law. From the perspective of dispute settlement, it assigns conciliator and endeavor to enable workers, employers or their respective associations to resolve their issues amicably⁴. Courts are empowered to hear and decide individual labour disputes⁵. Labour Relation Boards are given the power to hear and decide collective labour disputes⁶.

At present, these Labour Relation Boards are established at both Federal and Regional State levels. In Oromia Regional State, currently, there are four permanent Labour Relation Boards established to provide collective labour dispute resolution services. These Labour Relation Boards are located at Adama, Finfinne, Jimma and Nekemte towns. Those branches found in Jimma and Finfinne were opened in 2017. In addition the numbers of files pending in the boards are less than 10. As these two branches are not yet fully engaged in settling collective labour dispute the researcher preferred to omit them from the study and focused on those branches found in Adama and Nekemte. In addition Oromia Supreme court is entertaining appeals taken against the decision of the Labour Relation board. This thesis will assess how collective labour dispute is being resolved in Oromia Regional State.

1.2. Research Questions

As conflict is inherent to and inevitable in employment relationships, establishing effective dispute prevention and resolution processes is key to minimizing the occurrence and consequences of work place conflict. Conflict and disputes can be minimized, but the nature of employee employer interactions in a market economy point to the inevitability of conflict. Industrial relations in a market economy accepts and recognizes that employees and management have a diversity of interests and that some conflict is inevitable and needs to be managed⁷. The diversity of interests, however, does not have to mean constant disputes. Employees and employers can work together to resolve their differences and reach a common

⁴The Labour Proclamation, 2003, art.141, proclamation.377, Negarit gazetta no. 12, year 10,

⁵Id, Arts. 137-140.

⁶Id, Arts.144-156.

⁷Cited above at note 2 page 8.

understanding without disagreements escalating into disputes. The conflicting interest creates the need to discuss and negotiate, while the common interest provides the impetus to reach compromise and agreement. Disputes can be prevented and resolved by the action of the parties themselves, without the intervention of third parties. A preference for resolving disputes through the social partners rather than through government intervention is one approach taken in several European countries when it comes to collective labour disputes⁸. This approach reflects a policy grounded in the principles of “autonomy” and “voluntarism of the social partners” over their own affairs including disputes⁹. Collective labour dispute may also be prevented or resolved by services provided by state-supported or operated bodies, or private sector operators. An effective dispute management system aims for prevention in the first instance, and subsequently for the orderly and peaceful resolution of any disputes that arise in spite of preventive efforts, primarily through the efforts of the disputing parties themselves.

In Ethiopia; as can be inferred from the preamble of Labour Proclamation No.377/2003; one of the main targets of the proclamation is maintaining industrial peace. To realize this promise the proclamation established institutions and systems that deal with collective labour dispute prevention and resolution. Accordingly collective labour relation can be solved through conciliators appointed by Ministry of Labour and Social Affairs, Private organ (conciliators and arbitrators), Labour Relation Boards and Courts.

Despite the availability of all these instruments to maintain peace and harmony at work places, the problem of labour disputes still exists. Work place cooperation and collective bargaining at enterprise level are not being well practiced. There are no arrangements at enterprise level to address complaints in a systematic manner in many enterprises. Many collective labour dispute in Oromia Regional State are being resolved through adjudications. So it is necessary to evaluate whether collective labour dispute settlement machineries in Oromia Region is effective in preventing labour dispute. The thesis examines the current legal framework for dispute prevention and settlement and identifies some of the shortcomings in existing procedures and operations.

⁸ Professor Martin E. Risak and Christiane Holter(ed.), *“Strengthening the Mechanisms of Labour Dispute Prevention and Amicable Resolution in the Western Balkan Countries and Moldova”*; Sub regional Tripartite Conference; International Labour Office; (2009) page 5.

⁹ Ibid

Accordingly, the research will try to answer the following research questions.

1. What are collective labour dispute prevention and resolution mechanisms and institutions in Oromia Region?
2. How collective labour dispute is being resolved in Oromia Region?
3. What are factors limiting effective functioning Of collective labour dispute prevention and resolution mechanism in Oromia Region?

1.3.Literature Reviews

Those researchers who conducted legal research on labour dispute settlement mechanism in Ethiopia have indicated that there are many short coming regarding the legal frame work and practice.

Hiruy Wubie examined that having good dispute settlement mechanism is a pre-condition for harmonious working environment¹⁰. He mentioned that labour dispute is classified into individual labour dispute and collective labour dispute but shortcoming in terms of clarity regarding the criteria to differentiate collective labour dispute from individual labour dispute brought confusions requiring legislative amendment¹¹. He defined collective labour disputes as disputes related with creating new right or amending the existing ones. As judiciary gave judgement based on the existing rights courts are not appropriate forum to entertain collective labour disputes. Therefore, collective labour disputes are primarily dealt with by quasi-judicial bodies established by virtue of the Labour Proclamation, and courts are only in charge of appellate jurisdiction¹². Finally he suggested that owing to vagueness of the law there is huge difference in identifying individual and collective labour dispute making court decision unpredictable; but as Federal Supreme Court Cassation Division gave a precedent making the

¹⁰HiruyWubie, "The Settlement of Individual and Collective Labour Disputes under Ethiopian Labour law", *E-journal of International and Comparative Labour Studies*, Vol.2, No.1, (2013), page 39.

¹¹Id page 43

¹²Id page 57

distinction more clear; courts and Labour Relation Board has to follow and implement the ruling¹³.

Biranu Beyene examined that arbitration is considered as one of the collective labour dispute settlement mechanisms appropriate to handle labour disputes whenever there is willingness between the parties to make use of it¹⁴. Biranu focused on interest dispute which is one part of collective labour dispute as collective labour dispute includes both interest and right based labour disputes. Biranu explained that labour Proclamation No.377/2003 Art.141 opted for voluntary arbitration which avoids lock out or strike out which are costly method to break collective agreement impasse because it allows neutral third party to impose a binding decision on the matter.¹⁵ He added that under Art.141 of Labour Proclamation interest arbitration is designed to work in accordance with appropriate laws. As there is no specific laws designed for interest dispute the laws which are cross referred are Ethiopian arbitration laws which consists of Art. 3325-3346 of Civil Code; and Art.244/2/g/,315-319 and 350-357 of Civil Procedure Code¹⁶. Biranu concluded that designing interest arbitration to work on the rules of the ethiopian arbitration law without being selective is a poor design since the basic rules of this law are not suitable to the unique nature of interest arbitration¹⁷.

Mesfin Sileshi in mentioning CETU's view on the limitations of labour proclamation No.377/2003 said CETU believed that Article 145/1/ needs amendment because as it is number of government representative in the Board exceeds number of representative of employee and employer and hence the decision will favor government; professional assigned by Minister should not give binding decision rather they have to serve the purpose of consultation¹⁸. Regarding historical backgrounds of Labour Relation Board; Mehari Redai mentioned that the Labour Relations Board which was tripartite labour dispute settlement machinery outside the

¹³Id page 62.

¹⁴Birhanu Beyene Birhanu, "voluntary interest arbitration in the Ethiopian labour proclamation: the problems in its design and a way to fix them", *Oromia Law Journal*, vol.6, No.1,(2017), page 68.

¹⁵Ibid

¹⁶Id page 74.

¹⁷ Id page 84

¹⁸MesfinSileshi, "The extent of compatability and limitations of the labour proclamation no.377/2003 vis- a-vis fundamental ILO conventions", (LLM Thesis AAU), (2012), page 92.

ordinary court was established by Proclamation No.210/1963¹⁹. Regarding its composition Mehari explained that Labour Relation Board was composed of 'five persons appointed by the Emperor and in practice; out of the five, two were from trade union representatives and the other two were from the employers' side and the Chairperson of the Board came from the government side'²⁰. In addition he mentioned that now a day owing to mobility of capital the government is favoring capital at expense of core labour right and similarly judiciary also began to adopt investment- friendly interpretation of labour law provisions through Federal Supreme Court Cassation division which gives binding legal reasoning over all courts²¹.

Kassahun Kunde mentioned that as no adhoc Labour Relation Board is established in Oromia Regional State; permanent Labour Relation Board is under a heavy burden in entertaining all collective labour disputes²². So MOLSA needs to start a fast move towards the establishment of the adhoc Labour Relation Board so that the expeditious settlement of labour dispute will be achieved²³. He added that even though Labour Relation Board is required to give decision within 30 days from the date on which the claim is lodged practically the time limit is difficult to meet²⁴. Instead he recommended for extension of time limit based on number of divisions within the Board, availability of personnel and facilities within the Board and the need for expediency.²⁵ Kassahun also recommended MOLSA should make a move for a creation of permanent Board Representatives that serve on full time basis in the Board for the expeditious settlement of labour disputes²⁶.

Despite the contributions these studies made to the understanding of the concept of collective labour dispute settlement mechanism, certain questions still remain unanswered. The role played by government appointed conciliator in collective labour dispute settlement has to be analyzed as they play key role in preventing labour dispute and maintaining harmonious

¹⁹Mehari Redae, "*Privatization in Ethiopia; the challenge it poses to Uniniosation and collective bargaining*", (PHD Thesis Warwick University), (2015), page 61.

²⁰ Ibid

²¹ Id page 235.

²²Kassahun Kunde, "*Assessment of Labour Relation Board In Alternative Dispute resolution, The case Study Of Western Oromia Labour Relation Board*,(LLM thesis, Wollega University), (2014), page 70.

²³ Ibid.

²⁴ Id page 80.

²⁵ Id page 85.

²⁶ Ibid

relationship at industry level. Representation of concerned stake holders in Labour Relation Board is an area that needs further attention as Chairman of Labour Relation Board is High Court President who is busy with his regular duty and also some members of labour Relation Board will also be missing there by posing a challenge on expeditious settlement of collective labour disputes. This research is unique because it covers about ethics of members of Labour Relation Board, availability of resources to Labour Relation Boards, accessibility, independence, and case management of Oromia Labour Relation Boards and generally we will see the effectiveness of Labour Relation Board in preventing and settling Labour disputes. The role of Oromia Supreme Court in adjudicating collective labour dispute is also an area where no research is conducted on. But as the court has the jurisdiction to entertain appeal submitted against the decision of Labour Relation Board it requires further attention. Therefore, this research is believed to be unique in that it is sought to fill the gaps in the aforementioned areas.

1.4.Objective of the Study

a. General Objective

The General objective of this research is to analyze laws applicable to preventing and settling collective labour dispute in Oromia Regional State and to see whether there is discrepancy between the law and practice.

b. The Specific Objectives

The study has the following specific objectives:

- To describe types of labour dispute management systems practiced in our country.
- To explore the success of collective labour dispute prevention mechanisms in bringing good relation at industry level.
- To identify the overall challenges (legal, practical, and institutional) that hinder the efficacy, accessibility, and quality decision of the Labour Relation Boards in Oromia.
- To analyze the role of government appointed conciliators in Collective labour dispute settlement and critically examine whether the practice goes in line with the law.
- To explain the effectiveness of Oromia Supreme Court in entertaining appeals submitted against decision of Labour Relation Board.

1.5.Method of study

In conducting this research, both qualitative primary and secondary data have been employed in the following methods.

The research first clearly identified mechanism of Preventing and resolving collective labour disputes Under International Labour Organization Conventions and Recommendations; and Labour Proclamation No.377/2003 . After that, it examined the situation of the LRBs in Oromia against the above mentioned laws. In conducting this research, both quantitative and qualitative primary and secondary data have been employed. Accordingly, in depth interview is conducted with members of the two LRBs, secretary of the boards, trade union representatives, employers association, employers and employees' federation, secretary and professionals from Labour and Social Affair Bureau. Similarly, case files and annual plans and reports are assessed and analyzed according to their relevance. The following table depicts details of gathered data:

Table 1

<i>Institutions from where data are collected</i>	<i>Data gathering tools</i>	<i>Participants of the study</i>	<i>No. of data</i>
Labour Relations Boards	Interviews	<ul style="list-style-type: none"> • Chairman of the board • A member of the board from those appointed by the minister • Two members of the board representing trade unions • A member of the board representing employer's association • Secretary of the Board 	12 participants from the 2 Oromia LRB
	Important documents (Annual Plans, Performance reports, BPR, BSC, and etc documents)		6 (of the last 3 years at both Boards)
	Case files		40
Oromia Regional State Supreme Court	Interviews	Judges	3
Oromia	Interviews	<ul style="list-style-type: none"> • Head/Deputy of the Bureau 	4 (participants)

Labour and Social Affairs Bureau		<ul style="list-style-type: none"> • Industrial peace and relations process owner • Conciliators (2) 	
	Important documents (Annual plans, Performance reports, etc.)		3 (of the last 3 years)

1.6. Significance of the research

The outcome of this research will be significant in many ways. For instance, as stated before the currently available research works in the field of collective labour dispute in Oromia Region are not adequate. Thus, this research will fill the gap in the existing literature in the field. Second, the research will be informative to the public and the government about the status of collective labour dispute in Oromia Region and what needs to be done in the future to make the system more effective. Hence, the outcome of the research may influence individual and government actions. Finally, the outcome of the research could be used by other researchers as an input for further research in the field.

1.7. Scope Of the Study

This research examines the current legal framework for dispute prevention and settlement in Oromia Region, identifies some of the shortcomings in existing procedures and operations, and outlines a number of recommendations required for the improvement of the region’s collective labour dispute mechanisms and operations. There are different modalities by which collective labour dispute can be addressed. It can be resolved through collective bargaining, social dialogue, conciliation, mediation, arbitration, Labour Relation Board, and strike out or lock out. But as the topic is vast, it would be difficult with in the resource and time limitations of the study to examine every mechanisms of collective labour disputes settlement. In addition the practice of resolving collective labour dispute through arbitration is not fully developed in the Oromia Regional State. The scope of the study is limited to analyzing collective labour dispute settlement mechanism through government appointed conciliators, Labour Relation Board and Courts.

Due to practical limitations, the use of interviews to know the situation of collective labour dispute on the ground will be limited to some selected zones where basically Labour Relation Boards are found. Since the consideration of whether or not all the case decided by Labour Relation Board are in line with the law from the time it is established until the present is practically impossible for this research to cover, only some cases will be used/cited by way of examples in the text of this research.

1.8. Ethical issues

Realizing the indispensability of ethical considerations in any research work, I have explained to the interviewees as to confidential character of our relationship, a sense of trust was created. In addition I hold a neutral position and avoided biases to the extent possible in report writing. But during my interview with secretary of Labour Relation Board, on some points, i found them simply defending the institutions when they fail to admit very obvious shortcomings found in the institutions. I did my best to let them know that the research simply focuses on improving the system not harming individuals and finally we reached on agreements. In addition i used different sources to achieve the objective of triangulation.

1.9. Organization of The Study

This study is organized in sequence of chapters after the preliminary pages which contain acknowledgement, dedication, abbreviation and acronyms, abstract, table of contents, list of tables, list of figures and list of appendices. Chapter one has background to the study, chapter two concerns theoretical and conceptual aspects of collective labour disputes. Chapter three is about presentation, analysis and discussion of findings; chapter four presents conclusion and recommendation of the study.

Chapter Two

Collective labour dispute settlement mechanism

2.1 Introduction:

As feudal mode of production was replaced by industry; capital- labour relation began to emerge necessitating labour regulation. But state preferred to follow laissez-faire principle in which rights and duties of worker and employer are decided by parties and state intervene only to enforce promise created by parties in case there is a breach. In individual bargaining made between employer and employee; the employer can easily dictate each and every terms of the contract of employment leaving employee to work in very harsh working environment. Employees began to take collective action to make working condition better. This necessitated the need to regulate collective labour dispute.

In this chapter we will discuss parameters used by the legislature to categorize individual and collective labour disputes; Institutions established by our Labour proclamation to prevent and resolve collective labour disputes and labour dispute settlement under ILO International Labour Convention and recommendation.

2.2 Labour Disputes:

As it is true for many definitional matters, labour dispute has no one, agreed up on definition. Definition of labour dispute depends on the laws of the country, institutions given the power to settle disputes and procedures to be followed to resolve particular dispute²⁷. Black law dictionary defined labour dispute as:

*'Controversy between employer and employees concerning the terms and conditions of employment or concerning the association or representation of those who negotiate or seek to negotiate the terms or conditions of employment'*²⁸,

²⁷ International Labour Organization, labour legislation guidelines, [http://www.ilo.org/ legacy/english/ dialogue/ ifpdial/llg/noframes/ch4.htm#2](http://www.ilo.org/legacy/english/dialogue/ifpdial/llg/noframes/ch4.htm#2) accessed on 7/05/2018.

²⁸ Garner, B. A. (ed.), *Black's Law Dictionary*, 8th ed., West Academic, 2008, p. 878

The definition given to labour dispute according to Proclamation No. 377/2003 is, *any controversy arising between a worker and employer or trade union and employers in respect of the application of law, collective agreements, work rules, employment contract or customary rules and also any disagreement arising during collective bargaining or in connection with collective agreement.*²⁹

As it is understood from these definitions labour dispute is any disagreement either involving single employee and employer or many employees and employers and their association on existing issue or future interest.

2.2.1. Types of Labour Disputes

Labour disputes can be categorized depending on dispute settlement procedure or parties involved thereof. The widely known labour dispute classifications are³⁰:

Disputes about rights and disputes about interests (economic disputes), and individual and collective disputes³¹.

i. Dispute of Interest Vs. Dispute of Rights

A *rights dispute* is a dispute concerning the violation of or interpretation of an existing right or obligation embodied in a law, collective agreement or individual contract of employment. The main allegation of this dispute is, a worker, or group of workers, has not been afforded their proper entitlement(s)³². The parties to the dispute fail to agree on the existence or scope of application of a certain right granted by law or in the employment contract³³.

An *interest dispute* is one which arises from differences over the determination of future rights and obligations, and is usually the result of a failure of collective bargaining³⁴. It does not have its origins in an existing right, but in the interest of one of the parties to create such a right through its embodiment in a collective agreement, and the opposition of the other party to doing so. It arises when an employer and a worker or trade unions do not reach an agreement

²⁹Cited above at note no. 4, art.136 (3).

³⁰cited above at note no.27 page 12

³¹ Ibid

³² Ibid

³³Cited above at note 10,p.48

³⁴Cited above at note no.27, p. 15

on the need and the scope of application of a certain interest which is not detailed in the employment contract nor in relevant legislation³⁵.

ii. Individual Vs. Collective Labour Disputes

Individual disputes are rights disputes; they concern disagreements that relate to an existing legal right established by law or regulation, or by agreement³⁶. It can also include situations in which a number of workers disagree with their employer over the same issue, but where each worker acts as an individual. Under Art.138 of the labour proclamation individual labour dispute are enumerated.

Collective labour dispute is a disagreement between a group of workers usually, but not necessarily, represented by a trade union, and an employer or group of employers over existing rights or future interests³⁷. In a collective labour dispute, one of the parties is a generic group of employees, not considered as a simple plurality or aggregate of individual employees, but rather as a group structured on the basis of certain homogeneity in their claims³⁸. A collective labour dispute includes both dispute of interest and dispute of law. Collective labour disputes are indicated under Art.142 of labour proclamation.

Making distinction between individual and collective labour dispute is important because it determines the jurisdiction of court and Labour Relation Board. Court is given the power to adjudicate individual labour dispute whereas Labour Relation Boards are given the power to entertain collective labour disputes. But this is not an easy distinction to make, and some authors have repeatedly pointed out that the ideal way to differentiate the two types of dispute is to analyze the request made in the claim³⁹. If the question affects a group of employees or even a generic group that can be individually determined and a generic petition is made for the entire group, then the proper method to follow would be that of a collective dispute⁴⁰. If, on the

³⁵ Cited above at note 10, p. 48

³⁶ Cited above at note 2 page 10.

³⁷ Labour Dispute System, Guidelines for Improved Performance (*International Training Centre*), (2013) page 18.

³⁸ Adoracion Guaman Hernandez, Resolving individual labour dispute; A comparative over view, International Labour office ,(2016) page 204

³⁹ Ibid

⁴⁰ Ibid

other hand, individual and specific petitions are made for each of the employees, then the case is one of individual disputes⁴¹

In Ethiopia the labour proclamation did not clearly define individual and collective labour dispute. The confusion emanating from vagueness of the proclamation is creating huge problems as party does not know where to take their case; Court or Labour Relation Board. As we will see in chapter three organs mandated with settling labour dispute sometimes failed to identify individual labour dispute from collective labour dispute. But the Federal Supreme Court Cassation Bench gave a binding ruling with regards to identifying collective labour dispute and individual labour dispute. In its leading case on the issue at hand, the Cassation Division ruled that “our national legislation does not make the number of workers involved in a dispute a standard to differentiate individual and collective labour disputes; the fact that a certain dispute is submitted by one or more workers shall not ascertain the individual or collective nature of the dispute. Rather; if the effects of the dispute are limited to the disputing worker (or workers) it shall be considered as an individual dispute, whereas disputes whose effects transcend individual spheres and affect the joint interest of employees shall be collective labour disputes”⁴².

Inference one can make from this ruling is the standards used to differentiate individual labour dispute from collective labour dispute is whether the outcome of the decision affects collective interests of workers or not. Hence number of workers participated in the case is not a determinant factor; even if all workers in the enterprise brought a suit if the claim is individual and specific petitions for each employee then it will be individual labour dispute. Also the fact that the type of dispute is mentioned under Art.142 will not make the dispute collective dispute rather it has to be qualified with the ruling given by Cassation Bench. Labour Relation Board will assume power if and only if the effect of dispute mentioned under Art.142/1/ affects joint interest of employees. Hence it is valid to argue that the types of dispute mentioned under Art.138 can be taken as collective labour dispute when the outcomes of the judgement transcend individual Spheres and affect the joint interest of employees.

⁴¹ Ibid.

⁴² *KK Textile Workers' Association Vs KK Textile Industry*, Federal Supreme Court Cassation Division, File Number 18180, Hamile (July) 29, 1997 E.C. Published in Decisions of the Federal Supreme Court Cassation Division volume no.1 Page 1.

2.2.2. Labour Dispute Settlement: ILO Conventions and Recommendations Frameworks

When speaking of international standards of labour disputes regulation, it is noteworthy that ILO has not established specific procedures for the settlement of labour disputes. It has only established the general principles and guidelines for Member States. On the other hand, these guidelines and principles are essential when adopting national legislation and establishing the regulations of labour disputes prevention or settlement as well as implementing them in practice. There are dozens of ILO Conventions and Recommendations that are potentially relevant to resolution of labour disputes. Dispute resolution is addressed under the Collective Bargaining Convention, 1981 (No. 154). The convention provides that bodies and procedures for the settlement of labour disputes should be designed to contribute to the promotion of collective bargaining (Article 5(2) (e)). While Convention No. 154 focuses on collective bargaining, it also recommends use of conciliation and/or arbitration as part of the bargaining process where such processes are voluntary (Article 6).

Voluntary Conciliation and Arbitration Recommendation, 1951 (No. 92) recommends that voluntary conciliation should be made available to assist in the prevention and settlement of industrial disputes between employers and workers⁴³. It further recommends that such procedures should include equal representation of employers and workers, should be free and expeditious and voluntarily.

Also, the Examination of Grievance Recommendation, 1967 (No.130) addresses dispute resolution at the entries level, including rights dispute over alleged violation of collective agreements. The instrument further recommends that if dispute resolution at enterprise level has failed, there should be a possibility for final settlement either through the procedures set out by collective agreement, through conciliation or arbitration by the competent public authorities, through recourse to a labour court or other judicial authority, or through any other procedure deemed to be appropriate (paragraph 17). Similarly, Labour Administration Recommendation, 1978 (No.158) provides that the competent bodies within the labour administration should be in position to provide, in agreement with employers' and workers' association, conciliation and

⁴³ILO, Voluntary Conciliation and Arbitration Recommendation, 1951 (No. 92), paragraph 1

mediation facilities, appropriate to national conditions, in case of collective disputes (paragraph 10).

2.2.3. Labour Dispute Management Systems

Dispute management systems vary from country to country⁴⁴. In general, however, dispute management systems fall in to three main categories depending on the institutions in charge.⁴⁵ These are Ministry or department of labour, independent organ established by law, and shared arrangements. Let us see one by one.

i. Ministry or Department of Labour

Labour dispute prevention and resolution under this kind of system is the responsibility of national and state labour administration ministry or department. The process of conciliation and arbitration are firmly in the hands of labour department's officials although national circumstances may allow for some limited involvement of private agencies in the dispute resolution process. In many African countries, dispute resolution processes have been dominated by the state via the Ministry of Labour and Social Affairs, usually through its conciliation and mediation services⁴⁶

ii. Independent Organ Established By Law

Under this system, labour dispute management is the responsibility of bodies funded by state but which operate with high degree of autonomy and independence. Dispute prevention and resolution fall under the responsibility of an independent commission, authority, or similar body operating under its own legislation, and with its own governing council or board. The mandate, function and independence of such bodies are established by law. The involvement of private agencies in dispute resolution process is normally encouraged and supported by the independent body. In South Africa an independent conciliation and arbitration system (the commission for conciliation, mediation and arbitration) has been created.

iii. Shared Arrangements

Under shared arrangements system labour dispute prevention and resolution is shared between the labour administration institutions and an independent body⁴⁷. In Spain, for example, trade

⁴⁴Cited above at note no. 37 page 28.

⁴⁵*Ibid*

⁴⁶*Ibid*

⁴⁷*Id.* P29

union and employer organizations share the responsibility of dispute management with state labour administration institutions⁴⁸.

At this juncture it is imperative to mention the type of labour management system Ethiopia is following. As we will see in detail in the next section in Ethiopia both conciliators appointed by Government and Labour Relation Board are empowered by the Labour Proclamation to prevent and settle collective labour dispute. Conciliator appointed by government is normally found in Labour and Social Affair Bureau. With regards to Labour Relation Board; Art. 144/3/ stated that Labour Relation Board is under the local authority responsible for the implementation of labour laws. Similarly; in Oromia Region Proclamation No.199/2008 Art. 33/7/ stated that Oromia BOLSA shall establish, appoint necessary staff, administer, follow up and control labour Relation Board. Hence both conciliators and LRB are found with in Ministry of Labour and Social Affair. So Ethiopia followed labour management system directed by Ministry of Labour and Social Affair. Owing to level of economic development; Ethiopia can't afford necessary resources so that labour department can function effectively. So in addition empowering social partners to share the responsibility of preventing and resolving collective labour dispute is necessary and hence shared arrangements are more recommendable in maintaining harmonious labour relationship at industry level.

2.3. Collective Labour Dispute Resolution under the Ethiopian Context

Labour law proclamation No 377/2003 established different institutions that are empowered with the task of settlement of labour disputes. Accordingly, collective labour disputes can be settled by negotiation, conciliation, arbitration, courts, and LRBs. Let us see one by one briefly.

2.3.1 Negotiation:

Negotiation is any formal or informal discussion between the social partners with a view to arriving at an agreement on issues of common interest and benefit⁴⁹. Discussion and negotiation between the parties involved, without the assistance of any outside agency, is, of course, the first step in any effort to settle a dispute. Discussion and negotiation with respect to the terms of a contract is encompassed in the term "collective bargaining," a process in which

⁴⁸ Ibid

⁴⁹ Cited above at note no.19, page 73

all parties-labour, management, and government-today proclaim their belief⁵⁰. Collective bargaining is the process by which representatives of a company and representatives of its employee meet to discuss and negotiate the various phrases of their relationship, which have been declared to be proper subject matters of bargaining with in the objective of arriving at a mutually acceptable labour agreement.

“Collective bargaining served as a method or process of rule making of a private nature which is intended to regulate the relations of both negotiating parties and it also a way of attaining beneficial and productive solutions to potentially conflictual relations between the social partners”⁵¹. Similarly; under Labour Proclamation No.377/2003 Art. 124/2/ collective bargaining is defined as a negotiation made between employers and workers organizations or their representatives concerning condition of work or collective agreement or the renewal and modification of the collective agreement.

An agreement arrived at by successful bargaining without the use of any substitute and aid is the most desirable method of settlement of any labour dispute. Because the very nature of collective bargaining makes mediated settlements an even more natural objective than in most law suits. Collective bargaining serve as a dispute settlement mechanism by itself and its end result, normally, provides procedure and mechanisms for an efficient and smooth settlement of disputes that may arise in the day by day implementation of an agreement. All in all the writer believes that an agreement arrived at by successful bargaining is the most desirable method of settlement of labour diputes.

2.3.2. Conciliation

The labour law defined the term “conciliation” as the activity conducted by a private person or persons appointed by the Ministry at the joint request of the parties for the purpose of bringing the parties together and seeking to arrange between them voluntary settlement of a labour dispute which their own efforts alone do not produce⁵². From this definition, one can easily understand that the labour law recognized two types of conciliations depending upon their initiations.

⁵⁰ Paul H. Sanders, types of labour disputes and approachesto their settlement; Law and contemporary problem, (1960), page 214.

⁵¹ Cited above at note no.19 page 73.

⁵² Cited above at note no.4, Art.136(1).

These are conciliation made upon the initiation of the agreement of the disputing parties themselves, and conciliation made upon the initiation of one of the disputing parties⁵³. In the first scenario, parties to a dispute may agree to submit their case directly to conciliators. Hence, they themselves initiated the process of conciliation. In the second scenario, either of the disputing parties reports his/her grievance to the Ministry⁵⁴, in the first place. After that, the Ministry assigns a conciliator at the national and when necessary at the woreda level to bring about a settlement of a case⁵⁵. Once assigned, the conciliator shall endeavor to bring about a settlement by all reasonable means as may seem appropriate to that end⁵⁶.

However, upon failure to settle the dispute, one can see a difference in this regard. Accordingly, if Ministry assigned conciliator fails to settle a labour dispute within 30 days, he shall report with detailed reason thereof to the Ministry and shall serve the copy to the parties involved⁵⁷. After this, a party can take the case to the permanent or the adhoc LRB as the case may be. On the other hand, if the disputing parties' conciliator fails to settle, s/he is not required to report to the Ministry, and the party aggrieved may take the case directly to the Board⁵⁸.

2.3.3. Arbitration

The other avenue to settle labour disputes under the labour proclamation is arbitration. Accordingly, parties to the dispute may agree to submit their case to arbitrators⁵⁹.

Arbitration, in the context of labour disputes, has been described as the submission of a dispute to a neutral or group of neutrals whose function is to conduct a hearing and render a judgment (termed as award) which is binding up on the parties⁶⁰. Like conciliation, arbitration may be voluntary or compulsory depending on the initiation of the proceeding. Arbitration is

⁵³ Id, Art.141 cum.143

⁵⁴ Ministry, as defined under Art.2(4) of the labour proclamation means, Ministry of Labour and Social Affairs or Bureau of Regional Labour and Social Affairs

⁵⁵ Cited above at note no.4, Art.141(1-2)

⁵⁶ This is explicit for the Ministry assigned conciliator as can be read from Art. 142(2) of the labour proclamation. Although this is not explicitly provided in the law one cannot expect a different role that disputing parties' assigned conciliator plays.

⁵⁷ Cited above at note no.4, Art.142(3)

⁵⁸ Id, Art. 143(2)

⁵⁹ Id, Art. 143(1)

⁶⁰ Walter A. Maggiolo, technique of mediation in labour disputes, (1971), page 3.

compulsory if the submission of the dispute to the neutral is based not on the consent, expressed or implied, of the parties but rather an administrative or legal compulsion or direction. Arbitration is voluntary when the submission to neutral is based on the consent, expressed or implied, of the parties. In our Labour Proclamation as is the case in parties' assigned conciliator, arbitration presupposes the agreement of disputing parties. So arbitration under our system is voluntary in nature i.e. both the submission and arrangement exclusively depend on their mutual consent. If the arbitrators do not settle the case amicably, the party aggrieved may take the case on allowed grounds to the appropriate court⁶¹. However, apart from providing arbitration as one way of settling disputes, the labour proclamation is silent as to its details such as the basic law and procedure to be followed. In that regard, one may expect normal arbitration procedures existing in the Civil Code and Civil Procedure Code to be applicable.

Some argued that the Proclamation is ill designed in simply cross referring laws governing arbitration of labour dispute to general laws applicable to arbitration; as it disregards unique nature of collective labour dispute⁶². Biranu pointed that the proclamation should not have simply cross-referenced "the appropriate law" (i.e, the Ethiopian Arbitration Law) indiscriminately to be applicable on interest arbitration rather it should have identified the unfit rules and provided instead rules suitable for interest arbitration⁶³. Article 3325/1/ Of Civil Code dictates the arbitrators to use " principle of law" in rendering award; but as interest dispute is basically a dispute to create future right it is one of the unfit rules.

2.3.4. Labour Relations Boards (LRBs)

LRBs are the other labour dispute settlement institutions that are established by the labour proclamation⁶⁴. These Boards can be categorized either as permanent or adhoc⁶⁵. Both are under the local authority responsible for the implementation of labour laws⁶⁶. The two Boards are similar in terms of composition and meeting procedures⁶⁷. Although basically the two

⁶¹ Cited above at note no.4, Art.143(2)

⁶² Cited above at note no.14, page 84.

⁶³ Ibid.

⁶⁴ Cited above at note no.4; Art.144

⁶⁵ Ibid.

⁶⁶ Ibid

⁶⁷ Id, Art.145 cum.146

Boards entertain collective labour disputes, they have different jurisdictions⁶⁸. Let us see them differently.

a. Powers of the Permanent LRBs

While discussing powers of both permanent and adhoc LRBs, Arts.136 (2), 142(1) and 147 the labour proclamation can be the starting points. Art.136(2) defines the term "essential public services undertakings" as those services rendered by undertakings to the general public and includes air transport, undertakings supplying electric power, undertakings supplying water and carrying out city cleaning and sanitation services, urban bus services, hospitals, clinics, dispensaries and pharmacies, fire brigade services and telecommunication services⁶⁹. Art.142 (1) mentions duties and responsibilities of the conciliator, and Art.147 enumerates the powers of permanent and adhoc LRBs by making cross-reference to Art.142 (1).

Based on this framework, the permanent LRB has jurisdiction to hear and conciliate or decide cases involving establishment of new conditions of work, the conclusion, amendment, duration and invalidation of collective agreement, the interpretation of any provisions of labour proclamation, collective agreement or work rules, procedure of employment and promotion of workers, matters affecting the workers in general and the existence of the undertaking, claims relating to measures taken by the employer regarding promotion, transfer and training, claims relating to the reduction of workers, cases submitted to it by one of the disputing parties after the parties fail to reach an agreement in accordance with Art.142(3), and prohibited actions referred to Art.60⁷⁰.

On matters of evidence, the permanent LRB has also conferred the power to require any person or organization to submit information and documents necessary for the carrying out of its duties, to require parties and witness to appear and testify at hearings, to administer oaths or take affirmations of persons appearing before the Board and examine any such person upon such oath or affirmation, to enter the premises of any working place or undertaking during

⁶⁸ Id,Art.147

⁶⁹ Cited above at note no.4; Art.136 (2)(a-g).

⁷⁰ Id,Art.142 (1) (b-h) cum.147 (1) (b-c) .

working hours in order to obtain relevant information, hear witnesses, or to require the submission of documents or other articles for inspection from any person in the premises⁷¹.

b. Powers of the Adhoc LRBs

The Adhoc LRBs have jurisdiction to entertain labour disputes on matters of wages and other benefits arising at essential public services undertakings mentioned under Art.136(2) of the labour proclamation⁷². For example, if a dispute arises between the employees and the employer on wage in telecommunication services, either of the disputing parties may take the case to Adhoc LRB. So, the jurisdiction of the Adhoc LRBs can be determined by referring into the subject matter of the dispute and the types of disputant undertaking.

Practically, adhoc LRB is not established in Oromia region. Permanent LRB alone entertains all collective labour disputes, including those matters which fall under the jurisdiction of adhoc LRB. This is made based on administrative delegation as MoLSA passed a circulation that authorizes permanent LRBs to entertain matters falling within the jurisdiction of the Adhoc Board. But the researchers are of opinion that MoLSA cannot pass such circulation as the issue is already regulated by the proclamation and the proclamation has its own justification while it establish and define the two Boards.

iv. Purpose and objective

The purpose and objective of LRBs (both permanent and adhoc) can be inferred from Art.150 of the labour proclamation. This article has three sub-articles and its first sub-article provides that 'the permanent or the adhoc Board shall endeavor to settle by agreement labour disputes submitted to it, and to this end it shall employ and make use of all such means of conciliation, as it deems appropriate'⁷³. From this provision, one can easily understand that the primary purpose of the LRBs is to try its level best to settle labour disputes by agreement. To do this, the Board considers not only the interest of the parties immediately concerned but also the interest of the community of which they are a part in which case it may grant a motion to intervene by the government as *amicus curiae*⁷⁴. Moreover, in reaching any decision, the Board shall take into account the substantial merits of the case, and need not follow strictly the

⁷¹Id, Art. 147(1)(d, e, f & g) .

⁷²Id, Art.144(2).

⁷³Id, Art.150 (1)

⁷⁴Id, Art.150(2)

principles of substantive law followed by civil courts⁷⁵. The effort is to enabling workers and employers to maintain industrial peace and work in the spirit of harmony and cooperation as promised in the preamble of the labour proclamation⁷⁶

In case the LRBs fail to settle the dispute through conciliation, they give orders and decisions which have immediate effect and shall be considered as those decided by civil courts of law⁷⁷.

Generally, under the labour proclamation, there are several institutional avenues for settling labour disputes. The primary concern of most of these institutions (except regular courts) is to end the dispute peacefully through conciliation.

2.3.5. Courts

The FDRE Constitution establishes an independent judiciary and it clearly spells out that judicial powers, both at Federal and State levels, are vested in the courts⁷⁸. There are three tiered courts both at the Federal and State levels namely, the Federal Supreme Court, Federal High and First Instance Courts, and at state level; the State Supreme Court, State High and First-Instance Courts. The Constitution has directly established the Federal Supreme Court at the federal level, and the three tiers of state courts at the state level. But this doesn't mean courts can entertain all disputes as limitations are set by the law. FDRE constitution Art.37 states that courts can entertain only justiciable matter (matter liable to be entertained in a court of justice; matter appropriate for court review). In addition Art.4 of the Civil Procedure Code indicated that without prejudice to the provisions of the following Articles, the courts shall have jurisdiction to try all civil suits other than those of which their cognizance is expressly or impliedly barred. As mentioned in previous section the original jurisdiction to entertain collective labour dispute is given to Labour Relation Board. So courts are precluded from entertaining labour cases in original jurisdiction.

According to Labour Proclamation No.377/2003 Art.138 labour divisions at each Regional First Instance court have jurisdiction to settle and determine individual labour disputes which, *inter alia*, include, disciplinary measures including dismissal, claims related to the termination

⁷⁵Id, Art.150 (3)

⁷⁶Id, First paragraph of the preamble of the Labour Proclamation.

⁷⁷Id, Art.147 (4) .

⁷⁸Cited above at note no.1, Art.78&79/1/.

or cancellation of employment contract, questions related to hours of work, remuneration, leave and rest day, claims related to employment injury, and any criminal and petty offences under the labour proclamation. Under Art.142 collective labour dispute to be entertained by Labour Relation Board are listed.

The labour division of the Federal High Court shall have jurisdiction to hear and decide on appeals against the decision of the Board on questions of law⁷⁹. Accordingly, it is competent to uphold, reverse or modify the decision of the LRB⁸⁰. Here also, its decision is final⁸¹.As power given to Federal High Court is delegated to Regional supreme court(FDRE Constitution Art.79) In Oromia Regional State; Oromia Regional Supreme Court will entertain appeal against decision of Labour Relation Board. In short, labour divisions of the regular courts entertain labour disputes either in their first instance jurisdiction or in their appellate jurisdiction.

As mentioned previously Labour Relation Board is given the priority because of the peculiar nature of collective labour dispute; as the dispute may go to extent of disturbing social order. Hence adjudication is not the proper way of addressing such disputes; rather conciliation is the best way to address the dispute.

⁷⁹Cited above at note no.4, Art. 140(1)

⁸⁰Id, Art. 154(2)

⁸¹Id, Art. 140(2)

Chapter 3

A Case Study Of Collective Labour Dispute Settlement Mechanism In Oromia Region

3.1. Introduction

Increased attention to the prevention of labour disputes will not totally eliminate disputes. Inevitably, some disputes will arise and thus it is necessary to determine how these might be handled. Unlike other disputes which are expected to be resolved by the strict application of the law, the resolution of labour disputes is not alone governed by the law but along with other consideration as well. The continuance of harmonious relations between the employers and his employee demanded collective labour dispute to bear in mind the effect of decision on the national economy. In their fight for their respective claims the parties may choose to ignore the demand of national economy but industrial adjudication cannot. So labour dispute requires special attention and proper handling. Resolving disputes through the social partners rather than through government intervention is preferable because it creates more stable industrial relations. But if parties fail to settle their dispute; government intervention is necessary. Under this chapter we will analyze the competence of institutions established by the labour proclamation to resolve labour disputes in Oromia Region.

Government appointed conciliator is one of the organs mandated with settling collective labour disputes. Conciliation may be prescribed as the practice by which the service of neutral party are used in a dispute as a means of helping the disputing parties to reduce their difference and to arrive at an amicable settlement or agreed solution. The conciliator appointed by the Ministry endeavor to bring about a settlement on the matters similar to collective labour disputes and matters specified under Art.142/1/ of the Proclamation. Now days as industrial peace are in danger; the role of conciliator in maintaining industrial peace is very crucial. Under this chapter we will see the role played by the conciliators in maintaining industrial peace.

Labour Relation Board is another main organ mandated with settling collective labour dispute. Before adjudicating; Labour Relation Board will endeavor to settle the dispute through consensus. But in case conciliation failed; they will give a binding judgement and they are at liberty to follow their own procedure in adjudicating labour dispute. Decisions made by Labour Relation Board can be reviewed by Oromia Supreme Court on appeal if it is related with legal questions. In addition if it contains basic error of law it can be reviewed at Oromia Supreme Court Cassation level. In this chapter we will discuss in depth about the organizational establishment of Labour Relation Board and quality of services they give. In addition we will also see the role played by Oromia Supreme court in reviewing decisions given by Labour Relation Boards.

3.2. Conciliation

Conciliation is one of the methods used by the Labour Proclamation No.377/2003 to solve labour dispute. Conciliation may be prescribed as the practice by which the service of neutral party are used in a dispute as a means of helping the disputing parties to reduce their difference and to arrive at an amicable settlement or agreed solution⁸². It is a process of retinal and orderly discussion of difference between the parties to a dispute under the guidance of the conciliator⁸³.

As process of peace-making industrial relation, conciliation aim to bring the speedy settlement of dispute without resort to strike or lockouts. The practice of conciliation in industrial disputes has developed mainly in connection with disputes arising from the failure of collective bargaining i.e the negotiation between the parties with a view to the conclusion of a collective agreement. Under our labour proclamation conciliation is provided by governments but may also be instituted under private arrangement which is encouraged by governments.

In Ethiopian labour proclamation agreement of private conciliation can be implemented in two ways. First; parties may agree for a grievance procedure in their collective agreement, and may include a term for the appointment of a conciliator, so as to help them settle their disputes. Though, the manner and matter of this kind of arrangement is not given the purpose of the law

⁸²Cited above at note no 24 page 28

⁸³ Ibid

listing the possibility for a grievance procedure as a bargain able item under Art. 129/4/ can be taken as an indicator for the permissibility of that kind of conciliation.

The second type of conciliation under the private system is still based on the agreement of the two parties, but on an ad-hoc basis. In other words after a dispute has occurred parties may agree to submit their dispute to a conciliator that can be either a board or private individual(because there is no restriction set negating the way labour dispute can be settled).

But in principle conciliation is provided by government through Ministry of Labour and Social Affairs Bureau. The conciliator appointed by the Ministry endeavor to bring about a settlement on the matters similar to collective labour disputes and matters specified under Art.142/1/ of the proclamation. At international level ILO Recommendation No.92 provides for voluntary conciliation machinery appropriate to national conditions, should be made available to assist in the prevention and settlement of disputes between employers and worker and that procedure should be free of charge and expeditious. ILO Recommendation No.92 mentioned the importance of conciliation as a machinery or system to prevent and settle industrial dispute but the conciliation have to be voluntary. Conciliation can be either voluntary or compulsory depending on the legal system of that country.

At this juncture it is necessary to verify the position of our labour proclamation as to the status of conciliation or in other word is conciliation is voluntary or compulsory in Ethiopia? In some countries mandatory conciliation is employed as useful tool to settle collective labour dispute. For example, in Philippines the organ vested with power of settling collective labour dispute, the National Labour Relation Commission uses mandatory conciliation or mediation⁸⁴. The purpose of such conciliation or mediation is to determine real parties in dispute, to settle disputes by fair compromise, to determine the necessity of amending compliant or including all causes of action, to define and simplify issues in the case, to enter in to admission or stipulation of facts and threshing out all preliminary matters.⁸⁵

⁸⁴National labour relations Commission Department of labour and Employment Republic of Phillippines <https://nlrc.dole.gov> Accessed on September 4, 2018.

⁸⁵Ibid.

According to Labour Proclamation No. 377/2003, government appointed conciliator is also given the power to see and to settle collective labour disputes.⁸⁶ If conciliator fails to settle such disputes he or she will report with detail reason thereof to the Ministry and give copy such report to parties involved.⁸⁷ Then any of party involved in such conciliation can take their matter to LRB. It is unclear from the wording of the proclamation whether going to such conciliator is mandatory or simply matter of choice for parties. Similarly the question whether plaintiff has to annex report of conciliator to his position paper (statement of claim) and the effect of this report is questionable. According to the rule of evidence and procedure of Labour Relation Board annexation of conciliator's report is mandatory prerequisite to file compliant at Board.⁸⁸ This indicates that parties must exhaust conciliation effort by government appointed conciliators before they file collective labour dispute to board. Oromia LRBs take issues they consider as collective labour dispute without report of conciliator being a precondition. They even do not accept the objections on this matter.⁸⁹ Informants say parties especially employer will not attend conciliation service session arranged by LSA offices. There is no clarity on what steps and measures conciliator in LSA office will follow in such cases.⁹⁰ So rejecting complaints coming to the Board if report of conciliator is not annexed will not serve any purpose except frustrating the parties.⁹¹ One can see weak frame work and lack of coordination between conciliator in LSA office and Board in providing effective conciliation service. The report of conciliator can help the Board in understanding and framing the case. It could have been solution for current problem of entertaining labour dispute without jurisdiction as issues in dispute will be screened and refined during this conciliation. Furthermore parties will slip an opportunity to find consensus oriented solution as dispute resolution in Labour Relation Boards mostly ends in adjudication.

⁸⁶Cited above at note no. 4, Art. 142.

⁸⁷Id, Art. 142(3).

⁸⁸ Rule of Evidence and Procedure & Code of Conduct for Oromia LRBs, 2009, Art 1(1.1) (a), (unpublished)

⁸⁹Mulumabet Ayalew, Secretary of WOLRB, 15/08/2018; Melaku Ayele, EOLRB Secretary, Interviewed on August 3, 2018

⁹⁰Tulu Bulu, EOLRB member (Government representative) interviewed on August 8, 2018

⁹¹Melaku Ayele, EOLRB, Secretary, Interviewed on August 3, 2018; Tulu Bulu, EOLRB member (Government representative), Interviewed on August 8, 2018

In Oromia Regional State the culture of bilateral negotiation/ social dialogue/ between employer and employee at plant level is minimal⁹². The problem is exacerbated by the decline of unionization in many organizations. Now a day employees began to take action by themselves to the extent of beating managers in the working compound forcing employer respect and enforce their legal right.⁹³ These facts reveal that industrial peace is in danger. So the role of government appointed conciliator is huge in maintaining industrial peace. But some employers are not cooperating as they fail to appear before the conciliator when requested to appear before government appointed conciliators⁹⁴. By its very nature conciliation requires the presence of both party in utmost good faith and non-appearance of one party will reduce the effectiveness of the conciliation as no successful conciliation can take place in absence of one party.

In Some foreign owned enterprises; owners live abroad and their attorney who appear before conciliator has no mandate to make conciliation then the conciliator is forced to postpone until the owner comes from abroad⁹⁵. This will in turn make the procedure tedious and reduce its efficiency as workers will be forced to look for other option such as adjudication. Absence of legal sanction in case they fail to obey the direction or order given by conciliator made some employers prefer to reject the order given by conciliator⁹⁶. Similarly, some attorneys and lawyers representing the parties are obstructing the conciliation. They counsel their clients not to participate in conciliation.⁹⁷ But in many cases the conciliator achieved success as they solved many collective labour disputes.⁹⁸ Especially by creating a medium where by both parties present their case and negotiate; conciliators are solving many industrial disputes. For instance in one case⁹⁹the employer refused to pay wage increments and bonuses stipulated under collective agreements for some workers. Then trade union took the case to government

⁹²MelakuAyele, EOLRB Secretary, interviewed on August 3, 2018

⁹³ Lemma Wayesa, East Showa Zone Government appointed Conciliator, interviewed on August 6, 2018.

⁹⁴Ibid.

⁹⁵AddunyaTeseemma, East Wollega Zone Government appointed conciliator, interviewed on August 13,2018.

⁹⁶Lemma Wayesa, East Showa Zone Government appointed Conciliator, interviewed on August 6, 2018.

⁹⁷KebedeAlemu, Senior Conciliator at Oromia Labour and Social Affairs Bureau, August 10, 2018.

⁹⁸AddunyaTeseemma, East Wollega Zone Government appointed conciliator, interviewed on August 13,2018

⁹⁹Lemma Wayesa, East Showa Zone Government appointed Conciliator, interviewed on August 6,

2018.AddunyaTeseemma, East Wollega Zone Government appointed conciliator, interviewed on August 13,2018.

⁹⁹ Nu-era Farm Basic Trade Union vs. Upper Awash agro Industry ; the dispute was solved through conciliation by East Shoa Government appointed conciliator;on February 8,2018.

appointed conciliators; the conciliator after hearing both parties suggested that employer has to pay the wage increments and bonuses as they have already agreed to do so in collective bargaining. Accordingly the employer accepted and effected the payment. In addition; in one case the conciliators successfully resolved the dispute by suggesting the increment of minimum wage paid for employee working in horticulture to Birr 1459 per month¹⁰⁰.

In addition the conciliators also told us that attention given by the government on conciliation is too low especially as there is no vehicle to visit the working compound and solve the dispute at grass root; no enough training; no necessary office required for the conciliation and low finance provided for the conciliation¹⁰¹. There is some lawyer who supported this position stating that over emphasis on the desire to ensure economic growth without providing comparable attention to the social goal made the government give more attention and protection to economic growth (capital) at expense of core labour rights¹⁰². Finding a suitable balance between economic development and social protection strikes at the very core of industrial relations in Ethiopia, and requires on-going cooperation between the Ministry, government institutions, employers and their associations, and workers and their respective trade unions. The writer believed that the type of development preferred under the basic law (FDRE constitution) Art. 43/1/ is sustainable development which requires both social and economic development. The government needs to give necessary attention so that Oromia BOLSA will build its overall technical, managerial, information, and logistic capacity. Giving training targeted at filling the skill and knowledge gap of conciliator is also necessary. As conciliation is one of the best ways to deal with collective labour dispute especially in maintaining harmonious relationship; it is necessary to create more awareness on advantages of conciliation so that employer will willfully cooperate. Oromia BOLSA is empowered to take necessary actions to prevent collective labour dispute and maintain industrial peace under Proclamation No.199/2008 Art.37. But practically as the Bureau is not undertaking its duty a simple dispute escalate to major collective labour disputes. So to prevent collective labour

¹⁰⁰Lemma Wayesa, East Showa Zone Government appointed Conciliator, interviewed on August 6, 2018; in this case employee working under horticulture demanded salary increment and finally after hearing both parties both employer and workers agreed to raise the minimum wage to birr 1450 per month.

¹⁰¹Addunya Tesemma, East Wollega Zone Government appointed conciliator, interviewed on August 13, 2018

¹⁰²Cited above at note no. 19; page 214.

dispute the Bureau has to encourage informal dispute handling through dialogue; active involvement of the social partners in labour dispute and unionization and collective bargaining

3.3. Labour Relation Boards in Oromia

3.3.1. Human Capital

i. Composition of the LRB members

According to ILO, effective dispute prevention and resolution system is the one that ensures participation of workers and employers on an equal footing¹⁰³. This means concerned stakeholders, both men and women should participate either directly or through legitimate intermediate institutions or representatives in decision-making¹⁰⁴. This recommendation extends to LRBs as they are part of decision-makers. The idea is that labour laws can be executed in an even-handed and enlightened manner if there is some degree of willing cooperation from the parties affected¹⁰⁵. That is to say, representation of the divergent constituencies which are found within either the management or the trade union movement makes the system effective not only by increasing trust on the fairness but also by adding moral strength to the LRB's decisions¹⁰⁶. This is mainly achieved by adhering to tripartite pattern. Tripartite pattern is an arrangement by which LRB is composed of a number of "neutrals" (government) designated as vice-chairperson and chairperson, representatives of trade unions, and representatives of the management¹⁰⁷.

Under the Labour Proclamation, the LRB is composed of nine members: a chairperson, two qualified members who have the knowledge and skill on labour relation, appointed by the Minister (of Labour and Social Affairs), four members of whom two represent the trade unions and two represent employer's associations, and two alternate members one from the workers'

¹⁰³Such type of concern is already envisaged by different ILO Conventions and Recommendations. See for example, Art 3(2) of the Tripartite Consultation (International Labour Standards) Convention, 1976 (No.144); Art.2 of the Voluntary Conciliation and Arbitration Recommendation, 1951(No.92), and Art.6 & Art.13(1-2) of the Examination of Grievances Recommendation, 1967(No130).

¹⁰⁴Cited above at note no.37; P35.

¹⁰⁵Alan f. J. Artibise "A Worthy, if Unlikely Enterprise": The Labour Relations Board and the Evolution of Labour Policy and Practice in British-Colombia, (1973-1980), p24.

¹⁰⁶Id p.26; see also Fumane 'MalebonaKhabo, Collective Bargaining and Labour Disputes Resolution – Is SADC Meeting the Challenge? (ILO Sub-regional Office for South Africa Issue Paper No. 30, March 2008), p21.

¹⁰⁷Idp.25.

side and one from the employers' side¹⁰⁸. Employers' representatives shall be appointed from the most representative of employers' associations and workers representatives shall be appointed from the most representatives of trade unions¹⁰⁹.

Hence, at least legally speaking, the composition of the Labour Relation Board reflects the tripartite pattern as suggested by ILO. In practice, the chairpersons of the two LRBs are from the High Courts. Since the establishment of the two LRBs, the Presidents of the East Wollega and Adama Special Zone High Courts chair the Boards in their respective zones¹¹⁰. The only deviation from this established practice is the present case of the EOLRB which is being chaired by a judge at Adama Special Zone High Court.

Such practice has both merit and demerit. On the one hand, the High Court Presidents are well qualified and experienced in judicial works. As a merit, since the Board's work is quasi-judicial in its nature, it is good if it is led by such qualified and experienced persons¹¹¹. In addition to this, since these presidents are one of the influential persons in their respective zones, and the role of LRBs is practically less known among its customers and stakeholders, it facilitates the execution of Boards decisions¹¹². On the other hand, these persons are very busy administering their own regular duties, and frequently absent from the meeting of the Board¹¹³. Viewed from this vantage point, making High Court President the chairperson is not good.

In Ethiopia, the Labour Proclamation provides that the LRBs have seven members¹¹⁴. Given the number of cases yearly filed and disposed by the two Oromia LRBs, one may safely argue that the number of members is enough. However, practically alternate members are not represented both in EOLRB and WOLRB because of budget constraint¹¹⁵. This is unnecessary

¹⁰⁸Cited above at note no.4 ;Art.145 (1).

¹⁰⁹Id;Art.145 (2).

¹¹⁰KebedeAlemu, Senior Conciliator Oromia Labour and Social Affairs Bureau, interviewed on August 10, 2018.

¹¹¹WerkalemMuleta,EOLRBMember,interviewed on August 9,2018.

¹¹²KasaheZerihun, East wollega Zone High Court President and chairperson of WOLRB ,interviewed on August 15,2018.

¹¹³The researcher observed the existence of this problem from cases that are analyzed for samples.

¹¹⁴Cited above at note no.4; Art. 145(1).

¹¹⁵KebedeAlemu, Senior Professional on Conciliation, Association and Collective Agreement, OromiaBoLSA, interviewed on August 10, 2018.

deviation since alternate members have great contribution in facilitating the LRB's work by constituting a quorum¹¹⁶.

i.i. Ethics of the LRB Members

Compliance with laws, fairness and courtesy, timeliness, quality and consistency, expertise and competence, integrity, collegiality, objectivity and impartiality, and confidentiality are common ethical principles by which members of LRBs are governed¹¹⁷. The LRBs in Oromia do not have such detailed ethical principles by which they are guided. However, the Labour Proclamation and the working rules and procedures of the LRBs have different provisions which govern the ethics of LRB members. For example, with regard to accountability, the labour proclamation provides that the Ministry or Bureau shall dismiss a member in case of negligence of duty or malfeasance in office and shall arrange for the appointment of a substitute for the remaining, unexpired term¹¹⁸. Similarly, the working rules and procedures of Oromia LRBs contain some provisions dealing with ethical issues. The following provisions are cases in point:

- On the meeting date, members of the Board shall be punctual¹¹⁹.
- The chairperson shall report to the concerned body in case members of the Board commit unlawful act or they show negligence¹²⁰.
- Any discussion made among members of the LRBs shall be kept in secret¹²¹.

These are the legal framework as far as ethical considerations of members of the LRBs are concerned. The problem is that these rules are not adequate and even the existing ones are not well known among the members.¹²²

In practice, there is no member dismissed from membership in the near past due to negligence of duty or for being unethical¹²³. However, contrary to the working rules and regulations, not

¹¹⁶ Board's quorum is said to be constituted if at least four members, out of which one represents the employees and one the employers attend the meeting (Art. 146(3) of the Labour Proclamation). Practically, it is common to adjourn cases on the ground that a quorum is not constituted thereby affecting efficiency of the LRBs.

¹¹⁷ Principles of Conduct for Members of the Labour Relation Board, Available at [http://www.alrb.gov.ab.ca /conductalrb.html](http://www.alrb.gov.ab.ca/conductalrb.html). Accessed on 11/8/2018.

¹¹⁸ Cited above at note no. 4; Art.145 (6).

¹¹⁹ Working Rules and Procedures of Oromia LRBs, 2009, art.2/B/ (unpublished).

¹²⁰ Id; Art. 2(C).

¹²¹ Id; Art.5 (1) (C).

¹²² ChalaDiro, EOLRB Chairperson, interviewed on August 6,2018.

attending the meetings of the LRB regularly is a usual misconduct observed on the members¹²⁴. This is mainly attributed to the part-timer nature of the work and lack of adequate incentives¹²⁵. That is to say, members of the Board are occupied by and give priority to their regular jobs than the Board's part-time work. Similarly, the amount of remuneration paid to the members is only Birr 1000 per month (recently increased from Birr 500 per month). Compared to the responsibility given to members of the Board, this is a small payment and does not guarantee the extraordinary commitment on the members.

3.3.2. Resource

Resource is an important instrument for any institution to conduct its functions. LRBs are structurally under BOLSA. The boards will gain their finances from the general budget allocated to the Bureau. The following table illustrate budget allocated to LRBS over the past four years.

Table 2

No.	Year	Budget	
		Western LRB	Eastern LRB
1.	2008	288,606	372,394
2.	2009	401,672	384,050
3.	2010	634,974	590,792
4.	2011	641,173	595,792

Many of the informants describe the budget allotted to the boards is inadequate and it has hauled the service and function of the boards.¹²⁶ The board is given significant function in settling collective labour dispute and ensuring industrial peace. It has power to enter in to the

¹²³MelakuAyela, Secretary of EOLRB, interviewed on 03/08/2018.

¹²⁴ChalaDiro, Chairman of of EOLRB, 06/08/2018; MulumabetAyalew, Secretary of WOLRB, 15/08/2018; MelakuAyela, Secretary of EOLRB, 03/08/2018; KasahunKunde, WOLRB Member, interviewed on August 16, 2018.

¹²⁵ChalaDiro, EOLRB Chairperson, interviewed on August 6, 2018; KasayeZerihun, WOLRB Chairperson, August 15, 2018.

¹²⁶Melaku Ayele, EOLRB, Secretary, Interviewed on August 3, 2018, MulumabetAyele secretary of WOLRB Interviewed on August 15, 2018.

premises of firm and investigate facts in dispute.¹²⁷ Lack of transport service hampered such investigation and conciliation services that could have been effective had it been given at workplace. The Bureau could not provide vehicles for these purposes. To fill this gap, board is forced to order employers to provide transport service¹²⁸ and employees to bear the per diem of board members.¹²⁹ Even though board plays important role in sustaining industrial peace the government or Bureau has given little attention to it.¹³⁰ Some interviewees are of opinion that BOLSA regards boards as an isolated organ.¹³¹ BOLSA also admits the inadequacy of support it gives to the Boards, but attributes to shortage of resource the bureau has in general.¹³² The boards could not receive donation or assistance from social partners. It could not either create income generating activities due to absence of guidelines on these issues.¹³³

Lack of sufficient room is another problem of resource relating to Board's service. The two Boards have no rooms dedicated for different conciliation and adjudication activities. There is no waiting room for the customers. Particularly, the WOLRB has only two rooms one for case file and another for rest of activities. During the meeting of board members, other staffs have to leave the room and wait outside.¹³⁴ LRBs have no internet access. In general resource problem constrained the service of the board.

3.3.3. Accessibility

Accessibility is a wide concept and can be manifested in terms of content and geographical location. Let us see them in detail.

3.3.3.1. Simplicity and Informality

This is all about clarity of legal frameworks, procedures and operations which can help to ensure that dispute prevention and resolution services are expeditious, timely, easy to

¹²⁷ Cited above at note no.4; art.147 (1) (g).

¹²⁸ Nu-era Farm Basic Trade Union vs. Upper Awash agro Industry, File No.818/01/2007, the Eastern board ordered the defendant organization to provide vehicle for the board members who need to go to workplace for investigation.

¹²⁹ WorkalemMulatu, EOLRB member (representative of employer) interviewed on August 9, 2018.

¹³⁰ WorkalemMulatu, EOLRB member (representative of employer) interviewed on August 9, 2018.

¹³¹ MelakuAyele, EOLRB, Secretary, Interviewed on August 4, 2018.

¹³² KebedeAlemu, Senior Conciliator Oromia Labour and Social Affairs Bureau, interviewed on August 10, 2018.

¹³³ MelakuAyele, EOLRB, Secretary, Interviewed on August 3, 2018.

¹³⁴ MulumabetAyalew, Secretary of WOLRB, interviewed on 15/08/2018.

understand and accessible to users¹³⁵. Such concern is also addressed by Art.12 of the Examination of Grievances Recommendation,1967 (No.130) which reads as, *grievance procedures should be as uncomplicated and as rapid as possible; and appropriate time limits may be prescribed if necessary for this purpose; formality in the application of these procedures should be kept to a minimum*. Conciliation/ mediation meetings and arbitration hearings should be simple, and user-friendly so as to avoid, as far as possible, the appearance and practice of court proceedings¹³⁶. Simplicity of procedures and operations is also key to ensuring that the voluntary conciliation procedures established by the State are expeditious and timely.¹³⁷

Labour Proclamation also directs the Board to settle labour dispute less formally. The Board is exempted from sticking to substantive, procedural and evidence laws and formal proceeding like Court.¹³⁸ Interview data and files that are randomly selected for this thesis show, the Boards are following informal procedure to settle disputes coming before them.¹³⁹

On the other hand, some steps and orders of the Board are much formalistic and even unnecessary as they have the effect of protracting proceeding. The western LRB after accepting statement of defense from the defendant always orders the plaintiff to give response in writing.¹⁴⁰ Such process was one of the contributory factors for delay of proceedings. The Board gives another adjournment for this. It imposes additional burden on the parties and drag the proceeding. Plaintiff has to pay to get his response written by lawyer. Parties coming from distant areas have to endure all costs the second adjournment entails upon them. It also has the potential to derive the parties in to win-lose mentality. Plaintiff can orally respond to statement of defense if the matter is going to adjudication. Statements parties give during the proceeding should be written in the file and they are taken to be part of the case. So ordering claimant to give written response to statement of defense is undesirable.

¹³⁵ Annika Talvik (Ed.), Best Practices in Resolving Employment Disputes in International Organizations, 2015, p6.

¹³⁶ Cited above at note no.37;p32.

¹³⁷ Voluntary Conciliation and Arbitration Recommendation, 1951, Article 3(2); ILO recommendation No.92 .

¹³⁸ Cited above at note no. 4; art. 149(5)&150(3).

¹³⁹ Kebede Desta, WOLRB member, interviewed on August 15,2018.

¹⁴⁰ Merga Ta'era Vs Seventh Day Adventist Gimbi Hospital, WOLRB, case file no. L.GBM 13-129/2 006, TigistFekadu Vs Organization for social services for AIDS (OSSA), WOLRB, File No. 18-69/2006, Tesfa Kitila Vs. Nekemte Road Maintenance Project, WOLRB, File No. BM 18-71, Awal Jemal Vs. Jimma Zone Horizon, WOLRB, File No. 1-181/2003.

3.3.3.2. Geographical Accessibility

Geographic accessibility is a concept that presupposes the establishment of service providing institutions at regional, provincial, district or area offices so as to deliver services to all who seek them.¹⁴¹ The number of such offices, their location, and the actual service provided in each require careful consideration in relation to the institution's vision and mission and the availability of resources¹⁴². Since resource constraint always exists, it may be difficult to fully attain physical accessibility to the required degree. Hence, other strategies like the use of telecommunication technologies such as Skype, videoconferencing and e-mail are often recommended as a way of bridging the critical gap¹⁴³. However scarce they may be, sufficient resources necessary to meet the capital and recurrent expenditures associated with providing services to its clients, including sufficient professional and support staff, adequate space and equipment, including computer and telecommunication systems are normally supposed to exist¹⁴⁴ to make dispute prevention and resolution effective.

Previously there were only two Labour Relation Board in Oromia Regional State; Western and Eastern Labour Relation Boards. But now to increase geographical accessibility two more branches at Jimma and Finfinne towns are opened in Oromia Regional State. Some of the informant argued that the Labour Relation Boards are geographically in accessible since some of the customer has to come from Qellem Wellega Zone (Dambi Dollo town) to get service at Western Labour Relation Board in Nekemte town.¹⁴⁵ The researcher believes that given the geography of the region only four locations is not enough and Oromia BOLSA needs to open additional branches. In addition using technologies like video- conference and e- filing is recommendable as it will improve the Board's accessibility.

3.3.4. Information and Awareness

Dispute settling organ should make its existence and service known to the existing and future users. Such awareness and information will help to impart the nature, purpose, function and procedures of its service and what is expected from the users to access these services. Sufficient

¹⁴¹ Cited above at note no.37; p.109.

¹⁴² Ibid.

¹⁴³ Best Practices in Resolving Employment Disputes In International Organizations, International Labour Organization (Conference Proceedings, ILO Geneva, 15-16 September 2014), p186.

¹⁴⁴ Cited above at note no.37;p.33

¹⁴⁵ Mulumabet Ayalew, Secretary of WOLRB, interviewed on 15/08/2018.

resource has to be made available to publicize such organ and its services using electronic, print media and information technology.¹⁴⁶

When it comes to the situation of Oromia LRBs, lack of information as to the existence of Board and its service is another factor affecting their accessibility. Even though some efforts have been made¹⁴⁷, the Boards have not publicized themselves and their service to the industrial community and public in general.¹⁴⁸ Even some justice sector professionals like police do not know what LRB is and what it does.¹⁴⁹ Cases coming to the Board are dominantly from the same industries and areas. This signifies awareness about service of Board is limited to certain area, especially industries adjacent to the Boards. Many industry workers and employers have no awareness on the existence of the boards and their function.¹⁵⁰ There are workers or employers who have disputes to be settled but have no information as to which organ can help them. Such parties will avail themselves the opportunity when they get information. A concrete indication of this is the case of Trade unions who filed nine cases simultaneously after they get the information from their attorney.¹⁵¹ Once again lack of budget is cited as major constraint in affecting efforts of publicizing the Board.¹⁵²

Generally, lack of legal knowledge and resource, formalistic and undesirable procedures, distance between Board and clients and lack of information and awareness of Board and its service have affected accessibility of the LRBs.

3.3.5. Rules and procedures of the LRBs

Effective labour dispute resolution organs need to have rules and procedures to ensure transparency and user-friendliness for all kinds of service it renders. The operation and service provision of LRBs are guided by rules and procedures incorporated in various laws. Labour

¹⁴⁶Cited above at note no.37; p 119.

¹⁴⁷Mulumabet Ayalew, Secretary of WOLRB, 15/08/2018, the WOLRB tried to advertise its service by displaying in public mission and vision statement poster and participating on symposium.

¹⁴⁸Kasaye Zerihun, Chairman of of WOLRB, 17/08/2018; Melaku Ayele, EOLRB, Secretary, Interviewed on August 3, 2018.

¹⁴⁹The researcher personally observed that one higher police officer does not know the existence of Labour relation Board. Surprisingly; labour relation Board office and Office of zone police are found in the same compound.

¹⁵⁰Mulumabet Ayalew, Secretary of WOLRB, 15/08/2018; Lemma Siyum, Chairman of Ethio-telecom Western Region's labour union interviewed on August 3, 2018.

¹⁵¹Melaku Ayele, EOLRB, Secretary, Interviewed on August 3, 2018.

¹⁵²Melaku Ayele, EOLRB, Secretary, Interviewed on August 3,2018, Mulumabet Ayalew, Secretary of WOLRB, 15/08/2018;

Proclamation basically guides how the Board entertains and resolves cases coming before it¹⁵³. LRBs can also employ evidential and procedural rules in Civil Procedure Code without being bound. Departure from these laws is basically intended to make dispute resolution informal and user-friendly. More importantly, the Board needs to make its own rules of evidence and procedures.¹⁵⁴ The LRBs in Oromia have some document for code of conduct, rule of evidence and procedure. Practically, majority of the provisions of the rule is reproduction of the Labour Proclamation and Civil Procedure Provisions. It does not emphasize on setting rule on issues peculiar to labour dispute settlement. Rules of evidence and procedure and code of conduct for Board members are combined in the same document. The rule contains only one provision with regard to code of conduct¹⁵⁵. It is shallow and does not show grounds of misconduct for Board members and how it will be dealt with. Generally, the Boards have no formal, up to date and effective rules of evidence and procedure. Even existence of this rule is unknown to many clients. This is affecting the consistency of orders and decisions given by the Board.

3.3.6. Meeting of the LRB

The Board members are expected to serve on part time basis.¹⁵⁶ According to the rule issued by the Boards, members should meet once in a week.¹⁵⁷ Currently the biggest challenge with regard to meeting of the Board is absenteeism of members. All the Board members have regular job. Chairman of the Board who de facto is president of the High Court of the respective zone is busy with responsibility in the regular court.¹⁵⁸ Majority of the Board members raise the same problem of balancing the Board's duty and their regular job.¹⁵⁹ They argue this is the reason behind absenteeism. Postponing meeting and adjournment became common in the proceeding of the Board due to Board members busyness and absenteeism. Almost all case files investigated during this assessment contain repetitious order for deferral of board's proceeding stating reasons like failure of examination of case file or absence of

¹⁵³ Cited above at note no.4 art. 146 -156 direct how the LRBs have to entertain and resolve issues coming to it.

¹⁵⁴ Id art. 148.

¹⁵⁵ Cited above at note no.88, art.2(c)

¹⁵⁶ Cited above at note no.4; art.145(4).

¹⁵⁷ Cited above at note no.88; art.2

¹⁵⁸ Adam Marara, Member of WOLRB, interviewed 15/08/2018.

¹⁵⁹ Tulu Bulo, EOLRB member of board (Government representative) interviewed on August 8,2018, Firehiwot Wayessa, EOLRB board member (representative of employer) interviewed on August 9, 2018; ShalemeRekita EOLRB member (representative of workers association) interviewed on August 9, 2018.

members.¹⁶⁰ There are case files in which adjournment put off for 4 subsequent times for giving order.¹⁶¹ The absence of alternate members as per the proclamation¹⁶² has further exacerbated these problems. This problem affected the efficiency of Board's service and the users' satisfaction negatively. The Board could not do hearing, investigation, conciliation and decision making as its plan.¹⁶³ Many adjournments are consistently postponed. Users who came to Board travelling hundreds of kilometers were hugely frustrated by such rescheduling and consequent delays.¹⁶⁴

Generally one can understand meeting and activities of the Boards are not being carried out as per plan. Difficulty of balancing regular job with Board's duty, inadequate per diem and absence of alternate members have led to postponement of Board's meeting and protracted proceeding.

3.3.7. Settling Labour Disputes Through Consensus -Oriented Mechanisms.

Labour dispute resolution using consensus based mechanisms is feature of mature industrial relation system. The parties will have control on process and result of the dispute resolution. This in turn help the industrial peace as parties will comply with the outcome. The LRB is empowered to settle collective labour dispute using all appropriate alternative mechanisms it thinks fit.¹⁶⁵ The primary mission of the board is not to adjudicate, but to settle dispute through these mechanisms.

The following table shows the number of cases settled through conciliation in the last 4 years (2007-2010).

¹⁶⁰Meseret Tesfa vs Ethiopian Grain Train Enterprise, WOLRB, L.GBM 13-139/2006, Aliyyi Adam (155 persons) Vs Nura-era Farm trade union, EOLRB File No. 818/01/2007; Birhanu Wayessa Vs Oromia water Construction works enterprise, WOLRB, File No. GBM 2-79/2006; TigistFekaduVs Organization for social services for AIDS (OSSA), WOLRB, File No. 18-69/2006, Methara Sugar Factory Basic Workers' Association Vs. Methara Sugar Factory, EOLRB, File No. 760/01/2004

¹⁶¹Getachew IjiguVsBurfata Gonde Agricultural farm, EOLRB File No.813/01/2007; Tesfaye Negeri Vs Oromia Water Construction Works Enterprise, WOLRB, File No.GBM 18-75/726.

¹⁶²Labour Proclamation, Proc.No.377/2003, art. 145(1).

¹⁶³Melaku Ayele, EOLRB, Secretary, Interviewed on August 3,2018

¹⁶⁴Tulu Bulu, EOLRB member (Government representative) interviewed on August 8, 2018

¹⁶⁵Cited above at note no.4; art.151(1).

Table 3

<i>No</i>	<i>LRB</i>	<i>Total number of cases presented to the board</i>	<i>Number of case settled by conciliation /general cases settled</i>	<i>% settled by agreement</i>
1.	EOLRB	129	24	18.66
2.	WOLRB	85	7	8.23
Total		214	31	14.48

Some of our interviewees mentioned that the success achieved by the Board in resolving labour dispute through conciliation is low.¹⁶⁶ One of the informants described the underperformance and the reason thereto as follows:

[..., the concept of conciliation, its principles and procedures are not yet clear for members...conciliation should have been done by the board at its office. But we are ordering, simply as matter of procedure, the parties to go to their workplace and do it (conciliation) on their own. The parties do not succeed in such circumstances and always they comeback with their disputes unresolved. Because of the difference in their bargaining power it cannot reasonably be expected... conciliation also needs time and resource and we don't have that...]¹⁶⁷

As explained above, the underperformance of board on resolving dispute through conciliation can be attributed to a number of factors. There is confusion on what constitute conciliation. In some cases the Board orients the rights and obligations parties have before entering to settlement and encourage them to come to agreement.¹⁶⁸ In other cases it only facilitates the parties to communicate with each other and does not provide them with alternate solutions.¹⁶⁹ The Board members have no skill that helps them settle labour disputes by agreement.¹⁷⁰

¹⁶⁶GirmaTeferi, Head of Confederation of Ethiopian Trade Unions EOLRB Branch interviewed on August 7, 2018, Tulu Bulo, EOLRB member. (Government representative) interviewed on August 8, 2018.

¹⁶⁷Adam Marara, WOLRB member, interviewed on August 17, 2018.

¹⁶⁸Dassu Sorii, Member of WOLRB, 15/08/2018; Melaku Ayela, Secretary of EOLRB, 03/08/2018

¹⁶⁹Kasaye Zerihun, Chairman of WOLRB, interviewed on 17/08/2018.

¹⁷⁰Kasaye Zerihun, Chairman of WOLRB, interviewed on 17/08/2018.

Conciliation service is also provided by LSA office conciliator. There are also some questions on the difference between the conciliation made by the LRBs and by these offices.¹⁷¹

Likewise conciliation and adjudication is conducted by the same Board members. The Board members see the merging of the two approaches as good opportunity to clearly understand the reality of the case. They say this will help them to give just decision later during adjudication.¹⁷² Conciliator whether private or public is someone who by being independent and impartial uses his or her knowledge, skills and techniques to assist the disputing parties to resolve their differences.¹⁷³ Conciliation also needs to be consensual. However, if the parties knew conciliator would give decision after conciliation, they would not have consented to it. This is likely against the principle of conciliation.

The other reason for diminutive success in conciliation is lack of facility. Lack of facility like transport and per diem have restrained from providing such service.¹⁷⁴ Absence of full time professional conciliator at Board level is also another factor. Conciliation requires dedication and time to bear result. Board's member have regular job and they will not be readily available. Their time will not allow them to engage in conciliation.

3.3.8. The quality of LRBs decisions and decrees

Introduction

A high quality decision is one which achieves a correct result so far as the material available to the decision maker allows and does so fairly, speedily, clearly and definitively¹⁷⁵. High quality decisions need to incorporate important aspects of the right to fair trial¹⁷⁶. Such a service can be realized when the decision makers are enabled to administer justice justly and correctly, in relation to their findings both in law and in fact.¹⁷⁷ The quality of decisions may be affected by different factors related to external environment such as problems of legislation, economic and

¹⁷¹ Bal'ina Itana, WOLRB member, interviewed on August 15, 2018.

¹⁷² Bal'ina Itana, WOLRB member, interviewed on August 15, 2018.

¹⁷³ Cited above at note no.37; p188.

¹⁷⁴ Mulumabet Ayalew, WOLRB Secretary, interviewed on August 15, 2018.

¹⁷⁵ Consultative Council of European Judges (CCJE), Opinion no.11 (2008) of the Consultative Council of European Judges (CCJE) to the attention of the Committee of Ministers of the Council of Europe on the quality of judicial decisions, 2008: 2. Available at:

<http://www.courtexcellence.com/~media/Microsites/Files/ICCE/CCJE.ashx>; accessed on 2/9/2018

¹⁷⁶ Ibid

¹⁷⁷ Ibid.

social context. In this section we will try to evaluate how quality of decisions of the LRBs is affected in relation to internal factors such as case management, hearings and elements inherent to the decision.

3.3.8.1. The Management of Cases

An important element for the effectiveness of labour dispute resolution service is to ensure that it is expeditious and timely.¹⁷⁸ This means giving a decision in a reasonable time is an important element of its quality.¹⁷⁹ To ensure the efficiency of LRBs, Ethiopian labour proclamation has provided that the Board has to decide cases within 30 days from the date on which it is lodged.¹⁸⁰

However, the practice shows that the cases that appear before the boards are not disposed in 30 days. To get a concrete data on this point, 30 cases were randomly selected, from both West Oromia and EOLRBs, to analyze the time within which the cases are decided.

Table 4

S.N	Duration it takes to dispose cases	No. of cases
1.	Cases disposed within 30 days	0
2.	Cases disposed in between 1 -3 months	9
3.	Cases disposed in between 3 -6 months	18
4.	Cases older than 6 months	3
Total		30

The practice shows that the cases that appear before the Boards are not disposed in 30 days. Member of LRB said we have never rendered a decision within the specified time limit because there are a lot of cases submitted every time and the member of the board are working one day in a week. We try to settle dispute as soon as possible but usually takes an average of 2 months¹⁸¹.

¹⁷⁸ Cited above at note no.135:page 6

¹⁷⁹ Cited above at note no. 175, page 5.

¹⁸⁰ Cited above at note no 37; Art 151.

¹⁸¹ Kebede Desta, WOLRB Member, Interviewed on August 16, 2018.

There are different reasons for this. The first reason is that an endeavor to settle the disputes amicably through conciliation needs time.¹⁸² Conciliation by its nature needs substantial time as the parties have to be given reasonable time so that they agree to take the conciliation activities prescribed by board.¹⁸³ Moreover, lawyers who appear before courts representing the employer do not have the power of making conciliation. Thus, an attempt to call an authorized person is another time-consuming factor. Cases observed also show that this problem is tangible. In one case, as the representative of employer declined from making any kind of conciliation, the Board has summoned the owner of the industry. The Board repeatedly postponed adjournment to seek the owner's appearance in person who was abroad on duty. Undoubtedly, this has also led to protracted dispute resolution.¹⁸⁴

The geographical inaccessibility of the Board is also another reason for prolonged disposal of cases.¹⁸⁵ Workers who come from remote places, sometimes, require the board to give them long adjournments.¹⁸⁶ Most often, workers want their adjournments to be fixed after dates on which wages are paid so that they can cover the different expenses they may face.¹⁸⁷ Another reason why cases cannot be disposed in the 30 days period stated by law is related to the fact that the members of the Board are part timers. As the Board has trial only once, for a half day, in a week, it can summon and process only limited cases in this time.¹⁸⁸

Actual cases also show that Board members' being part time is a cause for the Boards' inefficiency. There are cases that are adjourned repeatedly as members of the Board are absent as they are occupied by meeting or as they are busy with their regular duties. Similar problem is mentioned in numerous cases.¹⁸⁹ There are cases which get decision after 16 total adjournments

¹⁸²Kasaye Zerihun, Chairman of of WOLRB, 17/08/2018; Chala Diro, Chairman of of EOLRB, 06/08/2018.

¹⁸³Melaku Ayela, Secretary of EOLRB, 03/08/2018;

¹⁸⁴Organic slaughter house plc.trade union vs. Organic slaughter house plc , File No.807/01/2008; Eastern LRB.

¹⁸⁵Mulumabet Ayalew, Secretary of WOLRB, 15/08/2018

¹⁸⁶Mulumabet Ayalew, Secretary of WOLRB, 15/08/2018; Kebede Alemu, Senior Conciliator at Oromia Labour and Social Affairs Bureau, August 10, 2018; Mulumabet Ayalew, West Oromia Labour Relation Board Secretary; Adam Marara; WOLRB member, August 15, 2018.

¹⁸⁷Melaku Ayele, EOLRB Labour Relation Board Secretary, Interviewed August 3, 2018.

¹⁸⁸Firehiwot Wayesa, member of the Board & Legal Service Head at Wonji Sugar Factory (from employer side) August 9, 2018

¹⁸⁹See for example, Gezahagn Dadi (Plaintiff) Vs. Aluminium Salphate and Sulphuric Acid Share Company (Defendant), File No. 756/01/2004; Abdi Geleta (Plaintiff) Vs. Ethiopian Sugar Corporation, Wonji Training and Research Branch (Defendant), File No. 755/01/2004, and Execution File No. MR.265/1/2007

(decided after four years).¹⁹⁰ Most of this adjournments are caused by absence of Board members or as they come without studying the cases.¹⁹¹ There are cases in which the Board gave adjournment for 4 subsequent times to study the case.¹⁹²

3.3.8.2. The Elements Inherent to the Decision

The Labour Proclamation provides that judgment of the Board should contain issues of controversy, content and sources of evidences considered, evaluation of this evidences and Board's finding, decision on each issue and action taken on decision.¹⁹³ The following discussion will deal with major requirements that a high quality decision needs to contain.¹⁹⁴

a. Reasoning

The quality of a judicial decision depends principally on the quality of its reasoning. The statement of the reasons not only makes the decision easier for the litigants to understand and be accepted, but is above all a safeguard against arbitrariness.¹⁹⁵ Every party has a right to receive a judgment which shows the reasons. A judgment without a reason would make it impossible to file a well-founded appeal against the judgment. The reasoning of a judgment must convince the parties that their position has been fully considered. It must show why some facts given by the party are regarded to be important and others are regarded not to be important.¹⁹⁶ The judgment must clearly point out on what facts the decision is based, because "it is not enough that justice is done but justice must be seen to be done".¹⁹⁷ In the practice of Oromia LRBs, it is difficult to get a sufficient reasoning of decisions. There are cases in which the LRBs just use the phrase "having seen all facts and the law, the Board decides..."¹⁹⁸ In

¹⁹⁰ Atinkut Kebede Vs Oromia Forestry and Wild Life Conservation, WOLRB, File No. GBM 1-174/624.

¹⁹¹ Aliyyi Adam (155) persons Vs Nura-era Farm trade union, EOLRB File No. 818/01/2009; Birhanu Wayessa Vs Oromia water Construction works enterprise, WOLRB, File No. GBM 2-79/2009; Tigist Fekadu Vs Organization for social services for AIDS (OSSA), WOLRB, File No. 18-69/2006

¹⁹² Getachew Ijigu Vs Burfata Gonde Agricultural farm, EOLRB File No.813/01/2009; Tesfaye Negeri Vs Oromia Water Construction Works Enterprise, WOLRB, File No. GBM 18-75/726.

¹⁹³ Cited above at note no.4; art. 151.

¹⁹⁴ Cited above at no.175;page 7.

¹⁹⁵ Id; page 8.

¹⁹⁶ Justice Devendra Kumar Upadhyaya; Skill of Judgment Writing, *Judicial Training & research Institute, Uttar Pradesh*, page 19.

¹⁹⁷ Ibid.

¹⁹⁸ Alemu Hexo (20 persons) Vs Trust Security, WOLRB;File No. 824/01/2007.

several cases the board members exercise their individual position, but fail to support their stands with the provisions of law or collective agreement.¹⁹⁹

b. Clarity of Decisions for Enforcement

Decision given must be effectively enforceable for the benefit of the successful party.²⁰⁰ Judgment should record the result of determination either granting relief or refusing to grant such relief. It should exactly indicate what the decision maker requires the parties to do and how the decision should be executed and which party has to carry it out, the deadline for execution thereof.²⁰¹ This part of the judgment should inform the parties exactly about what the court orders them to do and how the decision shall be executed.²⁰²

In the practice of LRBs, it is not uncommon to observe decisions written in ambiguous language and that are difficult to be readily enforced. In one case²⁰³, the plaintiffs, who were serving the institution as security guards claim that they were not provided with uniform clothes and shoes for the fiscal year 2005 and 2006 E.C, even though the collective agreement lets them to get it twice in a year. The board decided that the plaintiff should get these benefits (which were due in the last 6 months).

In other similar cases,²⁰⁴ the Board has decided that the defendant should pay to the plaintiffs an amount of money that can cover the expense to buy clothes (uniform) and shoes as well as fees for annual and holiday leaves of the last six months. As one can see from these cases, the Board has not determined the amount of money the plaintiffs should get. The decision was made in very general terms, without calculating the exact figure of the money that the plaintiffs deserve. The decree should state the amount of money to be paid and if interest is also to be paid, the rate and the period for which it has to be paid. Such a vague formulation of an

¹⁹⁹Yakoye Tadele (12 persons) Vs Awash Melkasa Sulphuric acid and Aluminium Sulphate Factory, EOLRB, File No. 833/01/2007

²⁰⁰Cited above at note no.175; page 9.

²⁰¹Mohammad Rafiq and Rajasthan (ed.), *Judgement Writing And Communicating Effectively Through Judgements, paper for the 10th West Zone Regional workshop organized by National Judicial Academy at Jaipur*, 2008, 1-5.

²⁰²How to Write a Judgement: The Khmer Institute of Democracy; page 73;
<http://www.khmerrough.com/pdf/CriticalThinking-Eng/Part7-CriticalThinking.pdf>; accessed on June 2016.

²⁰³Nura Abba-Mecha (6 persons) Vs Oromia Forest and Wild life conservation office, Jimma Branch, Tiro Abbalti District, WOLRB, File No. GBM 14-18/2006

²⁰⁴Kibru Alemu (4 persons) Vs Oromia water and Construction works enterprise, WOLRB, File No. GBM 11-33/104; Tesfaye Negeri Vs Oromia Water Construction Works Enterprise, WOLRB, File No. GBM 18-75/726.

execution order could cause the parties to start a new dispute on the execution and the contents of the decision.

c. Exhausting All Reliefs Sought by the Plaintiff

Obviously, a decision making body is required to give decision on all reliefs sought by the plaintiff. Art. 5/3/ of Civil Procedure Code mentioned that any relief claimed in the former suit which has not been expressly granted amounts denial. According to this provision any relief claimed by parties but skipped silently means the court denied the claim and hence parties can't bring fresh suit on the issue. But this should not be interpreted as if failure to address each and every relief asked by the part is correct. Similarly; Federal Supreme Court Cassation bench decided that the court's failure to address each relief sought by the party is illegal and needs to be corrected²⁰⁵.

The practice of our LRBs shows that the Boards frequently fail to exhaust all reliefs sought by the plaintiffs. In one case²⁰⁶, the plaintiff has three major claims. The first is, the defendant has to pay him per diem of 1 month. Secondly, the defendant shall provide him with benefits that other employees get for the last 6 months such as soap, paper towel and etc. Thirdly, he claims the change of his work place from Nekemte to Addis Abeba decided by the employer without his consent should be dismissed. The defendant on his part has replied that the plaintiff does not deserve the benefits as the loader machine on which he used to work was not functioning due to repairs. Additionally, employer institution argues that it has the authority to transfer his employees. The Board closed the file stating that the plaintiff cannot claim per diem in case where he was not in work. It can be observed from this judgment that the board has neither granted nor refused the 2nd and 3rd reliefs sought by the plaintiffs.

In another case also²⁰⁷, the plaintiffs claimed the following three remedies from the Board: 1) to order the defendant to pay them the two months' salary 2) to order the defendant to cover litigation costs and 3) to order the defendant to pay them moral damage. After hearing the case and considering the adduced evidences, the Board ordered the defendant to pay them the two

²⁰⁵ Yeshimabet G/Tsadik Vs Fantaye Shigulitu, Federal Supreme Court Cassation Bench, File No. 131950(volume 22)

²⁰⁶ Birhanu Wayessa Vs Oromia water and Construction works enterprise, WOLRB, File No. GBM 2-79/2006.

²⁰⁷ Tsedale Abdisa (8 persons) (Plaintiff) Vs. Mekana Yesus Church, Nekemte Evangelical Office & Baka Jama Preaching Station (Defendant), WOLRB, File No 18-84/966

months' salary and to cover litigation costs, but remained silent on the payment of moral damage. The Board should have ruled on the relief sought.

3.3.9. Execution of the LRBs' decisions

The Labour Proclamation states that the decision of the Board shall have immediate effect. It has also included that the decision of the board shall be considered as a term of contract of employment between the employer and worker to whom it applies.²⁰⁸ The proclamation has also provided that orders and decisions of the Labour Board shall be considered as those decided by civil courts of law.²⁰⁹ Article 155 (3) of the Labour Proclamation also states that the proceedings of the board shall be considered as 'quasi-judicial proceedings' and the Board 'a competent judicial tribunal' for the purpose of Article 442 of the penal code (Art. 448 of the new criminal code). Accordingly, any person who refuses to aid justice, for example a police officer who refuses to produce an accused shall be criminally responsible if it is dully summoned by the Board. The LRB can punish the person who committed such offence.

Delay in execution of decisions is another serious problem facing LRBs. The following table shows the time it takes to dispose execution files in the (the data composes of files of executed cases (11) and those closed due to absence of decree holder (3)).

Table 5

Table time in which execution cases are disposed	No. of cases
< month	1
1-3 month	2
3-6 months	7
>6months	4

As it is shown by this chart large number of execution files presented to the LRB, 79% (11 out of 14) took more than 3 months to be implemented. On average, an execution file has a life span of 4.93 months, which is worse than the case of first suits shown above in table

²⁰⁸ Cited above at note no.4, Art 152.

²⁰⁹ Id; Art 147/4/.

In one case,²¹⁰ a decree holder whose transfer was declared unlawful by the Board has opened an execution file to return to her former place of work. But she is forced to wait 9 months to have the decision executed. In this case, the Board has made a total of 22 adjournments to execute its decision as the judgment debtor (employer) resists in different mechanisms (e.g. by non-appearance) not to execute judgment. In another case, an execution case that was filed to the EOLRB on 21/03/1997 E.C was not executed until 30/02/2005 E.C., and has a life span of 7 years, 11 months and 9 days.²¹¹

Interview participants state that decisions related to collective bargaining take longer time to execute as most employers organizations owned by foreigners assert that the owners are abroad and cannot participate on the collective bargaining.²¹²

Many of the employers also do not want to comply with the decision of the Board. They will use every possible tactics to hurt worker who sued them and won case against them.²¹³ The Board faces challenges on cooperation of other stakeholders while executing its decisions.²¹⁴ Due to lack of awareness banks, police & prison administration officers think that they have no legal duty to accept and execute the orders of the board.²¹⁵ But, the law empowered the Board to take different measures which need police assistance to execute²¹⁶. Police members resist accepting the orders of the board, especially when the injunction is not signed by the chairman of the board who is always represented from courts.²¹⁷ Consequently, the Board members execute their decisions by making a kind of diplomatic relationship.

²¹⁰Hirut Ahimed vs. Kidist Mariyem University, EOLRB, File No. BM 10-44/717.

²¹¹Teshome Abayneh (decree holder) Vs Ethiopian Mineral Development S.C (judgement debtor), Execution File No. MR/83/01/97

²¹²Melaku Ayela, Secretary of EOLRB, interviewed on 03/08/2018

²¹³Adam Marara, member of western Oromia labour relation board; interviewed on 15/08/2018.

²¹⁴Adam Marara, member of western Oromia labour relation board; interviewed on 15/08/2018.

²¹⁵Kasaye Zerihun, Chairman of of WOLRB, interviewed on 17/08/2018.

²¹⁶Kasahun Kunde, WOLRB member, interviewed on August 15, 2018.

²¹⁷Firehiwot Wayessa, Member of EOLRB, representing the employers, 09/08/2018; Dasu Sori, Member of WOLRB, 15/08/2018.

3.4. COURT

Regular courts are not to forthrightly rush into adjudicating every law suits brought before them. Rather, primarily such a court has to, make sure that the case instituted therein is not one of the nature made to fall partly or wholly outside the jurisdiction of ordinary courts. This is basically meant to depict the fact that there are certain issues identified by law to be treated by other tribunals entrusted with delegated, quasi-judicial power-so as to decide on some conflicts related to administrative activities and functions of the government. Accordingly, when the power of adjudication of the case brought to the court is one, given (by law) to other agencies-outside the ordinary judicial structure- then such a court will not have material jurisdiction there upon; and, hence, cannot render a validly enforceable decision.

As previously discussed the court has no jurisdiction to entertain collective labour dispute in its first instance capacity. But Oromia Supreme Court can see appeals taken against decision of labour relation board on legal issues (Proclamation No. 377/2003 Art. 154). All finding of facts made by the Board shall be final and conclusive (Proclamation No.377/2003 Art.153). So Oromia Supreme Court can't re-evaluate facts provided in the case and reach on other positions than that of board on factual issues. But as can be seen from some files Regional Supreme Court goes to extent of analysing and evaluating facts by themselves which is ultra-virus. In one case Federal Supreme court Cassation Bench decided that Federal High Court(Regional Supreme Court) can't re-evaluate facts provided in the case; rather they are obliged to accept conclusion made by LBR on factual issue; hence reversed the ruling given by Federal High Court as the court went to extent of evaluating facts by itself²¹⁸. So, Oromia Supreme Court is mandated to see the appeal only if it is related with the question of law. In addition pursuant to proclamation No.141/ 2008 Art.31; Oromia Supreme Court Cassation Bench can review decision made by Board if it has fundamental error of law.

As observed from practical cases most of the appeal entertained by Oromia Supreme Court is related with the issue of jurisdiction. Jurisdiction of labour dispute is the most controversial

²¹⁸ Birhanu Bini (w-34) v Arbaminch Leather Textile Industry, Federal Supreme Court Cassation Bench, File no. 102512(volume 17)

issue under Ethiopian labour law. This largely owes to the ambiguity of nature and law classifying collective and individual labour dispute.²¹⁹ Collective labour disputes are disputes affecting the rights and interests of workers in the undertaking. One cannot tell whether a dispute is collective or individual by simply looking at provisions of article 138 and 142 of Labour Proclamation. But the practice developed in western LRB indicated so²²⁰. As discerned by a number of Federal Supreme Courts Cassation Decisions the issue in the dispute has to affect the workers in general to qualify as collective labour dispute and fall under jurisdiction of Board.²²¹ LRBs' staff and members should be cautious and conversant with these facts in taking and entreating labour disputes. One can guess how it will be devastating if a case not falling under jurisdiction of Board, having been entertained and decided is finally overturned on want of jurisdiction.

In one case the plaintiff claimed that he should have been assigned on 16th level but the employer assigned him on 10th level²²². The defendant alleged that since the case at hand is individual labour dispute the board has no jurisdiction to entertain the case. But the Board dismissed the objection and finally decided in favor of plaintiff. The defendant appealed against the decision of the board. Oromia Supreme Court entertained the appeal and after hearing both parties; ruled that since the issue in question is related with legality of assigning employee based on the new structure developed by the organization; it is collective labour dispute and hence confirm Board' s decision. In this particular case Oromia Supreme Court is confined only in verifying the jurisdiction of Labour Relation Board which is legal question and also as the outcome of the decision will affect right and interest of other workers; it was collective labour dispute and the position of the court seems legal.

Other allegation against the jurisdiction of the Board ascends from the idea that their case should be handled by the adhoc Boards. The proclamation has identified the permanent and adhoc Boards along with their respective powers. In practice, the permanent Boards entertain both matters falling under its jurisdiction and that of the adhoc one. Many issues related to

²¹⁹Cited above at note no.10;p 49

²²⁰ Interview with Mulumabet Ayalew, Secretary of WOLRB, Interviewed on 15/08/2018

²²¹ Look for example Federal Supreme Court Cassation decisions, 18180,52600, 15531,16653.

²²² Finca'a sugar corporation vsGurmessalullessa; Oromia Supreme court; file no. 190163, decided on 29/08/2007

payment from industries giving essential service come to the permanent LRB and the Boards are also looking into the matter. Even though the Board faces objection from the parties as to the jurisdiction in such cases, the Board rejects such objections explaining that it has this power. But a letter was written from Oromia Labour and Social Affairs Bureau to assign the task of the adhoc Labour Relations Board to the permanent Boards.²²³ It may be too hard for the permanent Board to manage the tasks of the adhoc Labour Relation Board through delegation when large number of cases may come to it. In one case²²⁴ the plaintiffs claimed that the employer failed to provide them clothes and shoes for two years and asked to be compensated in money. The defendant raise primary objection arguing the Board has no jurisdiction to see the case. The Board rejected the objection and decided in favor of employees. But Oromia Supreme court reversed the ruling arguing that pursuant to art.147/1/a/ of the labour proclamation; Labour Relation Board is precluded from entertaining case related with salary and other benefits. In other case Oromia Supreme Court hold different position arguing that Clothes and shoes are working tools provided by employer which can't be claimed as a benefit after employment relation is terminated and the claim is to be entertained by Court.²²⁵ One can infer from these two cases that Oromia Supreme Court entertain similar cases differently which is wrong. In the first case as can be understood from the work rules shoes and clothes are to be provided for workers on security post as working tools and should not be considered as benefit. Also the outcome of the decision will not affect the right of other workers. Hence the position of the Court seems wrong as the case is individual labour dispute to be entertained by regular Court.

In many cases employees are facing difficulty to get justice as both court and Labour Relation Board dismiss their case stating lack of jurisdiction. The justification behind is as benefits are very sensitive it may leads to endless industrial dispute if adjudication is allowed; rather the party can settle their dispute through private conciliation or government appointed conciliator or through strike or lockout.

²²³ A letter written from Oromia Labour and Social Affairs Bureau to the two permanent boards on 12/05/2001 E.C, Letter No. Dh/Ho/03/01/01.

²²⁴ Oromia Forest and wild Animals authority Jimma Branch vs Nura A/ Macca(with 6 persons), Oromia supreme court, file no. 190828, decided on February 20 ;2010.

²²⁵ Ethiopia Electric Power Awash Melkasa Branch vs Makore Talore (with 8 persons) ,oromia Supreme court file no 300924, decided on February 29,2019.

But sometimes court goes to extent of dismissing the case only because the relief sought is related with wages or benefits. This requires serious correction as it restricts access to justice of citizens protected under art.37 of FDRE constitution. In one case²²⁶ the employer in the collective agreement agreed to pay half month's wage in the form of bonuses and also wage increment provided that certain threshold of profit was generated. In 2008 the company earned the profit but refused to pay the promised bonuses and wage increment. Federal Supreme Court Cassation Bench decided that as the claim is related with wage and benefit; the court has no jurisdiction to entertain the case. In this particular case the issue of wage and benefits is already governed under the collective agreement and the court is expected to enforce the collective agreement. In addition Court's denial to enforce the collective agreement by itself is dangerous as it will hamper industrial peace. Hence the position of the court seems illegal.

In some cases the Board assumes jurisdiction only because the cause of action is related with transfer of employee from one place to another. The plaintiff²²⁷ instituted a suit claiming that as per collective agreement employer is obliged to pay him a per-diem of Birr 151 for 295 days as he is transferred from Cawwaqa to Ginbi town. The employer argued that the Board has no jurisdiction to entertain the case. But the Board rejected the objection and decided the employer to pay 4,860 for the plaintiff. The employer took appeal against the decision of the Board and Oromia Supreme Court reversed the decision on want of jurisdiction. The decision given by Oromia Supreme Court seems tenable as the outcome of the decision doesn't affect the right and interest of other workers.

The Federal Supreme Court Cassation Division, began, in recent times, to adopt investment-friendly interpretation of labour law provisions, thereby potentially posing a challenge towards the promotion and protection of collective aspects of labour rights as this ambivalence at the national level seems partly a reflection of similar ambivalent disposition at the international

²²⁶Construction Works and Coffee Technology Development Enterprise Trade Union v. Construction Works and Coffee Technology Development Enterprises; Federal Supreme Court Cassation Divisions; File No. 49152; decided on July 7, 2002 (taken From Mehari Redae, "Privatization in Ethiopia: the challenge it poses to Unions and collective bargaining", (PHD Thesis Warwick University), (2015) page 199.)

²²⁷Ethiopian Commodity exchange vs Masarat Tesfa; Oromia Supreme Court, WORLB file no. 209156; decided on March 13, 2010.

level between the mindset of the multilateral financial institutions on the one hand and that of ILO on the other.²²⁸ One can infer this fact from the following case.

Employees working under different post sued ethio telecom claiming they were illegally reduced from their post and asked for reinstatement²²⁹. Ethio- telecom argued cancellation was lawful because it was a decision to alter work methods or introduce new technology with a view to raise productivity resulting in the reduction of the work force. Western Labour Relation Board decided the reduction was illegal and ordered re instatement. Oromia Supreme court confirmed the decision. Finally Ethio telecom took the case to Federal Supreme court Cassation Bench claiming the decision rendered by the Board has fundamental error of law. The cassation Bench entertained the case and finally ruled that as the cancellation did not follow the procedure set in Labour Proclamation the reduction was illegal; but regarding the legal effect of un lawful termination the court has the discretion to order re instatement depending on if continuation of employer- worker relation by its nature give rise to serious difficulty and in this case after employment relation is terminated the relation between employer and worker is getting bitter and if re instatement is ordered it will create serious difficulty and ordered dismissal of worker up on payment of compensation. In this case the Cassation Bench did not provide any reasoning that shows existence of harsh relationship after employment relation was terminated. This fact was also proved by Labour Relation board. The worker only brought their case to court which can't be taken as indicators of bitter relationship after termination. In addition the lawyer of Ethio – telecom Western branch, where workers were reduced, admitted the non-existence of harsh relationship and told us that the decision was not fair.²³⁰ Even The Federal

²²⁸Cited above at note no.19; page 233.

²²⁹Ethio telecom vs Tesfaye Kebede (with 60 persons), Federal Supreme Court Cassation decision, file no. 75619.

²³⁰Adam Marara; Ethio- telecom western region's legal advisor, interviewed on august 16, 2018.

Supreme Court Cassation Bench²³¹ decided in another case ; filing suit after termination by workers by itself should not be considered as it give rise to serious difficulties to work together in future. As impartiality and equality one of the core values and ethics of judiciary favoring one party is unacceptable.

²³¹ Abijata Soda Ash PLC Vs Marta Abebe, Federal supreme Court Cassation Bench, File No. 82336

Chapter 4

Conclusion and Recommendation

This study assessed the competence of organs mandated with resolving collective labour dispute in Oromia Region. Based on the overall assessment, the following conclusions and recommendations are drawn.

4.1. Conclusion

Conflict resolution is an essential part of any well-functioning labour market and industrial relations system. Where there are labour relations one inevitably finds labour disputes and the need to resolve them efficiently, effectively and equitably for the benefit of all the parties involved and the economy at large. The framework put in place to deal with such disputes is a crucial component of any country's industrial relations system. The options available to the social partners and to governments are numerous and range from informal negotiations all the way to formal litigation and may even include government intervention to resolve certain labour disputes in the public interest. Labour dispute require especial attention and proper handling. The continuance of harmonious relationship between the employers and his employees is one the peculiar feature of labour litigation. Maintaining harmonious relationship in the industry is necessary to bring economic industry as it bolsters productivity and encourage further investment.

In Ethiopia; as can be inferred from the preamble of Labour Proclamation No.377/2003; one of the main targets of the proclamation is maintaining industrial peace. To realize this promise the proclamation established institutions and systems that deal with collective labour dispute prevention and resolution. Accordingly collective labour relation can be solved through conciliators appointed by Ministry of Labour and Social Affairs, Private organ (conciliators and arbitrators), Labour Relation Boards and Courts.

Conciliation may be prescribed as the practice by which the service of neutral party are used in a dispute as a means of helping the disputing parties to reduce their difference and to arrive at an amicable settlement or agreed solution. Conciliation is one of the methods used by the Labour proclamation no.377/2003 to solve labour dispute. The finding of this thesis shows that

Nexus between governments appointed conciliator and conciliation made by the LRBs is unclear and ineffective. Also Employer and their attorney are negatively affecting the success of conciliation especially by failure to appear when requested so by conciliators. The attention given by the government on social aspects in general and Labour and Social Affairs Bureau specifically is too low there by hampering the success of conciliation.

Labour Relation Board is autonomous organ duly established to address the grievances in the industrial relation of the nation. This organ has a first instance jurisdiction over collective labour disputes. In Oromia Regional State, currently, there are four permanent Labour Relation Boards established to provide collective labour dispute resolution services. These Labour Relation Boards are located at Adama, Finfinne, Jimma and Nekemte towns. But this thesis focus on Eastern LRB found in Adama and Western LRB found in Nekemte town.

Findings of the study revealed that LRB is not effective in preventing and resolving collective Labour disputes. LRB has no the necessary institutional, technical and managerial capacity to deliver effective labour dispute settlement services. Even though the primary purpose of the LRBs is to solve disputes consensually through conciliation, because of a number of factors, the Boards' performance in this regard is low. Many Board members have no clear understanding on the concept and techniques of conciliation. Except the proclamation, there is no guideline on how the LRBs should conduct conciliation and adjudication together. Unwillingness of employers and negative role played by attorneys also affected the effectiveness of the conciliation.

The management of cases in both LRBs can be described as inefficient. The problem is worse in the case of execution files than first suits. The nature of the function of the boards, lack of cooperation from concerned bodies, the geographical inaccessibility of the Boards, the workload of the Board members from their regular job, the procedure the Board follows, can be considered as causes for the inefficiency of the LRBs.

Meetings and activities of the LRBs are not being carried out as per plan. Many board members find it difficult to balance their regular job with board's duty. Alternate members are not yet assigned to fill gaps when the members could not attend the meeting. These factors led to delayed proceedings

There are some grounds of concern for discrimination, during the Boards hearing and decision giving. LRBs do not give sufficient reasons for their decisions. Some decisions have no legal analysis. They are not clear and difficult to execute. They also fail to exactly indicate the amount of money that a judgment debtor has to pay and the deadline for their execution.

Oromia Supreme Court is entertaining appeals taken against the decision of the Labour Relation Board. Given the nature of collective labour dispute the legislature preferred Labour Relation Board to handle collective labour dispute. The decision given by the Board on factual issue is final and conclusive. But Oromia Supreme Court can review decision given by the Board if the grounds of appeal is related with legal questions. In addition Oromia Supreme Court can entertain appeal taken against decision of Board if it contains fundamental error of law. Finally Federal Supreme Court Cassation Division is assuming power by way of cassation over cassation. Most of the case reviewed by courts are related with jurisdiction. Determining collective labour jurisdiction from individual labour dispute is not an easy task as the law lacks clarity on this matter. The finding of this thesis shows that Oromia Supreme court is neither impartial nor predictable in entertaining appeal against judgement of LRBs.

4.2.Recommendations

Based on the above mentioned findings, the writer forwards the following points as recommendations.

4.2.1. Government Appointed Conciliator

1. As Nexus between governments appointed conciliator and conciliation made by the LRBs is unclear and ineffective; It is good if the law is amended to make report of conciliators in Oromia BoLSA a prequest to file cases to the LRBs as the report of conciliator can help the board in understanding and framing the case.
2. BOLSA should give training for workers and employers on the merit of conciliation in maintaining industrial peace and boosting productivity.
3. Government has to provide BOLSA with necessary resource as sustainable growth can't be achieved at expense of Core Labour rights. Generally; as Labour dispute prevention and resolution is the responsibility of BOLSA; the government needs to give necessary attention so that Oromia BOLSA will build its overall technical, managerial, information, and logistic capacity. Giving training targeted at filling the skill and knowledge gap of government appointed conciliator is also necessary.
4. Oromia BOLSA is empowered to take necessary actions to prevent collective labour dispute and maintain industrial peace. But practically as the Bureau is not undertaking its duty a simple dispute escalate to major collective labour disputes. So to prevent collective labour dispute the Bureau has to encourage informal dispute handling through dialogue; active involvement of the social partners in labour dispute and unionization and collective bargaining.

4.2.2. Labour Relation Boards

A. Representation of Concerned Stakeholders in the LRBs

1. Although it is not clearly stipulated within the law, there is established practice of making East Wollega High Court President and Adama Special Zone High Court President the chair persons of EOLRB and WOLRB. However, these persons are extremely busy to concentrate and attend meetings of the Board thereby negatively affecting the efficiency of the LRBs. Hence, it is good if Oromia BoLSA considers other options like a judge from the courts or a public prosecutor from prosecution instead of the high court president or zonal public prosecution chief administrator.

2. The practice of representing workers' representatives, employers' representatives, and alternate members deviates from the law because of budget constraint and absence of registered employers' associations. First, the controlling factor to represent members in employees' side is consideration of geographical distance from the location of the LRB; not most representation in the trade union as provided by the law. Second, members representing the employers' side are represented by the Ethiopian Employers' Federation. However, since there are no registered employers' associations in Oromia, it is not clear from which these federations are formed. Third, alternate members are not practically represented although they have great contribution in facilitating the LRBs' work at least by constituting a quorum. Hence, it is good if Oromia BoLSA allocates sufficient budget so that the representation of workers' and employers' representatives will be in tune with the spirit of the labour law. The Employer's federation should also work in collaboration with Oromia BoLSA and donor institutions such the ILO to organize employers' association. Otherwise, at least legally speaking, the federation will become baseless.

B. Ethics of Members of the LRBs

Two problems can be mentioned with regard to ethical conducts of members of the LRBs in Oromia. Firstly, there are no comprehensive and adequate ethical rules by which the members are governed. Secondly, even the existing scattered rules within working rules and procedures of the LRBs are not effectively communicated and known among the members. Hence, LRBs should develop comprehensive and adequate ethical rules that govern members of LRB.

C. Resource

Inadequate resource has become the major problem for the LRBs to carry out their function. Currently, budget allocated to them is insufficient to discharge their responsibilities. Lack of vehicle is hugely constraining the LRBs' service provision. There are no enough office rooms, bench rooms, and equipments. There is no guideline on how the LRBs can get donation from social partners. Therefore, Oromia BoLSA need to give attention for the LRBs and earmark enough budget and materials so as to

effectively conduct their function. It is also important to draw guideline on how LRBs can access assistance and donation from social partners without compromising their autonomy.

D. Accessibility

Currently, clients, especially individual workers have lack of legal knowledge and resources to follow their case. The LRBs are also following lengthy procedures like submission of counter reply by the plaintiff . Geographically, the existing LRBs are also inaccessible to their users. The roles and functions of the LRBs are not well communicated and known to their clients and stakeholders. Therefore, the LRBs should make collaboration with governmental and non-governmental institutions such as universities, prosecution offices, Oromia Justice Sector Professionals Training and Legal Research Institute and ILO so as to provide free legal aid to the clients. They should also avoid lengthy procedures that unnecessarily affect efficiency. Both Oromia BoLSA and LRBs should strengthen public relation works through different print and electronic medias.

E. Rules and Procedures of the LRBs

The current rules of evidence and procedure of the LRBs strength as it is not up to date and effective. Many board members and clients have no knowledge about the existence of this rule thereby affecting the consistency of orders and decisions. Therefore, as mandated by the labour law, it is imperative for the LRBs to issue rules pertaining to the existing situation of dispute settlement procedure. The LRBs need to publicize and effectively implement the rule.

F. Investigation and Decision Giving

Even though, the LRBs are given wide power in terms of investigating disputed facts by entering workplace, lack of facility has become the major obstacle. The process of giving decisions is varying from EOLRB and WOLRB. In the former case, the Board gives decisions based on presentation of its secretary. In the latter case, the Board gives decision based on presentation of one of the assigned Board members.

Therefore, Oromia BoLSA need to provide facilities required for Board's investigation of facts at workplace. Similarly, the Bureau has to develop uniform working rules and procedures that regulate the process of decision giving.

G. Consensual Solution

Oromia BoLSA and LRBs in collaboration with stakeholders like ILO should give training to boost the skill and knowledge of members of the LRBs on conciliation. BoLSA and LRBs should issue clear guidelines governing procedures and expected outcomes of conciliation and more specifically to maintain impartiality. BoLSA should also plan to arrange schemes for licensing and accreditation of private agencies for their involvement in dispute settlement.

H. Management of Cases (Efficiency)

1. The 30 days period within which the LRBs shall give decision provided under article 151 (1) of the proclamation should be extended so that the potential for settling labour disputes through conciliation will be high.
2. When assigning a chairperson and government representative, Oromia BoLSA, workers' confederations, and employers' federation have to take into consideration the potential effect of the regular duty of a member on the LRBs. The Oromia BoLSA need to assign the alternate members envisaged by the proclamation by fixing standard fee for attendances at meeting of the Board.

J. Fairness of the Procedures

As decisions given by LRB failed to incorporate important aspects of the right to fair trial; Oromia BoLSA has to arrange trainings on these issues.

k. Execution of Decision

Execution of decisions is the other stage where the LRBs face difficulty. The main reason being the weak support from stakeholders. However, the LRBs are given the power to punish any person who refuses to aid justice. So, the LRBs have the problem of exercising their power to coerce others to assist the execution of their decisions. The

LRBs should also exercise their power and coerce stakeholders to assist the execution of their decision when there is refusal to aid justice. Stakeholders, including the police, should also be aware about their responsibility to cooperate the LRBs.

4.2.3. COURT

1. Most of the case reviewed by courts are related with jurisdiction. Determining collective labour dispute from individual labour dispute is not an easy task as the law lacks clarity on this matter. Currently, the LRBs entertain many individual labour cases out of their jurisdiction. This problem basically emanates from lack of clarity of the labour laws in delineating jurisdiction. Consequently, several individual labour disputes that are mandates of regular courts are being entertained by the LRBs and vice versa. Sometimes court goes to extent of dismissing the case only because the relief sought is related with wages or benefits. This requires serious correction as it restricts access to justice of citizens protected under art.37of FDRE constitution. Therefore, the House of Peoples' Representatives need to amend and make clear provisions which allocate jurisdiction to the LRBs and to regular courts. Until the law is amended, LRBs and courts need to base the decisions given by the Federal Cassation Bench as point of reference. The Oromia Justice Sector Professionals Training and Legal Research Institute also need to arrange training for judges to clarify on the jurisdictional issues.
2. In era of globalization capital is gaining upper hand over social rights. Especially developing countries are found on the 'race to the Bottom'. Labour rights are intentionally being neglected to ease burdens on foreign investors. Following the same path, courts are tilting toward capital losing their impartiality and equality. As impartiality is one of the core values of judiciary ;the court has to review its position on favoring capital and remain impartial and predictable.

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3. Adugna Hunde et al. vs. Ethiopian Mineral Resource company East Oromia LRB case file no.845/01/2008
4. Adugna Kafani and et al. vs New Generation Logistic, East Oromia LRB case file no. 830/01/2008
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6. Alemu Hexo (20 persons) Vs Trust Security, East Oromia Labour Relation Board File No. 824/01/2007.
7. Aliyyi Adam (155) persons Vs Nura-era Farm trade union, East Oromia LRB File No. 818/01/2007;
8. Atinkut KebedeVs Oromia Forestry and Wild Life Conservation, West Oromia LRB, File No. GBM 1-174/624.
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Annexes:

I. Interviews

This is an interview designed to gather information on “**collective labour dispute settlement mechanism In Oromia Region**”. Interview was conducted with members of the two LRBs, secretary of the boards, trade union representatives, employers association, employers and employees’ federation, secretary and professionals from Labour and Social Affair Bureau and Judges. Genuine and complete responses by each interviewee are highly helpful to make the findings of the study reliable.

Part One: Personal Information

- Name
- Sex
- Age
- Name of the office
- Position
- Qualification

Part two: Interview:

1. In the last year did you use its services relating to conciliation?
Yes No
2. If yes, how would you rate your satisfaction with these services with regard to the procedures and processes used?
Very satisfied Satisfied Not very satisfied
3. The outcomes achieved?
Very satisfied Satisfied Not very satisfied
4. Overall, what do you consider to be the main strengths of the labour dispute settlement through conciliation.....
5. What do you consider to be its main shortcomings?

6. Does the system give every encouragement to consensus-based approaches to dispute resolution?.....

Yes No Unknown

7. Are pre-conciliation and conciliation services readily available to assist the disputing parties to find consensus?....

Yes No Unknwon

8. Have officers received training in the skills and techniques of consensus building?

Yes No Unknwon

9. Do the LRBs have clearly stated purposes and objectives

10. Is there problem with regard to the composition of LRBs set by the law?

a) Are independent experts (e.g., academics) represented?

b) Were officers/professional staffs engaged on the basis of open competition? Do they have job description?

c) What qualifications and experiences do LRBs members and the staff members have? What considerations does the bureau take in to account while appointing the two members of the board? Are there in service trainings? Have officers received training in the skills and techniques of consensus building?

d) What problems are there with regard to term in office of board members? Non-compliance with law? Re-election?

e) What practical problems did ensue from service nature of members being part time?

11. What problems relating to remuneration and sitting fees of members are there?

12. Is the service of LRBs accessible? What problems are there? In terms of:

a. Geographical location?

b. Technology (do LRBs have a computerized case management system?)

c. Is there any effort made to make it accessible?

13. To what extent are LRBs autonomous?

- Is LRB independent of the Ministry or Bureau of Labour? Or from other institutions?
- Does it have its own governing organ (council)?

14. Do the LRBs have resource problems? What does LRB look in terms of utilizing resources available to it?

- a. Is there problem of human resource?
- b. Sufficient budget? How much is it in figure? What are the sources of budget for LRBs?
- c. Equipment (including computers)?
- d. Office space? Do LRBs have dedicated rooms for conciliation/mediation and arbitration proceedings?

15. Do the LRBs endeavor to settle labour disputes by agreements? Why? Why not? What legal gaps or/and practical gaps are there?

16. What status does the report of conciliators have while the LRB entertains the case? Is its presentation mandatory to file the complaint?

17. What are the practical problems in delineating jurisdiction of the conciliators, LRBs and regular courts?

18. Are the LRBs efficient? Is the number of client and cases generally increasing or decreasing? Why? Do you not think that fewer cases appear before the board than expected? Why?

- a. How many
 - i. Cases on hand
 - ii. Hearing dates set
 - iii. Others
- b. How many cases has the LRB resolved by:
 - i. withdrawal,
 - ii. by dismissal, or

iii. with a settlement (negotiation, mediation)

iv. by Board decision

19. Is there any system in place for disseminating service to be given and the works done by LRB?

- Giving away annual reports
- Media
- Website
- Pamphlet

20. Does LRBs have arrangements in place to ensure accountability? Is there any person dismissed from membership due to negligence of duty or for being unethical?

- a) (e.g., oath, code of ethics, mission statements, susceptibility to inspection and etc)?
- b) Is there any indication of misconduct (corruption, bribery) on the part of members? Are LRB members committed? Do the members attend the meetings regularly?

21. What other obstacles are the LRBs currently facing?

22. What suggestion do you have to enhance the efficiency and effectiveness of LRBs?

23. Are judges are competent enough in entertaining appeals taken against decisions of LRB

24. Do judges receive training on collective labour dispute settlement?

25. What suggestion do you have to enhance the competency of judges?

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3. Mulumabet Ayalew, Secretary of WOLRB, Interviewed on 15/08/2018;
4. Melaku Ayele, EOLRB Secretary, Interviewed on August 3,2018
5. Tulu Bulu, EOLRB member (Government representative), interviewed on August 8, 2018
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7. Lemma Wayesa, East Showa Zone Government appointed Conciliator, interviewed on August 6, 2018
8. Kebede Alemu, Senior Conciliator at Oromia Labour and Social Affairs Bureau, interviewed on August 10,2018.
9. Werkalem Muleta, EOLRB Member, interviewed on August 9,2018.
10. Chala Diro, EOLRB Chairperson, interviewed on August 6,2018.
11. Shaleme Rekita, EOLRB member (representative of workers association), interviewed on August 9, 2018
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15. Daka Gole, Gonite Agricultural Farm Trade Union Chairman, interviewed on, august 23, 2018.

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