CRITICAL ANALYSIS OF THE FUNCTIONING OF THE INDUSTRIAL RELATIONS COURT IN MALAWI

MASTER OF ARTS (HUMAN RESOURCE MANAGEMENT AND INDUSTRIAL RELATIONS) THESIS

ANNIE NEBA- CHIPAKA
BA. (HRM) - University of Malawi

University of Malawi
Chancellor College

MAY, 2017

DECLARATION

I, the undersigned hereby declare that this thesis is my own original work which has not been submitted to any other institution for similar purposes. Where other people's work has been used acknowledgements have been made.

_____

Full Legal Name

_____

Signature

_____

Date

CERTIFICATE OF APPROVAL

The undersigned certify that this thesis represents the student's own work and effort and has been submitted with our approval.

Signature: _____ Date: _____

Lewis Dzimbiri, PhD (Professor of Political Science)

MAIN SUPERVISOR

DEDICATION

I dedicate this study to my beloved husband Oliver, for his support and encouragement. Honestly without you Oliver, I could not have achieved this ‘award’. Yolanda my daughter, you are so precious to me. I love you so much. Thank you for your encouragement, patience and understanding my busy schedules at home when you needed me most.

May God Almighty bless you.

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ABSTRACT

The Industrial Relations Court (IRC) is a court of first instance, which hears and determines labour cases. In this respect, this study critically analyses the functioning of IRC in terms of dispute settlement. It examines how the dispute settlement process is carried out at the Industrial Relations Court, and then looks at the effectiveness and challenges of IRC in dispute settlement. The study employed a mixed method design. A qualitative approach was the dominant method with quantitative elements employed with regard to the question of case statistics. The qualitative approach was largely employed because the study aimed at analyzing the functions of IRC. Presentation of the finding was done through Microsoft word. The study establishes that IRC is minimally performing its function to settle disputes when they arise. With the evidence presented the study shows that IRC concluded very few labour disputes for a period of five years from 2010 to 2015. The study also reveals that IRC has in place defined procedures for dispute settlement. However, within the procedures, litigants, IRC staff and other stakeholders experience some challenges that have contributed to delays in settling disputes. Using different measures such as user satisfaction, cases clearance rate and on-time process the study further reveals that IRC is generally ineffective in its functions. For instance, the overall case clearing rate for a period of five years from 2010 to 2015 is at 22.9 percent which is below 50 percent of registered cases. The study further established two key challenges that include financial constraints and inadequate human resource. As far as courts are concerned, funding cycle affects courts performance enormously on the premise that the amounts that are disbursed monthly are both delayed and inadequate and in the process it is impossible to satisfy courts operation. Additionally inadequate human resources pose a huge challenge as courts are overwhelmed with cases in midst of very few personnel to dispose of cases within the stipulated time frame. Consequently there is a buildup of backlog of cases all the time. The study recommends among others that Government should provide adequate financial and human resources to improve the functioning of IRC in Malawi.

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LIST OF ABREVIATIONS AND ACRONYMS

ACAS	Advisory Conciliation and Arbitration Services
ADR	Alternative Dispute Resolution
CCMA	Commission for Conciliation, Mediation and Arbitration
CEJEP	Commission for the Efficiency of Justice of the Council of Europe
CMA	Commission for Mediation and Arbitration
CRM	Chief Resident Magistrate
ELRA	Employment and Labour Relations Act 2004
HRD	Human Resource Development
HRP	Human Resource Planning
ILO	International Labour Organisation
IFCE	International Framework for Court Excellency
IMAC	Institute for Mediation, Arbitration and Conciliation
IRC	Industrial Relations Court
LIA	Labour Institution Act 2004
LRA	Labour Relations Act
MCTU	Malawi Congress of Trade Union
MSCE	Malawi School Certificate of Education
NIC	National Industrial Court
NCSC	National Centres for state Courts
ORT	Other Recurrent Transactions
SADC	Southern African Development Community
TDA	Trade Dispute Act
UK	United Kingdom
USA	United States of America

CHAPTER ONE

INTRODUCTION

The function of Industrial Relations Court (IRC) in settlement of labour related disputes has become an issue of concern in Malawi. This has probably been a result of numerous challenges being faced by IRC. The advent of democracy and human rights has conferred many people to be knowledgeable and comprehend labour related rights. The Labour Relations Act 1996 did just that by empowering the Industrial Relations Court to have original jurisdiction to hear and determine all labour disputes and disputes assigned to under this Act or any other written law. This has been reinforced by Republic of Malawi Constitution section 110 (2) under which the Industrial Relations Court was established. In essence IRC is a referral court mandated with the original jurisdiction to hear and determine labour employment disputes (LRA, 1996: 28). In doing so IRC mission is to promote and protect labour and employment rights through timely adjudication of disputes and providing litigants with proper remedies (IRC, 2007: 5).While the IRC has been settling labour related cases there has been disapproval in its function as there has been a significant low level of case settlement. The accumulation of unresolved cases has raised concerns on the jurisdiction of IRC in seeing that justice is done. This study critically analyses the functioning of the IRC Malawi and propose recommendations to improve its operations. The chapter discusses introduction, background to the study, problem statement, research questions, overall and specific objectives and justification for the study. Furthermore, it has provided a structure on how the chapters have been outlined and finally a summary.

1.0 Background to the Study

Industrial adjudication has undoubtedly played a crucial role in the settlement of industrial disputes and in ameliorating the working and living conditions of labour class. The adjudicating machinery has exercised considerable influence on several aspects of conditions of work and labour management relations. Adjudication has been one of the instruments for the improvement of wages and working conditions and for securing allowances for maintaining real wages, bonus and introducing uniformity in benefits and amenities. It has also helped to avert many work stoppages by providing an acceptable alternative to direct action and to protect and promote the interest of the weaker sections of the working class, who were not well organized or were unable to bargain on an equal footing with the employer (Mahapatro, 2010: 393).According to Thomson (2002: 179) states that if disputes are not settled or take long to be settled, fairness will not be promoted and order in the treatment of individuals and in the conduct of industrial relations. There will also be lack of fair methods of dealing with alleged failures to observe the rules. Furthermore, employers will not know what standards are expected of them in dealing with employees. There will also be lack of legal requirement according to labour law.

Globally, research has been undertaken in relation to functioning of labour courts especially in dispute settlement. In Malaysia, Hui and Mohammed (2006: 2) note that in the administration of justice, the courts are faced with the serious problem of backlog and accumulation of cases. Over and above the old backlog, new backlog is created and continues to grow until it is found that there are over hundred cases pending. Similarly, Alam (2014: 88) in his study found that the present judiciary of Bangladesh has caught in a vicious circle of delays and backlog of cases.

Likewise, IRC in Malawi is having a substantial backlog of cases that are yet to be settled. Musukubili (2013) in his analysis of labour dispute resolution system observed the inherent delays in finalizing disputes are prevalent in both South Africa and Namibia court systems.

In India Arputharaj and Gayatri (2014: 343) in their study found out that dispute resolution machinery has failed to bring about timely agreement. Similarly, at IRC it has been noted that cases take a considerable time to be concluded as some cases have lasted 16 years against prescribed 14 and 21 days of judgment.

The proper function of IRC is to handle disputes, within a set minimum time. Any delay in dispute settlement means justice being denied and it has consequences in terms of rights for individual or a group of employees who have been unfairly dismissed from their respective employment. Most employees when they seek the intervention of the court in their disputes with their employers have trust, confidence and respect that the court will preside over their cases in a proficient, dignified and credible manner (Sikwese, 2010: 192).

This study assumes that the IRC in Malawi seem to be challenged in its function of dispute settlement. This is evidenced by the backlog of cases at its registries. Generally, this study critically analyses the functioning of IRC in Malawi of which other studies by Hui and Mohammed (2006), Alam (2014), Musukubili (2013) and Anyim, Chidi and Ogunyomi (2012) did not explore.

1.1 Problem statement

Since the enactment of Labour Relations Act of 1996, section 64 brings into effect the IRC as a specialized court having original jurisdiction to hear and determine all labour disputes and disputes assigned under this act and any other law (LRA, 1996: 28). The IRC mission is to promote and protect labour and employment rights through timely adjudication of disputes and providing litigants with appropriate remedies. This is in view of the fact that failure/delays in addressing issues that border on industrial disputes had far reaching consequences on the employees, including their rights to development, health, education, food and even dignity as most of people depend on employment to achieve their socio-economic rights (Sikwese, 2010: 327). Justice to a complainant can be seen to have been done if the case brought before the court has been completed in a specified time. Timely settlement of disputes by the courts seems to be associated with

high level of effectiveness by the courts and appreciation of its functions. Equally, accessibility of IRC to almost all people, the ability of most people being conversant with IRC procedures, and significant increase in number of registered cases appears to demonstrate the trust that people have in the jurisdiction of the IRC.

However, in the administration of justice IRC is faced with serious problems of backlog of cases. The magnitude of the backlog of cases and its trend is exemplified in the Table 1 and Figure 1 below for the three registries of Mzuzu, Lilongwe and Blantyre.

Table 1: Backlog cases, IRC, 2010-2015

	Registered	**Backlog**
2010-2011	3505	2709
2011-2012	3906	2886
2012-2013	4310	2727
2013-2014	4128	3511
2014-2015	4557	3896
Total	**20406**	**15729**

Source: field data

Figure 1 shows the magnitude of the backlog of cases, and the trend for approximately a five year period 2010-2015.

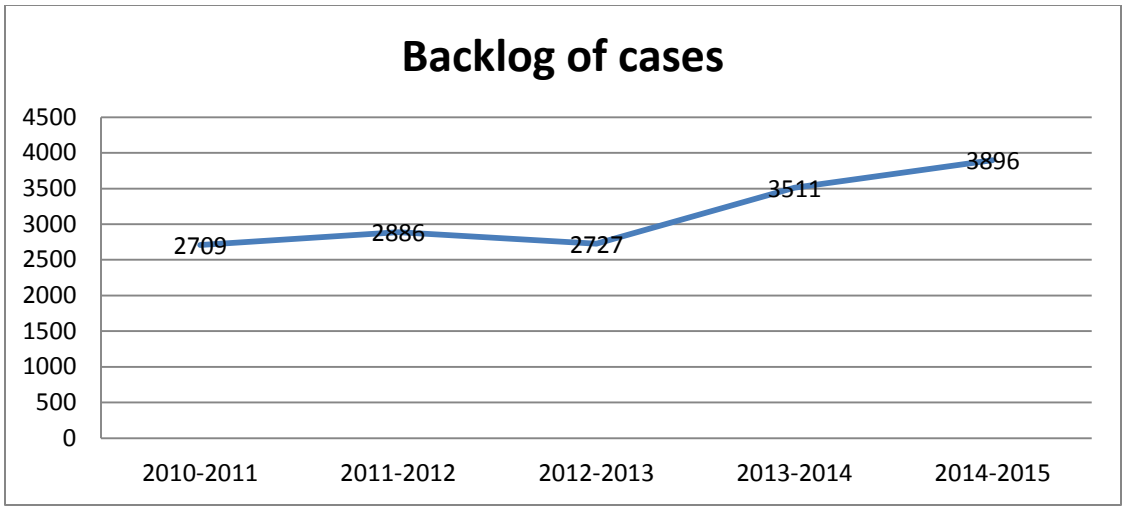

Figure 1: Case backlog and trends for IRC, 2010-2015

Source: field data

As indicated in the Table 1 above a total caseload of 20,424 registered over a period of five years (2010-2015) and the courts resolved a total of 4,677 cases representing a case clearance rate of 22.9 percent and accumulation i.e. backlog of 15,729 unresolved cases over the same period (IRC, 2010-2015).

Basing on the data in the above figure it is very worrisome as all the registries do not seem to have the ability to settle most of the cases. This clearly demonstrates that the backlog of cases at IRC could be a very significant pointer to challenges that probably have adverse effects in the functioning of IRC. The study therefore critically analyze the functioning of IRC in dispute settlement by answering the following research questions.

1.2 Research Questions

i. To what extent does IRC fulfilling its mandate in Malawi?

ii. What is the dispute settlement process at IRC in Malawi?

iii. How effective is IRC in dispute settlement?

iv. What are the challenges faced by IRC in Malawi?

1.3 Objectives of the study

1.3.1 Overall Objective

The overall objective of this study is to critically analyze the functioning of IRC in dispute settlement.

1.3.2 Specific Objectives

The specific objectives of the study are:

i. To determine the extent of IRC fulfilling its mandate in Malawi
ii. To determine the existing dispute settlement process at IRC in Malawi
iii. To assess the effectiveness of IRC in dispute settlement
iv. To identify challenges faced by IRC in its function

1.4 Justification of the Study

The literature review indicates that there is enormous information on the functioning of labour courts. However, most of this available information is from studies conducted in the United States of America, India, Indonesia, Nigeria and Bulgaria. Here in Malawi, not much research has been done in this area. This study therefore is important in the sense that it contributes to the existing body of literature. While it is important to learn from other countries, Malawi needs to have its own literature so that other countries should also learn from us.

Since the advent of multiparty democracy, issues of Human Rights are accommodated in the Constitution, as a result a lot of people have become knowledgeable about their rights and there is an influx of labour cases and IRC seems to be challenged in managing them. Thus focusing on IRC in Malawi, this study tackles issues affecting the proper functioning of IRC and suggests recommendations to improve the situation. IRC provides one of the most important mechanisms in dispute settlement in Malawi. The study further provides insight on how Policy makers may come up with decisions to improve proper functioning of IRC in Malawi which may result in contributing to the improvement of individual's socio-economic rights as a result of a speedy conclusion of disputes.

1.5 Outline of Chapters

The thesis has been divided into five chapters. This Chapter has provided the general introduction where the background to the study, problem statement, research questions, overall and specific objectives of the study and justification for the study have been articulated. Furthermore, it has provided a structure on how the chapters have been outlined and finally a summary. Chapter 2 discusses literature review in relation to the objectives of the study. In addition, the chapter discusses the conceptual framework and finally a summary.

Chapter 3 outlines research methodology and include; how the research has been designed, the targeted population from which the sample was drawn, data collection method and tools, how the data has been analyzed, ethical consideration and finally limitation to the study. The chapter has further discussed the justification of the research and finally a summary.

Chapter 4 presents and discusses major findings in relations to the study objectives. The chapter has also made a summary of the findings. Finally, chapter 5 summarizes the thesis by looking at key issues used in the entire thesis. The chapter has suggested recommendations that can assist IRC to improve its function and areas of further studies that will fill some gaps that exist in the body of literature.

1.6 Summary

The foregoing chapter has outlined the introduction, background to the study, research questions objectives, justification and the outline of the chapters. The next chapter reviews literature and conceptual framework in relation to the stated objectives.

CHAPTER TWO

LITERATURE REVIEW

2.0 Introduction

The chapter discusses and reviews the available literature on the functioning of labour courts in dispute settlement. Specifically, the focus is on what other scholars have written on the mandate of labour courts, dispute settlement process, effectiveness of labour courts, challenges faced by labour courts and finally the conceptual framework.

2.1 The Mandate of labour courts

The mandate of labour courts is to resolve Industrial disputes. Industrial dispute means any dispute or difference between employer and employees, or between employer and workmen or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, or any person (Mahapatro, 2010: 393). This entails that there are certain aspects that needs to be met before a dispute can qualify to be an industrial dispute: the dispute must be between employer and employees or workmen and workmen and must be related to employment and non-employment or should be about conditions of services i.e. terms of employment or physical environment. Therefore, any dispute falling in the above aspects constitutes the subject matter of one class of industrial disputes.

In order to understand the mandate of these labour courts, one has to understand the role of International Labour Organisation (ILO), an agency of United Nations (UN).The aim of ILO is to promote social justice and internationally recognised human labour rights.
ILO become the foundation for international labour standards in the form of Conventions and Recommendations. ILO sets minimum standards that regulate the entire work conditions (Sengenberger, 2013: 11).

In this regard, different nations have enacted different statues to establish labour courts that have adopted the aims, roles and objectives of International Labour Organisation in order to play a very significant role in labour management. In Bangladesh, the Labour Act, 2006, established the labour court to facilitate access to justice, in particular, poor people who are often denied access to justice. Under the Labour Relation Act 2006, adjudications mechanism has been strengthened to protect the rights of workers. According to the act, labour courts shall be the only court to adjudicate all issues under labour law (Faruque and Yasmin, 2015: 5). Similarly, in Indonesia newly established labour relations courts (PHI – Pengadilan Hubungan Industrial) are the primary legal institution in Indonesia that settles labour disputes. They are one of the most important labor relations institutions in the country. Likewise in South Africa, the Labour Court was officially established with the enactment of the LRA in 1996. The Labour Courts (consisting of the Labour Court and the Labour Appeals Court) were the second set of new institutions created by the 1995 Labour Relations Act specifically for the resolution and settlements of labour disputes. The Labour Court can hear contractual disputes or disputes under the Basic Conditions for Employment Act or the Employment Equity Act, without the dispute first being subject to conciliation (Bhorat and Westhuizen, 2008: 29).

In Nigeria, according to Essein (2014: 466) the National Industrial Council (NIC) was established in 1976 to decide trade and union disputes and to create a sustainable industrial harmony. NIC was created as a specialized tribunal, whose jurisdiction is solely to the exclusion of all other courts, on matters relating to or connected with any labour, employment, trade unions, industrial relations and matters arising from workplace, the conditions of service, including health, safety, and welfare of labour, employees, workers and matters incidental thereto or connected therewith (ibid. There is no appeal to any other body as this is the apex court for the settlement of disputes.

The award of NIC is final and binding on the parties in dispute. With the NIC amendment act (2006), the NIC is now a superior court of record just like the State High Court, Federal court and Supreme Court of labour matters. As a superior court of record, the

NIC no longer be a subject of the supervisory jurisdiction of the state and the Federal High Court (ibid).

In Ireland according to the Law Reform Paper (2008: 153-154), the labour court was to provide a free, comprehensive service for the resolution of disputes about industrial relations, equality, and organization of working time, national minimum wage, part time work and fixed-term work matters. In terms of industrial relations disputes, the labour court‘s main mandate are to investigate trade disputes under the Industrial Relations Acts, 1949, at the request of the Minister for Enterprise, Trade and Employment, trade disputes affecting the public interest, or conduct an enquiry into a trade dispute of special importance and report on its findings, hear appeals from Rights Commissioners' recommendations under the Industrial Relations Acts and establish joint labour committees and decide on questions concerning their operation register and vary and interpret employment agreements and establish joint labour committees (ibid).

Similarly in India according to Lansing and Kuruvilla (1987: 360-361) under section 10 (c) of the Act, the appropriate government refer disputes to a labor court for adjudication. The labor court basically inquires into a dispute referred to it. After examining all relevant documents and conducting detailed hearings complete with the examination of witnesses, the court issues its decision. Decisions of the labor court may be appealed by either party in the high court of each state (ibid). Consequently, a labor court ruling often takes considerable time to be implemented since the court's decision is not necessarily final. For instance, the labour court generally takes a minimum of three to four months to make a decision. The parties can then prolong the proceedings further by requesting postponements. To compound the situation, the backlog of the labour courts is so severe that many cases taken up for hearing on any particular get adjourned (ibid).

It can therefore be understood different countries like Bangladesh, India, South Africa, Nigeria, Ireland, Bulgaria and India among others have instituted labour courts in order to resolve labour disputes.

2.2 Dispute Settlement Process

Settlement of labour disputes goes through a process for it to be resolved. The process is recognized as an instrument to facilitate access to justice when labour dispute arise. It provides step by step procedure in dispute resolution. Many countries have adopted the conventions and recommendations on labour disputes by ILO. These standards by ILO are argued to serve as a general guide and as a source of inspiration to governments, employers and workers of nearly all countries of the world. They provide a basis for the claims of workers and guide the policy of employers (Daemane, 2014: 58).

According to International Labour Organization (ILO) conventions and recommendations, the process of dispute settlement used in many countries includes; negotiation, conciliation, mediation, arbitration and adjudication as the last resort. This process of dispute settlement is explained in this section.

Negotiation is the first step that the disputants resort to when there is a problem. This is the process when the parties consult one to one without an outsider to intercede. It provides the parties or disputants opportunity to exchange ideas, identify the irritant point of difference, find a solution and get commitment from each other to reach an agreement (Alam, 2014: 90-91). This can be a convergent process (in commercial terms this is sometimes referred to as a 'willing buyer-willing seller' situation) where both parties are equally keen to reach a win–win agreement. Clearly, if this can be achieved rather than a win–lose outcome, the future relationships between the parties are more likely to be harmonious (Armstrong, 2006: 796). The idea at this first stage is that parties have to understand each other and reconcile their differences without involving a third person. Such being the case, parties may agree or disagree to resolve their differences. However, when parties fail to agree on the dispute they may proceed to the next stage of conciliation.

In Ireland according to the Law Reform Paper (2008: 153-154), the Labour Court itself recommends that a dispute should only be referred to the Court when all other efforts to resolve a dispute have failed. The Labour Court was established to provide a

free, comprehensive service for the resolution of disputes about industrial relations, equality, organization of working time, national minimum wage, part time work and fixed-term work matters (ibid).

Conciliation is the second stage where a person would want to pacify a situation thereby meeting the disputants separately with the aim is to get views from both sides in order to arrive at an informed decision. Alam (2014: 90-91) states that Conciliation is a second process of dispute resolution where a third party meets separately with the disputants in an effort to establish mutual understanding of the underlying causes of the dispute and thereby promote pacific settlement. The conciliator may advise on or determine the process of conciliation whereby resolution is attempted, and may make suggestions for terms of settlement, give expert advice on likely settlement terms and may encourage the parties (ibid). Blenk (1989: 3) adds that in Spain and Israel, about 40 percent of the cases could be settled at this stage and in Sweden about 35 percent. It was felt that, in anticipating the possibility of pre-trial conciliation, the parties would deploy less effort to arrive at a solution in joint procedures which preceded the judicial stage (ibid).

As a general rule, pre-trial procedures would be carried out orally so as to assure direct contact and a free exchange of views among the parties and between the parties and the judicial officer. Pre-trial procedures which usually took the form of mediation or conciliation could be part of the judicial process or be separate from it. For example, the industrial tribunals in the United Kingdom had themselves no competence to settle a conflict by means of conciliation. This mandate was entrusted to a separate body, the Advisory Conciliation and Arbitration Services (ACAS). In Finland the court had the power to confirm a settlement at the pre-trial stage. At this stage it would also be decided which issues were to remain in dispute and only those issues would be dealt with in the main hearing. In Denmark, the Federal Republic of Germany, Israel and Sweden the courts themselves would try to promote an amicable settlement. In some instances, however, it was necessary in order for a case to come before the labour court, that certain extra-judicial procedures be exhausted.

In Spain, for example, an attempt at mediation must have been made by the Institute for Mediation, Arbitration and Conciliation (IMAC) before the case could be submitted to the labour court. When parties fail to agree on their differences, the next step of mediation is taken. Once it has been established that parties have failed to reconcile their differences then they proceed to the stage of Mediation where a third party will try to mediate the dispute between the parties in order to assist them to reach an agreement.
Mediation is a voluntary and informal process in which the disputing parties select a neutral third party (one or more individuals) to assist them in reaching a mutually acceptable settlement.

In other words, it is a process to try to get agreement between people who disagree with each other. A mediator would bring disputants together to work out a settlement which both parties can accept or reject. The mediator has no advisory role or determinate role in regard to the content of the dispute or the outcome of its resolution, but may advise on or determine the process of mediation whereby resolution is attempted (Alam, 2015: 90). If parties fail to settle at mediation level then they attempt the next step of Arbitration.

Arbitration is a voluntary process for the settlement of industrial dispute. The award of the arbitrator is final and no appeal shall lie against it (Faruque and Yasmin, 2015: 5). The parties put the issue to an independent third party for determination. They agree in advance to accept the arbitrator's decision as a means of finally resolving the matter. Armstrong (2006: 787) argues that there is sometimes a reluctance to use this method as it removes control over the final outcome from employers and employees.

Parties may proceed to court for adjudication as the final step to resolve disputes when they fail to agree at the three earlier processes. Adjudication generally refers to processes of decision making that involve a neutral third party with the authority to determine a binding resolution through some form of judgment or award. Specifically, adjudication refers to litigation or court-based resolution of conflicts (Kwakwala, 2009).
Faruque and Yasmin (2015: 5) add that after the stage of negotiations, conciliations and mediation are exhausted; the disputant parties may resort to settle their dispute by

referring the same to the labour courts. In India, Arputharaj and Gayatri (2014: 337-341) states that Industrial dispute Act 1947, provides procedure for settling disputes. As laid down in their act, a dispute will first go through the process of conciliation, mediation, arbitration and finally labour courts.

Likewise, in Nigeria, through their Trade dispute act 1947, the office of the Minister of Labour refers disputes for conciliation, arbitration and adjudication through National Industrial Court (NIC). This is the final stage in dispute settlement. The decision made by labour courts is final and binding on all the parties although variation may be found in different countries.

Generally, there is an overall agreement to the global scholars in countries like United States of America(USA), United Kingdom (UK), Bangladesh, India, Nigeria, Uganda, South Africa and Tanzania that labour relations must encompass the atypical i.e. conciliation, mediation, and arbitration process of dispute settlement before resorting to adjudication. The process is regarded as cost effective and resolution of the disputes carried out amicably and expediently.

2.3 Effectiveness of labour courts in dispute settlement

Organisation need to accomplish the set goals or objectives of the institution. Organisational effectiveness has been defined as the ability of an organization to fulfill its mission through sound management, strong governance and a persistent rededication to achieving results (Mahapatro, 2010: 217). Effective nonprofits are mission-driven, adaptable, customer-focused, entrepreneurial, outcomes oriented and sustainable. Organizational effectiveness is the central theme of organization theory. It is viable concept from the standpoint of management (ibid: 2010).

This study has adopted some element in the International Framework for Court Excellence (IFCE) (Hall and Keilitz, 2012). According to International Consortium on Court Excellency (2008), the Framework is a standard performance quality tool for improvement of court performance. It provides clear guidance specifically designed for

the courts that wants to improve performance. The framework takes a holistic approach as it takes account of the whole-court process. Hall and Keilitz (2012: 2) states that there are several instruments or tools that can be used by the courts to measure its effectiveness.

The type of tools that a court might select depends on the situation and the needs of the courts. Some courts will implement all the tools listed. Others will select and implement a limited number of tools so is the case with this study. The elements of measure to be used in this study will be as follows: Court user satisfaction, Case clearance rate and On-time processing.

2.3 1 Court user satisfaction

This element will measure the percentage of court users who believe that the court provides procedural justice that is accessible, fair and courteous to all manner of people. Court users include but may not be limited to members of the public and businesses making use of the services of the courts, for example, litigants, witnesses, and professional partners (IFCE, 2008: 14). The satisfaction of dispute settlement depend not only when the results are favourable but the way people are treated by the court. Research has consistently shown that the perceptions of those using the courts are influenced more by how they are treated and whether the process appears fair, than whether they received a favourable or unfavourable result (NCSC, 2013: 10). Thus, one of the important aspects of effectiveness of the court is that it takes the needs and perceptions of court users into account (NCSC, 2013: 10).

In Serbia, Jasarević (2003: 31-30) states that with regard to legal conditions for peaceful settlement of industrial disputes, it can be stated that this is fairly satisfactory. In Serbia there no clear definition between an employer and an employee. However, the labour law gives more freedoms to the employer in determining working conditions in the field of dismissal and redundancy policies. Trade unions are also weak and slow courts; this is a source of large number of labour conflict and dissatisfaction among the employees.

Kwakwala (2010: 48) argues that accessibility in dispute resolution means the ability to effectively access redress systems and to participate in the redress processes in order to achieve just outcomes. An important principal of Labour courts is that access should be easy and free and that justice is not a function of either formal education or disposable income. The ability to access redress systems effectively means that personal characteristics, such as education levels, and situational characteristics, such as the availability of service centres or the cost of legal services, do not constitute barriers preventing a party from invoking the dispute resolution system (ibid).

In this sense, accessibility is a function of the informality of dispute resolution, the absence of costs of dispute resolution and the widespread coverage of dispute resolution providers independent of resources or expertise. Informality facilitates the ability to participate effectively in dispute resolution processes. An informal dispute resolution institution is one in which dispute resolution procedures/processes are so simple that the users themselves can start a case, prepare it for submission to the institution and present it at a hearing, with little or no support or assistance Genn at al., 2006 (in Kwakwala, 2010: 48). In court context, when users perceive the process to be fair, they are more likely to view the system to be legitimate and comply with court orders. Fairness is when people are given respect, information and timely access justice (Lambretta and Bowen, 2014).

2.3.2 Case clearance rate

Another orientation on measuring court effectiveness is case clearance rate. Hall and Keilitz (2012: 1) states that cases clearance rate is the number of finalized (outgoing) cases expressed as a percentage of registered/filled (incoming) cases. In a more sophisticated model an additional precise distinction is made types of disputes in terms of defining specific case-categories. For each case-category an estimation of the time that is needed for a judge or the court staff to prepare and finalize case (in minutes) is given.

According to Anon (2014: 27) agrees that the indicator of case clearance rate can be used to measure courts dispute settlement process. It represents the number of examined cases by the Judge, in panel or individually, presented in percentage compared to the total number of cases assigned to the respective judge or panel. This element therefore will

assist in measuring whether the dispute process is effective and efficient or not. A clearance rate close to 100 percent indicates the ability of the court or of a judicial system to resolve more or less as many cases as the number of incoming cases within a given period of time. A clearance rate above 100 percent indicates the ability of the system to resolve more cases than received, thus reducing any potential backlog.

Finally, if the number of incoming cases is higher than the number of resolved cases, the clearance rate will fall below 100 percent. When a clearance rate goes below 100 percent, the number of unresolved cases at the end of a reporting period (backlog) will rise. Essentially, a clearance rate shows how the court is coping with the inflow-of cases (CEPEJ, 2014). In Uganda, Kaweesa (2012) undertook study on case backlog and the right to due process. His findings were among others were that the Judiciary has continued to perform poorly in respect to clearance of cases. Courts are considered efficient where the clearance rates are high.

2.3.3 On-time processing

A case has to be resolved within the established time as stipulated by laws or court standard procedures. However, in most cases in different countries, trials are taking much more time than expected. Hall and Keilitz (2012: 1) states that on- time processing means the percentage of cases resolved or otherwise finalized within established timeframe. This is the probability of a disposition in a given time and the average unexpected delay between the actual and the announced date of a hearing that length of proceedings is an important indicator for measurement of court performance. It is a practical tool for courts, for evaluating their level of attention on the issue of reducing backlog of cases and length of proceedings. Courts are obliged to process cases in an efficient and effective manner. Efficiency within the context of on-time process means to provide timely justice which may result enhancing trust and confidence in the labour court.

Thomson (2002: 179) argues that if disputes are not settled or take long to be settled, fairness will not be promoted and order in the treatment of individuals and in the conduct of industrial relations. There will also be lack of fair methods of dealing with alleged

failures to observe the rules. Furthermore, employers will not know what standards are expected of them in dealing with employees. There will also be lack of legal requirement according to labour law.

Anon (2009: 2) adds that, long delay has also the effect of defeating justice in quite a number of cases. As a result of such delay, the possibility cannot be ruled out of loss of important evidence, because of fading of memory or death of witnesses. The consequences thus would be that a party with even a strong case may lose it, not because of any fault of its own, but because of the tardy judicial process, entailing disillusionment to all those who at one time, set high hopes in courts. The delay in the disposal of cases has affected not only the ordinary type of cases but also those which by their very nature, crave for early relief. The problem of delay and huge arrears stares all stakeholders and unless something about it is done, the whole system would get crushed under its own weight.

We must guard against the system getting discredited and people losing faith in it and taking recourse to extra legal remedies with all the sinister potentialities.
It also adds that inefficient scheduling of court hearings can contribute to delays and backlogs. The problem often occurs when insufficient time is scheduled for court hearings, especially in situations where significant time is needed to discuss the sources of evidence and/or the legal grounds of a dispute. The problem is compounded when parties are not properly prepared for a hearing and request postponement.

In South African labour courts in Cape Town, they are also struggling with huge backlog of cases. Zondo (in Salie and Mangxamba (2002) said that soaring labour disputes have landed Cape Town's court with the biggest backlog of labour cases in the country- likely to take more than a year to clear. The delays are likely to have serious cost implications for companies, which will be affected at every level, and for employees who may have been unfairly treated or dismissed.

The Labour Court in South Africa has the same status as the High Court. Kwakwala (2010: 3) confirms that labour courts in Cape Town are inefficient: it takes years to get a dispute resolved backlog with cases four to six years old. As such, unresolved issues continue to haunt the disputant.

Faruque and Yasmin (2015: 5) states that a noteworthy feature of the Labour Act is that time has been fixed for the adjudication of each and every stage of the cases in the labour court to accelerate the speedy disposal of the disputes. Currently huge number of cases is pending before the labour court and tribunals. According to official statistics, up to May 2010, total 8, 897 cases are pending before seven labour courts of country. As a result, most of the cases are not disposed of within statutory time limit. The reasons behind the backlog of cases in the Labour Courts are inadequacy of Courts for dealing with labour disputes, the judges of the Labour Courts usually do not have any prior experience in dealing with labour issues, the absence of members of courts cause unnecessary delay in disposing of the case, the practicing lawyers of the Labour Court are habituated in filing frequent time petitions which create unreasonable delay in disposing of the case, lack of logistic support of the Labour Court. Hui and Mohamed (2006: 2) states that in Malaysia delay which is the common reason for public dissatisfaction, invariably causes hardship and loss to the people. To ensure justice, disputes must be settled speedily for every purpose it is intended for.

However, labour courts remain the preferred option for the workers for addressing their grievances and interests (Hui and Mohammed, 2015: 6). It can therefore be said that success of dispute resolution depends considerably upon time management within the justice delivery system.

2.4 Challenges faced by Labour courts

There are so many challenges that contribute to dysfunctional of the labour court worldwide. However, in most countries key and cross cutting challenges included financial constraints and inadequate human resource.

The first challenge faced by labour courts is financial constraints. Labour courts cannot function properly if they do not have the financial muscle to support their activities. If finances are inadequate or delayed it negates the activities of the courts. Funding is fuel on which business runs. Sappia (2002: 13) opines that the first prevailing regional problem with regard to judicial and administrative management of labour conflict is the meagerness of the budgetary resources that are available to the public bodies that must discharge these duties. As far as the Courts are concerned, the problem also consists in poor budget allocations. The net result of this situation is that labour trials may last for many years before coming to an end. Slow justice is justice denied, especially when the rights of workers are violated.

In India Anon (2014: 7-8) states that every state except Delhi has been providing less than 1 percent of the budget for subordinate judiciary whereas the figure is 1.03 percent in case of Delhi. In terms of Gross Net Product, the expenditure on judiciary in their country is hardly 0.2 percent, whereas it is 1.2 percent in Singapore, 1.4 percent in United States of America and 4.3 percent in United Kingdom. Such meager allocations are grossly inadequate to meet the requirements of judiciary.

It is also important to note that financial constraints in Tanzania have hindered the development of the commission's website where one may access information about its operation. Financial constraints make it hard for Commission for Mediation and Arbitration (CMA) to perform duties effectively in terms of research and speedy determination of disputes.

In addition the commission does not have office in all the regions (Temba, 2013: 135-136). Moreover researcher working in South Africa, Namibia, India and Nigeria reported that similar problems of financial constraints are affecting operations at their labour. Kaweesa (2012) in his study found that 94 percent of the respondents were of the view that inadequate funding to the Judiciary affects delivery of justice in the country. The only conclusion is that inadequate funding to the Judiciary affects the delivery of justice in labour courts.

The second challenge affecting effective performance of labour courts is inadequate human resources. Human resources are fundamental in an institution as it is people who implements organisational plans. Without adequate number of people, organisations cannot achieve their goals. The shortage of such central resource impacts on the finalization of cases. For instance, cases that are dependent on Legal Aid for legal representation cannot proceed in the absence of a legal aid practitioner. It is critical that courts are equipped with the sufficient human resources to enable them to deliver efficient services to the citizens.

Mahapatro (2010: 46) opines that the most important asset in organization is our people. Without the right people, it is unlikely that even the most comprehensive and business plans/strategies will deliver negative performances. The vast majority of organization comes when the right people with right knowledge, skills and behaviour are deployed throughout an organization. Torrington et al (2008: 31) agrees that human resources are the source of competitive advantage for the business. It is therefore logical to suggest that attention needs to be paid to the nature of this resource and its management as this will impact on the performance of the organisation.

Similarly, according to Yeung and Azevedo (2011) said that in Brazil, Judiciary staff members are the most frequent critics of the lack of resources; they argue that human and material resources at all levels are insufficient to deal with the large number of cases. Likewise, Elbialy and Garcia-Rubio (2011: 8-12) argue that in Egypt, most judicial staff members agree that Egyptian Courts are understaffed, which is the main reason behind court inefficiencies. In South Africa and according to the Labour Court Judge, President Ray Zondo (in Salie and Mangxamba, 2002) said that shortage of judges have landed Cape Town's labour court with the biggest backlog of labour cases in the country - likely to take more than a year to clear. The delays are likely to have serious cost implications for companies, which will be affected at every level, and for employees who may have been unfairly treated or dismissed.

2.5 Conceptual Framework

A conceptual framework for this study is depicted in Fig 2 below. According to Sotirious Sarankakos 1994 (in Kaweesa, 2012: 9), a conceptual framework explains either graphically or in narrative form the main concepts to be studied, the key factors, constants or variables and the presumed relationship among them.

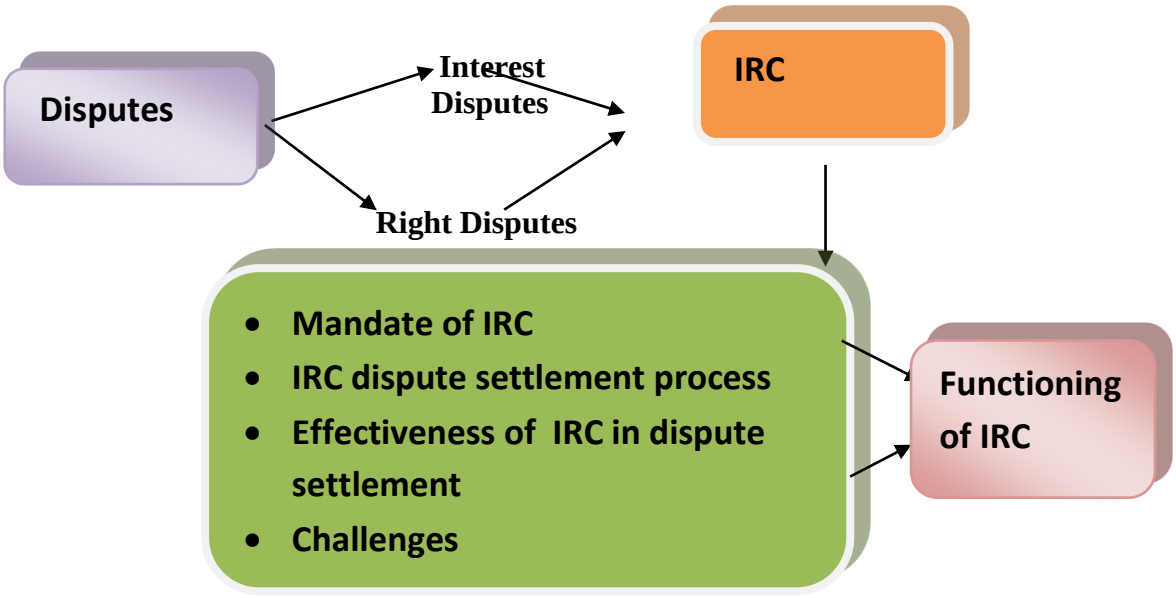

Figure 2: Conceptual Framework

In the figure 2 above, when employments disputes arises, IRC as one of mechanism is mandated to settle them upon a complaint from the litigant. It is therefore assumed that when employees have been aggrieved, they have to be assisted to get justice. It is also assumed that the justice shall not delay as justice delayed is justice denied. Therefore, the process of dispute settlement process by IRC has to be consistent and in logical form when a complaint is lodged throughout the decisions by labour judges. Any disjuncture of the process and procedure in the model above causes delays in the system resulting in its malfunctioning. In the model, the mandate of IRC, the dispute settlement process, effectiveness of IRC in dispute settlement and challenges faced by IRC are considered to have intervening effects on the effect on the functioning of IRC.

In the above diagram, using a semi-structured questionnaire, the researcher will determine whether IRC is fulfilling its mandate of dispute settlement. Specifically, the semi-structured interview focuses on the extent of IRC in fulfilling its mandate. Thereafter, the study will unearth the dispute settlement process i.e. lodging complaint, pre-hearing conference, full trial and delivery of judgments. The questions will include explaining the procedure in dispute process, how does the procedure work and whether the court adherence to standards set by law and possibly its impact on litigants and IRC.

In addition, the study will focus on whether the IRC is effective in its function. Using International Framework for Court Excellence (IFCE, 2012) model, certain measures will be employed including court user satisfaction, case clearance rate and on-time processing. The semi-structured questionnaire will include; whether stakeholders are satisfied with IRC performance or not; how many cases IRC has registered; how many have been concluded; backlog of cases and the length of time it takes to conclude a case. In addition, the study will identify challenges faced by IRC at organizational, individual and complainant level. Finally, analyzing the functioning of IRC by looking at various aspects an opinion on how IRC functions will be made.

2.6 Summary

The chapter has presented a discussion of relevant literature about the functioning of labour court in dispute settlement. The first section has discussed the mandate of labour courts. This was followed by a discussion of the dispute settlements process and the effectiveness of labour courts in dispute settlement which used three measures namely: court user satisfaction, case clearance rate and on-time processing and finally a discussion on the challenges faced by labour courts. Furthermore, the section has explained figuratively the main concepts to be studied, the key factors and the presumed relationship among them. The framework was important as it aided the researcher with a proper means of understanding the way IRC functions. The next chapter discusses the research methodology.

CHAPTER THREE

METHODOLOGY

3.0 Introduction

The chapter discusses the research design and methods adopted by the study, which employed both qualitative and quantitative approaches. It justifies why the study adopted a mixed approach. Then it describes the study population which is followed by a discussion on the sampling technique which was employed in the study. This is followed by a discussion on the techniques for data collection in order to obtain answers to the research question. Thereafter, techniques for data analysis are explained too. Finally, ethical consideration and limitations of the study are discussed and a conclusion of the section.

3.1 Study design

The study employed "mixed method design" or "dominant-les dominant design". This is whereby the researcher presents the study within a single dominant paradigm but elements of the other paradigm are adopted to answer a particular question Cresswell 1994; De Poy and Gitlin, 1994 (in Johnstone, 2004). In this study qualitative approach was the dominant approach with quantitative. Although these two approaches differ in their philosophical assumptions about knowledge claim, strategies of enquiry and research methods, the study draws from both because it included aspects that cannot be handled by one approach.

The quantitative approach subscribes to what is called Positivist or Scientific assumptions that consider knowledge as that which is based on careful observation and measurement of the objective reality that exists in the world and thus develop numeric measures of observation (Cresswell, 2003: 8).

Unlike quantitative approach, the qualitative approach views meaning as constructed by human beings as they engage in the world they are interpreting. The generation of meaning is, therefore, always social, arising in and out of interaction with human community (Ibid: 9).

The study subscribes to what Cresswell calls pragmatic knowledge claims where the researcher uses approaches to understand the problem by not committing to any approaches. Since the study aims at studying a social phenomenon through analyzing the functions of IRC in dispute settlement, it therefore adopts a case study. The data collected were organized on a case basis. The advantage of this is that the research can be much more detailed if one was studying a large sample, but the corresponding disadvantage is that it is much more difficult to generalize findings.

The study's objective on the extent of IRC fulfilling its mandate demanded both quantitative and qualitative approaches. In quantitative approach there was need to know how many cases were brought forward, registered, settled and backlog in a defined period. However explanations from key respondents on the mandate of IRC were best handled qualitatively as it involved analyzing the contents of their explanations.

In determining the dispute settlement process, whether it is followed and its impact on the stakeholders, it required qualitative approach as it needed content analysis of their explanations. Assessing the effectiveness of IRC performance demanded both qualitative and quantitative approaches as it involved assessing opinions, case clearance rate and on-time processing and the content explanations from the respondents. Finally, the objective of challenges faced by IRC demanded a qualitative approach because the study sought deeper understanding of the challenges being faced. Thus this part of research relied much on respondent's views to establish meaning of the phenomenon being studied.

3.2 Study population

A study population of 75 was targeted. They included 37 employees of IRC, 18 Panelists from employee and employer organizations and 20 litigants. IRC employees were involved as they were better placed to explain how IRC functioned.

The Panelists were critical in the study because they are directly involved in dispute settlement. For IRC to hear a case, the requirement is to have one representative from employees' and employers' organizations.

In the absence of the Panelists, the court may not sit for a full hearing. Furthermore, employees (litigants) whose cases were unresolved were targeted. These litigants also provided information that was useful to the study because they are the main beneficiaries of the IRC.

3.3 Sampling Technique

Using purposive sampling, the researcher targeted 12 IRC employees from the population of 37 which include judicial officers and support staff. The male IRC employees interviewed comprised of one Deputy Chairperson, two Assistant Registrars and one Court Clerk for Mzuzu registry; two Court Clerks for Lilongwe registry; one Assistant Registrar and one Court Clerk for Blantyre registry.

The female IRC employees interviewed included one Deputy Chairperson, one Assistant Registrar and one Court Clerk from Lilongwe registry; and two Court Clerks for Blantyre registry. These were the officers who were directly involved in dispute settlement and key in this study.

The sample included ten Panelists representing employees and employers organization. The Panelists came from Southern, Central, Eastern and Northern regions. Nine males and one female Panelists were interviewed. The nine male Panelist interviewed were spread as follows: two Central region, five Southern region and two Northern region while the only female Panelist interviewed was from the northern region. It was

important to involve them as they are key in dispute settlement. The seventeen litigants whose cases were still were unresolved were interviewed. The litigants were selected across the three regions as they accessed services in the courts. The focus on all the litigants was due to the knowledge they had on the information being sought.

3.4 Data Collection Tools

3.4.1 Review of Documents

The study reviewed several documents in relation to the study objectives which included staff establishment, case returns, IRC handbook, journals, books, published articles and other relevant legal statutes like the Republic of Malawi Constitution, Labour Relations Act 1996. The document review provided contextual framework on labour relations and information on management and performance of IRC. These sources provided critical information on the functioning of IRC that was valuable as they contained data relevant to study objectives. Further, the document review was fundamental in complementing in-depths interviews.

3.4.2 In-depth Interviews

The study used a semi structured questionnaire having open-ended and closed questions and was administered in a face to face interview to elicit objective data from the informants. Bryman 2002 (in Gilbert, 2008: 13) used the same approach in his studies where a mixed survey instrument (a questionnaire or a semi structured interview) on quantitative side with interviews (semi structured or unstructured) on qualitative side were used. He also found in about a quarter of his studies, qualitative and quantitative data were collected with a single research instrument. Concurrent approaches are less time consuming because both qualitative and quantitative data are collected at the same time in the same visit to the field (Creswell, 2009: 215).

In-depth interviews with the relevant key informants were the major method employed for data collection. According to Devine (2002: 198) in-depth interviews “are based on

an open-ended interview and informal probing to facilitate discussion of issues in a semi-structured manner or unstructured manner". One-on-one interviews were very useful in getting qualitative information from the panelists, litigants and IRC employees. It also helped the researcher to probe for more details using their knowledge, experience and expertise.

As stated, the questionnaire included closed questions. These questions sought to find out the numbers on case statistics from 2010 to 2015. In this case respondents were asked to provide the data for the period understudy. This technique was useful for collection of reliable and accurate data on case trends. Questions were semi-structured, mostly open ended and responses were documented in thorough detailed notes. Type of information collected included mandate of labour courts, cases trends, dispute settlement process, and challenges.

3.5 Data Analysis

The study collected both qualitative and quantitative data simultaneously. For qualitative data, the study used content analysis tool to analyze the data from the key informant interviews and literature review documents that were reviewed. "Content" refers to words, meanings, pictures, symbols, themes, or any message that can be communicated" (Mouton, 2001: 165). In this case, responses were categorized into themes and sub-themes. Categorizing varied according to response on each respective objective and this was followed by in-depth analysis and interpretation. Most of the litigants were interviewed in Chichewa, the rest in English. Chichewa responses were then translated immediately and recorded in English. On the other hand, quantitative data was analyzed using excel. The data was entered in a table in individual cells from which graphs were generated that were explained qualitatively. Presentation of the findings was made in Microsoft word. This was a good approach since it made data analysis much easier to be reported.

3.6 Ethical consideration

Before engaging the respondents in any discussion, permission was sought and granted from IRC office and other respondents. Respondents' privacy was observed by not disseminating information obtained from them. Confidentiality of the respondents was also maintained by not attaching names of the respondents to information obtained.

3.7 Limitations to the study

The key informants especially IRC staff and panelists were busy people and spread far apart in Blantyre, Lilongwe and Mzuzu, challenges were therefore anticipated to meet them to solicit information. In order to overcome this, reminders were made prior to any visit.

Most of the litigants could not understand English during one-on-one interviews; as a result it was time consuming to complete an interview with the respondent. However, the researcher managed to translate English questions into Chichewa for effective communication and handled the interviews within time. Poor record keeping at IRC hampered speed of data collection. However, IRC Officers were of assistance to collect data that was needed.

3.8 Summary

The chapter has presented the methodological approach through which the study objectives have been operationalized. This involved articulating study design and methods, study population, sampling technique, Data Collection tools, data analysis, ethical consideration and issues of study limitations. The next chapter analyses the results.

CHAPTER FOUR

FINDINGS AND DISCUSSIONS

4.0 Introduction

The chapter outlines and discusses findings based on the objectives of the study which were determining the extent of IRC in fulfilling its mandate; determining the existing dispute settlement process at IRC; assessing the effectiveness of IRC in dispute settlement using measures such as court use satisfaction, case clearance rate and on-time processing and identifying challenges faced by IRC. The chapter also highlights the demographic characteristics of the participants.

4.1 Demographic characteristics

This section provides the demographic characteristics of 39 participants interviewed

(See table 2 below).

Table 2: Demographic Characteristics

	Deputy Chairpersons	**Assistant Registrars**	**Court Clerks**	**Panelists**	**Complainants**
Mzuzu Registry	1	1	1	3	5
Lilongwe Registry	1	1	3	2	5
Blantyre Registry	0	1	3	5	7
Total	2	3	7	10	17

Source: Field data

The interviewees were employees of IRC and included Deputy Chairpersons, Assistant Registrars, and Court Clerks; Panelists and Complainants. Deputy Chairpersons and Assistant Registrars were graduates with Bachelor of Laws Honors with ages ranging from 40 to 50 years while the Court Clerks were undergraduates with Malawi School Certificate of Education (MSCE) with ages ranging from 30 to 40 years.

The employees composed of 8 males and 5 females. The Panelists were professionals with post graduate academic credentials working for various institutions as Directors and Chief Executive Officers.

The complainants interviewed from the registries had ages ranging from 40 to 60 years and composed of 15 males and 2 females. 10 percent of the complainants had Malawi Secondary School Education with decent jobs while 90 percent were either primary school drop outs or illiterate and worked as security guards or house maids. From the foregoing description, it could be concluded that the researcher was gender insensitive by having disproportionately larger number of male respondents than females. It should however be noted that IRC registries have higher number of male employees than females. This observation may also be applied on the sampling of the complainants and panelists respondents. This could probably be that we have more males in Malawi in formal employment that females and larger percentage of males who have higher education qualification have dominance over females in holding higher position and are well conversant with labour matters. This therefore may explain the respondents' sample being seen to have had bias towards males.

4.2 Determining the extent of IRC in fulfilling its mandate

The study aimed at establishing the extent of IRC in fulfilling its mandate, it was generally established that minimal cases were being resolved by IRC (see Table 3).

Table 3: Registered and Concluded Cases, IRC, 2010-2015

Year	Registered Cases	Disposed cases
2010-2011	3503	796
2011-2012	3926	1020
2012-2013	4310	1583
2013-2014	4128	617
2014-2015	4557	661

Source: Field data

Number of cases filed and disposed has been identified as one of the determinants of IRC in fulfilling its mandate. In this regard Table 4 depicts data of cases at IRC for a five year period. The available data shows that for a period of 2010-2011 a total of 796 cases were resolved against 3,053 registered cases. Throughout the five year period the trend of disposing few cases continued against an increased number of registered cases. According to the respondents there were several factors that contributed to low case being resolved. These included inadequate and delayed funding, strikes and inadequate human resources. According to respondents from Mzuzu registry the cases that were completed by Mzuzu registry and its satellites were all handled by the Assistant Registrar.

By virtue of the powers and responsibilities vested in the office of the Assistant Registrar, the office is not mandated to decide on cases that are for full trial. It was therefore implied that a significant number of unresolved cases in Mzuzu registry were waiting for full trial to be handled by the Deputy Chairperson. Likewise, the respondent said that for a period of one year, from 2013 to 2014 Mzuzu registry had no employer panelist as the incumbent term of office expired and it was never renewed. The accumulation of unresolved cases clearly demonstrates that IRC is very ineffective in its function as this delayed and denied peoples' right to justice. This has not concurred with LRA (1996: 28) which states that the court is mandated to hear and determine labour employment disputes.

Sikwese (2010) adds that the function of labour Court is to assist people when they have been unfairly treated at their respective working places. It would appear that labour courts are specifically created in the quest to ensure that labour disputes and employment related issues are effectively and expeditiously resolved to embraces industrial peace and harmony which is crucial in the economic development of a country (ibid).

The respondents further stated that one other fundamental reason that was a possible contributor to unsatisfactory performance of IRC was its status (see Figure 3 below).

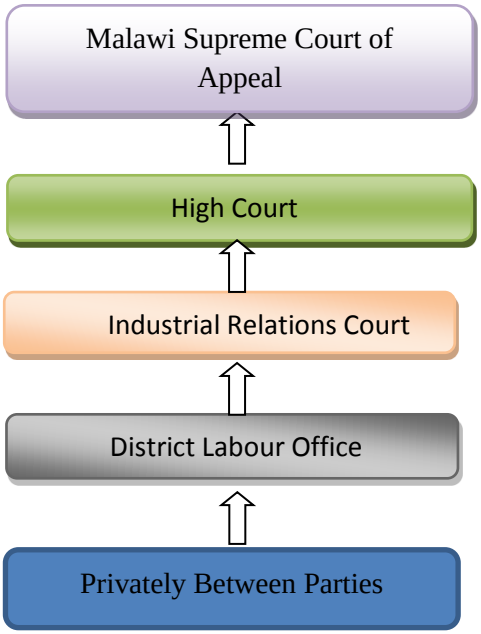

Figure 3: The status of IRC and dispute resolution structure

As shown in the diagram above, the status of IRC in the judicial structural system was a source of concern to the respondents. The main concern from respondents over such arrangement was the delay in disposing of cases due to its subordinate status. Malawi established the IRC as a subordinate court to the High Court and Malawi Supreme Court of Appeal. As a court, IRC does not have the final say on labour disputes since parties are given freedom to appeal to the High Court and Supreme Court of Appeal. Alternatively, parties can decide to bypass IRC and go straight to the High Court and Supreme Court for settlement.

However, a matter may be reversed to IRC for a decision by the High court or Supreme Court of Appeal thereby delaying its settlement. Sikwese (2010) confirms that the constitution has lowered the status of IRC despite its importance to resolve and settle labour disputes in the country and its wide jurisdiction and functions. This arrangement is unique to IRC Malawi as Essien (2014) confirms that in Nigeria and Tanzania and the whole SADC region labour courts are superior just like Supreme courts (Essien, 2014).

The study further established that, the low status contributed to staff to be de-motivated. Staff at the IRC had a feeling that they were not regarded as professionals and fit for the job. Currently cases at IRC are presided over by Chairpersons and Assistant Registrars who are of junior rank to High Court Judges. This lowers the status of IRC in the eyes of court users and labour market players leading to preference and acceptance of decision from High Court Judges or Supreme Court of Appeal. The low status of IRC makes them prone to their decisions being challenged by the High Court or Supreme Court of Appeal. Because of their low status they cannot attract high caliber and appropriate candidates to fill the positions that exist. Those already serving the courts also decide to resign to seek better recognition for their qualification thereby creating a brain drain. Banda (2009) concurs with this view that IRC office demands that office bearers should be mature, responsible and highly skilled.

They deserve among others a more respectable and coveted title of judge which is contemporary, connotes authority and value and accurate reflects the size and important role of the judicial officers at the IRC.

4.3 Determining dispute settlement process at IRC in Malawi

When asked on the process of dispute settlement, it was established that most respondents were aware and familiar with dispute settlement. However, it was established that the process did not readily provide the sought assistance. The process had 5 main steps included: private negotiations, lodging complaint, pre-hearing conference, full trial, and delivering of judgments, (IRC, 2007) (see figure 4).

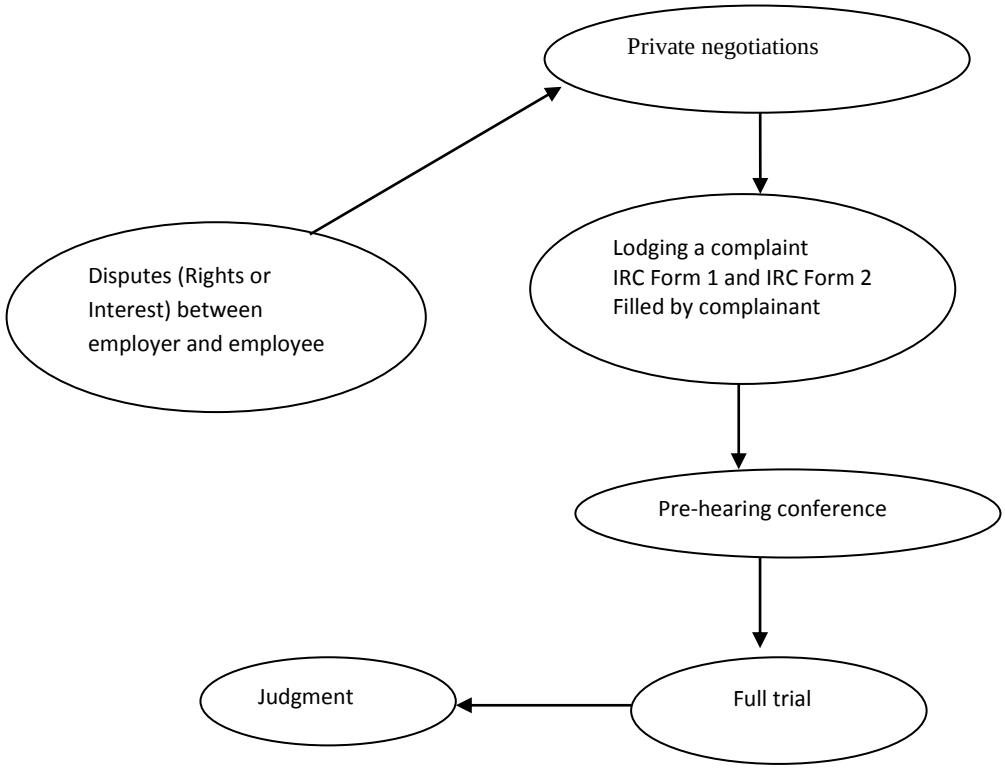

Figure 4: Procedure for Handling Disputes

Private negotiation as indicated in figure 4 above is the first step in dispute settlement process. However, the study revealed that most litigants opted for court settlement than private negotiations. The study established that lack of knowledge among disputants (especially employers) on the principles of natural justice at the workplace prompted complainants to bypass the negotiation step. The interviewees also claimed that employers relied on managerial prerogatives in justifying their actions. Hence, this attitude coupled with a lack of management capabilities in dispute settlement contributed to parties failing to resolving disputes at the workplace.

As a result, there is influx of labour cases and the court is challenged to settle them. The relevance of this explanation is noted in the findings that almost 100 percent of the complainants never held private negotiations with their employer. This has not concurred with the Law Reform Paper (2008: 153-154) that says that the labour court itself

recommends that a dispute should only be referred to the Court when all other efforts to resolve a dispute have failed.

Lodging a complaint is the second step soon after negotiations as in figure 4 above. During the study, it was observed that Court Clerks completed the forms on behalf of complainants who could not read and write (see figure 5 below).

Figure 5: Court Clerk assisting a litigant
Source: Field data

However, it was noted that information contained in the forms were sometimes disowned as the applicants departed from its contents during submissions. In such a scenario, where pleadings are disowned the matter may be adjourned to pave way for amendments to the pleadings, thereby delaying the matter. The study further established that the language used on the Forms was English and yet most of the litigants could not read and write in English. It was also noted that the forms were not user friendly to persons with visual

impairments (blind) since they were not in braille. The study further established that dispute settlement was not free. For instance, the court may order K5, 000.00 to be paid for warrant of execution, to get IRC form 1 and form 2, there is need to pay K1, 000.00 each, notice to motion K2, 000.00 and order of submission K1, 000.00. (see attached Annex 2, court fees).

However, it was noted that the majority of complainants were financially poor and unable to meet the court fees. One complainant said "I am poor; this court is for the rich". The procedure itself was viewed as expensive and denied people access to justice. This disagrees with what Mkandawire (2015) says that costs of proceedings which parties in the other courts are ordered to incur were not ordinarily ordered in the IRC.

Ironically the court is supposed to serve IRC Form 2 to the employer according to standard IRC procedure. According to the court clerks this is done because the courts usually have no cash to use for mail delivery. Those who can afford they meet the cost out of desperation. One Deputy Registrar indicated that they could not post notices to disputants since they needed stamps and the bill was big which they were failing to settle. The researcher noted that the majority of the complainants were very poor for them to pay these cost as most of them were financially poor and unemployed at the same time. It was generally observed that the above mentioned factors impacted significantly on justice delivery.

The third step is undertaking Pre-hearing Conference. During the study it was discovered that a pre-hearing conference took long to be constituted as cases were held beyond the 14 day period. Some of the reasons for such long delays are similar to those stated in the proceeding step. The other compounding reasons that delayed pre-hearing as stated by respondents included: failure of disputants to avail themselves for a date set for pre-hearing, court staffs were reported to be on holiday or sick leave and away for training. As echoed by one employee from IRC, "the ideal time frame to conclude a case is within 14 days, however, the situation on the ground is different, as it takes more time for cases to be concluded".

This is also evidenced in the case of Linda Khombe, Matter No IRC 59 of 2004, pre-hearing only took place on 12th April 2007 and yet the case was registered on 24th February, 2004. Similarly Paul Malipa, Matter No IRC 495 of 2012, the case was registered on 2nd November 2012 and pre-hearing was on 7th November 2013. This is against literature that says that pre-hearing should be done within 14 days (LRA, 1996). Adherence to set laws and standards assist in achieving integrity and likelihood of satisfaction with outcomes.

Undertaking full hearing (adjudication) is the fourth step in dispute settlement. The study established that there was no specific time frame that was put in place for a matter to go for full trial. For instance in the case of Paul Malipa v Mapeto Wholesale, Matter No IRC 495 of 2012, full hearing took place two years later, in 2014. Similarly, Jonathan Chiwaya v Blantyre News Paper, Matter No IRC 84 of 2010, full hearing took place in 2013. This means that courts are at liberty to decide when to hear cases and in most cases a matter took long to resolve. In India however, Faruque and Yasmin (2015) says that time has been fixed for the adjudication of each and every stage of the cases in the labour court to accelerate the speedy disposal of the disputes.

The study further noted that one of the major reasons contributing to limitless adjudication was the gap in the labour laws. As stated earlier the law has not defined time limit for adjudication. Such limitless determination of cases was of concern to most litigants as they felt deprived of their rights to justice. Apart from the reason stated above, the study established that non-availability of panelist was another cause for delay at adjudication stage. For instance, Lilongwe registry, from August 2011 to May 2012, a total of 370 cases failed to take place due to non-availability of employer panelist (see Annex 6); likewise at Mzuzu registry full hearing never took place from 2013 to 2014.
One respondent said "the position of panelist should be abolished so that there should be total independence of the court". This concurs with (Estreicher and Eigen, 2010) who says that in South Africa, Tanzania and UK, labour courts operate as a juristic person independent of the state, political party, trade union or Minister. Such independence may facilitate speedy disposal of cases.

The final step in dispute settlement was the passing of judgment. The study established that there was delay in passing judgment by the courts. According to respondents there were two stages at which judgment could be passed. Firstly, at pre-hearing conference a judgment has to be passed within 14 days from the date the pre-hearing took place. Secondly, at full trial a judgment must be passed not later than 21 days from the date of the hearing. However, it was noted that almost 90 percent of cases passed the 14 or 21 days of judgment. This disagrees with LRA (1996) that judgment has to be done within the stipulated time. According to respondents many factors were mentioned attributing to this delay as stated somewhere above. For instance, lack of quorum due to non-availability of panelists and inadequate funds to pay panelists. One respondent said "Panelist failed to show up due to low allowances paid per sitting". It was said that they paid K2, 000 per panelist who are mostly Directors in different organization, the allowance could not even buy their fuel and let alone lunch.

It was also noted that most of the times the courts had no stationery or tonner to print judgments and equally depressing was that courts staff invariably used personal computers to type the judgments**.** This clearly demonstrates that time limits for judgments were mostly not adhered to by the courts which denied people's rights to justice.

4.4 Effectiveness of IRC in dispute settlement

The general view of most respondents on the effectiveness of IRC was negative. The negative perception of the IRC by respondents stemmed from their dissatisfaction on the way IRC was performing in dispute settlement. In the eyes of the respondents effectiveness meant that the IRC received cases and dealt with them speedily. The study used three court tools to measure its effectiveness as follows: Court user satisfaction, clearance rate and on-time processing.

4.4.1 Court user satisfaction

The study wanted to establish the satisfaction of stakeholders in accessing justice from the court. Variables included accessibility, fairness and courteous. It was generally agreed that people were not satisfied with the performance of IRC in dispute settlement

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Table 4: Results of Court user satisfaction (N-27)

	Yes	No	Yes %	No%
Accessible	10	17	37	63
Fair	10	17	37	63
Courteous	16	11	59	41

Source: Field data

In the table 4 above, on accessibility, 37 percent who responded said yes while 63 percent said no. The percentage of those who said yes said satisfaction was derived due to IRC simplicity in dispute settlement procedure since representation could be through personal appearance, member of the organization and labour officer without strict requirement on evidence or who was present during the court hearing while the percentage of those who said no (mostly litigants) cited issues like delays in case disposals, inadequate staff and non-availability of panelists. One informant said "even this access to justice is limited to those who are living in urban areas of Blantyre, Lilongwe and Mzuzu where courts mostly sit. People in the rural areas may have challenges to access justice. For instance, Lilongwe registry has six circuits namely Ntchisi, Mchinji, Dowa, Nkhotakota, Salima and Kasungu. It was noted that IRC stopped visiting these circuits in 2010 due to financial challenges. Similarly, it was established that Mzuzu registry was unable to visit its circuits i.e. Karonga, Nkhatabay-Bay, Mzimba and Rumphi. Respondents understood accessibility as being able to receive justice speedily. This concurs with Kwakwala (2010) that accessibility in dispute resolution means the ability to effectively access redress systems and to participate in the redress processes in order to achieve just outcomes.

On fairness, 37 percent said yes while 63 percent said no. The percentage of those who said yes echoed that the courts listened to their side of story, decision making was done without external influence and those wishing to be represented by lawyers were able to do so. While the majority had no kind words as they felt the courts were unfair since their cases took long to be started or to be concluded. This confirms what Estreicher and Eigen (2010) say that USA workers lacked access to a fair, efficient forum for adjudicating their disputes with their employers. The perception of the courteous by majority of respondents was that staff accorded them with respect and they were assisted in the process of dispute settlement.

4.4.2 Case clearance rate

In terms of case clearance, the study established that the rate at which cases were cleared was very low. The study findings in the figure 6 below indicate a diminishing case clearance rate trend from 2010 to 2015.

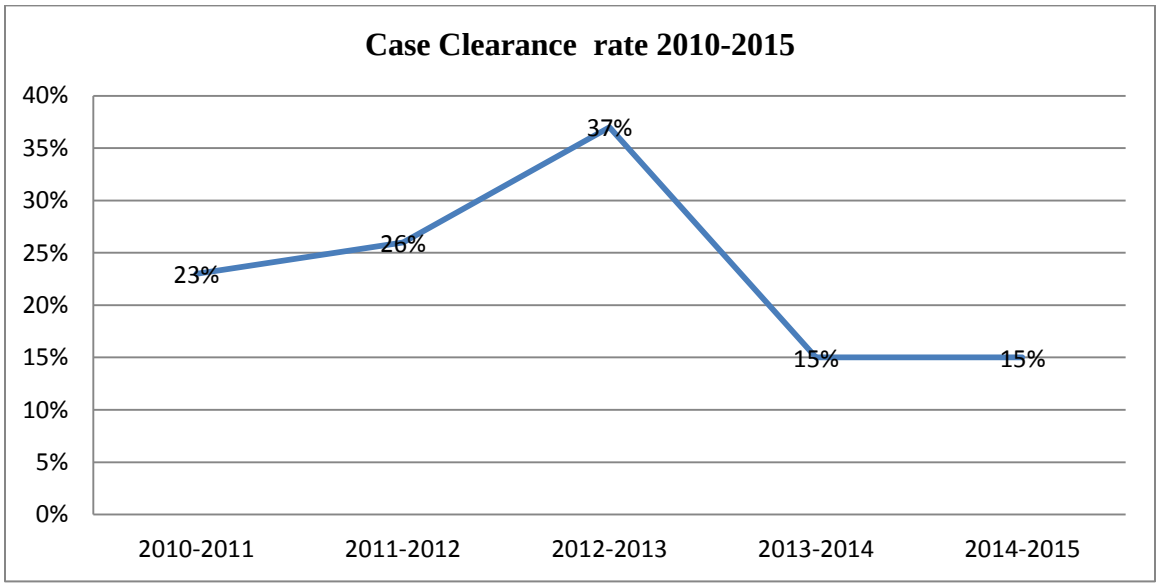

Figure 6: Clearance rate, IRC, 2010-2015

In the Figure 6 above, the results portrayed a general trend of low case clearance rate of below 50 percent from 2010 to 2015. The highest clearance rate that was by IRC over a period of five years was 37 percent in 2012. IRC attributed this to temporary allocation of magistrates by Judiciary from other courts to IRC. In subsequent years 2014 and 2015 the

clearance rate dropped to 15 percent which could be translated that the courts disposed off fewer cases than were registered (See the figure 7 below).

This shows that IRC is failing to cope with the inflow-of cases. CEPEJ (2014) confirms that when a clearance rate goes below 100 percent, the number of unresolved cases at the end of a reporting period (backlog) will rise.

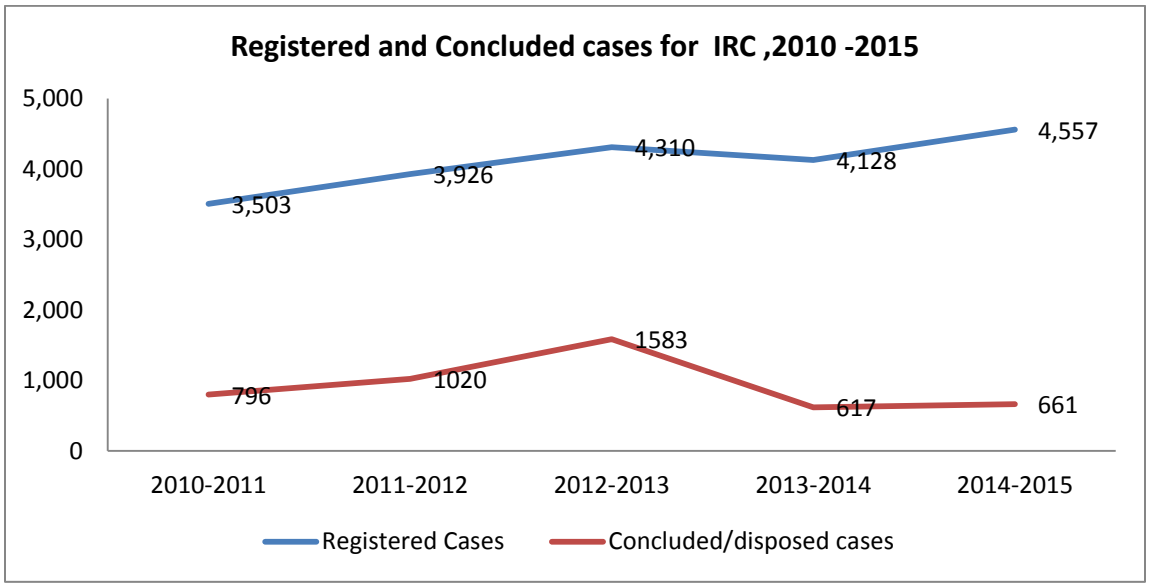

Figure 7: Registered and concluded cases, IRC, 2010-2015

Source: Field data

In Figure 7 above, the trend of data over the five year period showed a substantial annual increase of registered cases and a disproportionately reduced number of disposed cases. The results of these findings were not different from the ones obtained by Kaweesa (2012) on the Ugandan Judiciary that it continued to perform poorly in respect to clearances of cases leading to steady increase in backlog cases. Similarly, Eden (2012) confirms of low settlement rates in the tribunal leading to a large backlog of cases for arbitration before the industrial court despite an increase in case registration.

4.4.3 On time processing

On the question of on-time settlement, the study established that most cases were not settled within the established time frame. In the study, the focus on time limits was for prehearing, full hearing and judgment.

Table 5: Detailed cases and time taken to be concluded

No.	Name of a case	Year of Registration	Pre-hearing conference date	Full hearing	Judgment	Assessment	Remarks	Time taken
1	Matter No IRC 228 of 2001, Chitawo V R.Kidy	2001	17 October 2002	Not Known	Default Judgment 17 October 2002	20 November 2014	Matter still pending for assessment	16 years
2	Matter No IRC 59 of 2004, Linda Khombe v Standard Bank	2004	12 April 2007	5 March 2010	First Judgment on 12 August 2013 (Overtime)	Not yet	Possible date to be given on unfair dismissal and severance pay	13 years
3	Matter No IRC 235 of 2005, V Kandulu V Illovo Sugar Co.	2005	12 June 2008	15 August 2008	Not yet	Not yet	Waiting full trial up to now.	12 years
4	Matter No IRC 285 of 2005, Cryton Chikoko v Attorney General	2005	No prehearing	Matter came back for full hearing on 16 July 2007	Default judgment on 25 October 2015	Not yet	Matter still awaits for date to assess the compensation	12 years
5	Matter No IRC 8 of 2006, Titus Mkolichi V World Vision	2006	22 March 2007	5th April 2013 - though it was further adjourned	Not yet	Not yet	Date of the next hearing not yet given	11 years
6	Matter No IRC 205 of 2006, J. Raisi V MTL	2006	No record	4 December 2006	Judgment came out on 29 May 2015		matter still waiting for judgment	11 years
8	Matter No IRC 523 of 2007, Lusaka Kanawa V Jungle Heinemann	2007	21 April 2008	22 April 2009	Not yet	Not yet	waiting for full hearing up to now	10 years
9	Matter No IRC 368 of 2008, Kapalamula V Michiru view Secondary school	2008	31 March 2009	30 September 2011	Not yet	Not yet	Matter not yet settled	9 Years
10	Matter No IRC 366 of 2008, T Khofi v Kameko	2008	Date was set 20 October 2008 but prehearing failed	Not yet	Not yet	Not yet	As at 30th September 2015 - no date was given for hearing	9years
11	Matter No IRC 356 of 2009, Siliya Davisi V G4S	2009	16 February 2010	10 February 2013	Not yet	Not yet	Next Date for full hearing 9 June 2015	8 years

No.	Name of a case	Year of Registration	Pre-hearing conference date	Full hearing	Judgment	Assessment	Remarks	Time taken
12	Matter No. IRC 105 of 2009, Mphundi v Carlsberg	11 March 2009	11 March 2009	12th May 2009	Date of hearing was 5th November 2010, but failed.	Not yet	Matter still on adjournment	7 years
13	Matter No IRC 102 of 2009, Catherine Kumakuma V M.F Sonthi	23 March 2009	22 September 2009	19 May 2011	Not yet	Not yet	Matter adjourned to 19th May 2011	7 years
14	Matter No IRC 74 of 2010, Kamponge V Eco Bank	4 Feb 2010	30th March 2010	12th October 2011	Not yet	Not yet	Matter still waiting for assessment as at 20thApril 2012	7 years
15	Matter No IRC 89 of 2015, Godfrey Kalawa V Khan	10 February 2015	7th July 2015	Not yet	Not yet	Not yet	Employer refused to sign form 2	1 year

Source: Field data

Firstly, at pre-hearing conference, Table 5 shows that almost 100 percent of cases were not heard on time. It was noted that cases took as long as 3 years or even longer for pre-hearing conference to take place when prescribed time was 14 days starting from a date of lodging a complaint. It was therefore not surprising that most complainants were still waiting for their cases sometimes 9 years after they registered. One litigant said that "I am a bread winner but now I cannot support my family because I have no money and my case is taking long".

This is a very crucial and important step as matters may be concluded at this stage without going for a full trial. It also adds that when cases are resolved at this stage, IRC may be relieved of cases piling up. Eden (2012) concurs with this that lack of settlement at prehearing meant a correspondingly high number of cases referred to industrial court for adjudication creating heavy judicial workloads and delays in hearing the cases. He noted a high reference of disputes from workplaces and many years of low settlement rates in the tribunal leading to a large backlog of cases before the industrial court. This according to Arputharaj and Gayatri (2014: 343) means that IRC has failed to bring about timely settlement of disputes.

Secondly, at full hearing conference, the study established that IRC did not have time limit as to when it would sit for a full-hearing. This means that the court was at liberty to decide when it would sit for full trial which delayed litigants to access justice. Almost 99 percent of cases in Table 5 above took long to be heard as far 7 years. Delays at full hearing results in justice seekers suffering from many hurdles and lose their confidence on the judiciary. This differs with (Faruque and Yasmin, 2015) who says in India time for adjudication is fixed at each and every stage of the cases in the labour court to accelerate the speedy disposal of the disputes.

Finally, on judgment of cases, the study established judgment was to be done within 21 days after the last date of hearing. However, almost 99 percent of case took a long time before judgment was pronounced which negatively impacted on most litigants as they were denied justice (Table 5). The matters were fully heard but it has taken 10 to 16 years against 21 days for a judgment to be made. This disagrees with Section 67(4) and Sikwese (2010) that judgment had to be done within 21 days after the last date of hearing. Delay on dispute settlement was the most common reason for public dissatisfaction because it caused various hardships and loss to the public. No one expect a case to be decided overnight. However, difficulty arises when the actual time taken for disposal of the case far exceeds its expected life span and that is when we say there is delay in dispensation of justice. Anon (2009: 2) agrees to this that long delays had an effect in defeating justice in quite a number of cases because they led to loss of important evidence due to fading of memory or death of witnesses. This eventually resulted to a party losing a case despite having had a strong case. The delay in the disposal of cases affected not only the ordinary type of cases but also those which by their very nature, craved for early relief. The problem of delays and backlog of cases is a major concern for all stakeholders unless something is done about it. Such an occurrence may lead to the crushing of the whole system this would discredit it and make people lose faith in it. Inefficient scheduling of court hearings contributes to delays and backlogs particularly when insufficient time is allocated for courts hearing.

4.5 Challenges faced by IRC Malawi

The study analyzed two key challenges faced by IRC: financial constraints and inadequate human resources.

4.5.1 Financial constraints

It was evident from the discussions with respondents that financial constraints negatively affected operations of IRC. Inadequate and delayed disbursements were mentioned to be the main contributing elements to the financial challenges. The study established that inadequate allocation affected the operations of the courts enormously on the premise that the amount required for courts was not enough and impacted negatively on the core function of the court. It was established that total budget for 2014/2015 was K105 million but only K35 million was allocated representing 77 percent budget deficit. This translates to about K8.7 million per annum for each registry and IRC main office and K729, 166 per month. This according to respondents was not enough to run the affairs of the office. (The study could not establish the allocation for the other years i.e. 2011 to 2014 as officer were reluctant to give the information).

According to the respondents the inadequate funding also affected purchase of stationery, payment of allowances for panelist, and purchase of fuel to enable courts staff to travel to satellites such as Nkhatabay, Karonga, Chikwawa, Kasungu, and Mangochi. For instance the Deputy Chairperson together with the panelists and the Assistant Registrar to make one complete circuit for all satellites courts per month a minimum of K546, 495.20 was required per day against monthly allocation of K729, 166.

This state of affairs was also explained for the absence of registered cases as at 31st June 2015 in Ntchisi, Dowa, and Kasungu which are Satellites for Lilongwe registry because the Lilongwe registry stopped visiting the circuits in 2010 due to inadequate funding. Similarly Mzuzu registry was unable to visit satellites courts since 2011 (see Annex 9 for Mzuzu registry). This concurs with Sappia (2002) that management of labour conflict is affected by the meagerness of the budgetary resources that were available to the public bodies to discharge their duties.

The informant further stated that because of lack of adequate financial resources staff were using personal computers for daily office work and when judgments were written they could not be printed as there was no toner. Most staff could not be trained hence remained on the same position for so long which led to staff reduced job satisfaction and de-motivation. Mkandawire (2015: 4) quoted the nation newspaper of 16th February 2015 which had headlines on the front page "funding chokes justice delivery" what was clear from the article was that due to low funding, access to industrial and employment justice in the country was at stake which negatively impacted on productivity at the world of work.

Apart from inadequate funding, the study established that delayed monthly disbursement of funds equally affected performance of the courts. Delay in release of monthly funding is long time phenomenon suffices to say it has now reached a level that it is almost impossible to properly plan for courts work schedule. For instance, at the point of data collection in March 2015 registries like Mzuzu had not accessed the February 2015 funding and the March 2015 funding was not even out. January funding was only accessed late February 2015. Mkandawire (2015: 4) quoted the Nation Newspaper of 16th February 2015 which had headline on the front page "Funding chokes justice delivery".

What was clear from the article was that access to industrial and employment justice in the country was at stake which negatively impacted on productivity of the courts. It can therefore be said that late release of funds counters the spirit of planning ones work and setting of performance targets.

The situation was cross cutting to all registries. The late release of funds goes counter to the spirit of planning ones work and setting targets. Temba (2013) confirms that financial constraints affect operations at labour courts.

4.5.2 Inadequate human capacity

Table 6 Human Resources establishment Mzuzu, Lilongwe and Blantyre registries as at June 2016

Designation	Mzuzu Registry		Lilongwe Registry		Blantyre Registry	
	Ideal	Actual	Ideal	Actual	Ideal	Actual
Chairpersons					1	1
Personal Secretaries			1	1	1	0
Deputy Chairpersons	1	1	1	1	2	1
Court Assessors	3	0	3	0	3	0
Senior Law Clerks					1	0
Senior Court Clerks			1	0	2	0
Corporal Messengers			1	1	2	0
Court Marshalls	2	0	3	3	3	3
Assistant Registrars	1	0	1	0	2	1
Senior Assistant Accountants					1	0
Senior Accounts Assistants						
Accounts Assistants	1	1	1	1	2	1
Shorthand Typists					3	1
Senior Clerk Officers					1	0
Assistant Accountants	1	0			1	1
Court Clerks	2	1	3	3	1	2
Drivers	3	2	3	1	4	3
Copy Typists	1	1				
Court Reporter					1	0
Assistant Human Resource Officers					1	1
Security Guards			3	0	5	2
Sergeant Messengers					1	1
Law Clerks					1	0
Senior Copy Typist			1	1		
Clerk Officers					2	1
Totals	**15**	**6**	**22**	**12**	**41**	**19**

Source: Field data

Apart from financial constraints, IRC is challenged in terms of human capacity. Table 6 and Annex 8, show the establishment and filled positions in the three IRC registries as at June 2016.

From the table it could be noted that the total establishment as at June 2016 was 78 distributed as 15 in Mzuzu, 22 in Lilongwe and 41 in Blantyre. Out of the established posts only 37 were filled with 6 in Mzuzu, 12 in Lilongwe and 19 in Blantyre. This meant that 41 posts were vacant with 9 in Mzuzu, 10 in Lilongwe and 22 in Blantyre.

With such a high vacancy rate it was not surprising to hear that the few officers who were in post were being overworked by sometimes doing roles that were meant to be done by other officers. In most cases the officers were doing the roles meant for other officers without requisite training hence compromising the quality of service delivery at the IRC registries.

Furthermore the shortage of personnel meant that most circuits were unable to hear cases despite litigants filling claims which resulted in disillusionment of some clients and withdraw from IRC. In order to close the shortage of personnel in the registries, Chief Resident Magistrate (CRM) in many cases supported IRC with staff. This arrangement though it provided relief in settlements of some cases, most of the staff assigned were not committed to IRC and could not be controlled. Observations by the researcher therefore indicate that high rate of vacancies at IRC undeniably also contributed to the low rate of case disposal resulting in backlog in all the three registries.

This situation concurs with Elbialy and García-Rubio (2011) who says that Egyptian Courts were understaffed which contributed to court inefficiencies. In agreeing to this is Yeung and Azevedo (2011) who states that staff members in Brazil were the most critics of lack of resources since they argued that human resources at all levels were insufficient to deal with the large number of cases.

Apart from IRC employees, panelists were seen to be a major challenge in IRC function. Panelists play a critical role in settlement of labour disputes in Malawi. They usually review and apply the law objectively having taken the interests of both the employer and employee. However, it was established that Panelists were in most cases not available (see Annex 6 and 7).

The unavailability of panelists greatly impacted the smooth functioning of IRC since most disputes could not be settled in their absence. The Panelist formed an integral part of the quorum. This is confirmed by section (67) of LRA, which states that for a quorum to be constituted there should be one member from the employees' panel and one member from the employers' panel. During the study it has been observed that the quorum is not complete in most cases making many cases not to be heard. Their unavailability derailed justice delivery at IRC with some cases remaining unresolved sixteen years after being registered.

This concurs with the Chief Justice in Malawi (Nation, 2012) that management of cases at IRC remained a challenge where hearing often fails due to non-availability or absence of panelists. Further in agreement is the Deputy Chairperson of IRC (2012) who said that lack of panelists has resulted in a backlog of cases.

4.6 Summary

The first section of Chapter 4 has presented a discussion of the findings regarding the extent of IRC in fulfilling its mandate. Statistics show that a lot of cases have been registered from 2010 to 2015 but few have been resolved. The findings suggest that though IRC is settling labour disputes but it is doing it minimally. They are several factors that contributed to low cases being resolved. These included inadequate funds, strikes and inadequate human resources. These factors among others had a profound contribution to a significant number of unresolved labour disputes.

The study has established that the processes of labour dispute at IRC appeared to be relatively simple and informal which could be assumed facilitated access to justice. However, management of this process appeared to have constraints that affected speedy resolution of labour disputes which included absence of panelist and court staff, failure of litigants to avail at the hearing and the need for litigants to pay filing cost. Though the process was assumed to be simple and informal the operation of the process seemed to have lack of efficiency and access to fairness in dispute settlement.

The study using measures of court effectiveness finds that court is ineffective. Reasons for ineffectiveness are similar to the above. The study establishes that 65 percent of litigants failed to access justice, 65 percent felt the court is not being fair, and 100 percent felt the court is courteous. This means that a large number of people are not satisfied with the court performance. This also confirmed by the evidence on the rate of clearance of cases which is very low. For the past 5 years only 37 percent was the maximum achieved which is far below half of the cases resolved. The study further noted that time management was a challenge as most cases were not handled within the established time.

Most cases were supposed to be resolved within 30 days according to law but it has been revealed that they can take as far 4 years to 16 years without being settled. The study further establishes that as a result of failure to handle cases on time there is much more delays. These delays impacts on people negatively as they fail to access their desires justice on time.

The study further finds that financial constraints and human resource constraints (inadequate staff) had direct effect in the operations of the court. Delayed disposition of cases and inadequate personnel meant that the complainants were not accorded justice and continued to suffer by being unemployed and not getting paid. The next chapter summaries the study and presents recommendations.

CHAPTER FIVE

SUMMARY AND RECOMMENDATIONS

5.0 Introduction

The last chapter provided the general summary about the findings of this study and recommendations on what could be done to improve the functioning of IRC in Malawi. Lastly, the chapter concluded by suggesting areas for further study.

5.1 Summary

The overall objective of this study was to critically analyze the functioning of IRC in Malawi. Specifically, the objectives included determining the extent of IRC fulfilling its mandate in Malawi, determine the process of dispute settlement, assessing the effectiveness of IRC by using different measures such as court user satisfaction, case clearance rate and on-time processing;

With respect to whether IRC was fulfilling its mandate in Malawi, the study noted that IRC was specifically created in the quest to ensure that labour disputes and employment related issues were effectively and expeditiously resolved. This was in realization that speedy and effective resolution of such matters embraced industrial peace and harmony which was crucial in the economic development of a county. However, the study established IRC was minimally fulfilling its mandate as evidenced by so many backlog of cases at all its three registries.

The study has further established that IRC had clear laid down rules and procedures for settling disputes which starts from lodging a complaint to its resolutions. However, they were challenges that made litigants unable to access justice on time. It was noted that matters took long as 10 to 16 years without settlement against the statutory limit. The

study used three variables to measure effectiveness of the courts which were court user satisfaction, case clearance rate and on time processing.

Analysis of three indicators showed that IRC was substantially challenged in its functions. For instance the overall average case clearing rate for the five years was 37 percent courts should aspire to have at least 100 percent clearing rate. This indicated that the cases progressed very slowly that it undermined the confidence of the public in the efficiency and effectiveness of the countries IRC. This means both the litigant and the accused have been denied justice as justice delayed is justice denied. These findings were substantiated by most of the complainants response who cited dissatisfaction with the overall court performance in all the four mentioned indicators since to them user satisfaction means accessing justice.

The study findings from the complainants on the dismal performance of the IRC, was also reinforced by the outcry from key informants. The key informants mentioned financial constraints and inadequate human resources as the major challenges that had negatively affected the functions of the court. This was a cause of worries as it led to a backlog of cases. The researcher evidence therefore suggests that there was a correlation between ineffectiveness in the functioning of IRC and lack of adequate resources at IRC.

5.2 Recommendations

The findings of the study points out a number of recommendations in-order to improve the function of the court as below:

5.2.1 Funding to IRC

(i) It is recommended that in future government should approve adequate funds to the Judiciary.

(ii) It is further recommended that timely disbursements of funds should be improved which shall facilitate smooth operations of the IRC.

5.2.2 Human Resources

(i) Determine, recruit and deploy the number of optimum judges and other staff that would improve the service provision to the satisfaction of stakeholders. There is the need to have the right number of staff and quality of people to do the work Dzimbiri (2015).

(ii) The number of Panelist should be increased as the absence of a panelist during a court sessions is invariably adjourned despite the presence of all other stakeholders.

(iii) Motivate staff in all areas including better remuneration packages, training and professional development as this would improve knowledge and skills of the staff and enable them to perform duties with diligence.

(iv) Review the job framework of Assistant Registrars so that they can sit at full hearing than the current scenario of conducting only pre-hearing. The Assistant Registrars are equally competent people but with limited jurisdiction.

5.2.3 Status of IRC and Management systems

(i) The Judicial system should be re-structured/organized. The IRC itself should be raised to the standard of the Supreme Court like in many SADC countries. This will reposition the courts to conclude matters swiftly without allowing for further appeal to High court which has often referred back cases to IRC.

(ii) IRC should consider putting in place quality management systems that will assist to improve its performance. Such as identify technologies for court use in order to become efficient and keep pace with advanced technology. This may be in form of electronic record keeping and probably video conferencing

(iii) In an efforts to improve performance of the court, the possibility of mandatory pre-judicial procedure before IRC be empowered to settle disputes through self-conciliation. More exploration also should be on private institutions to take part in dispute settlement.

5.2.4 Capacity building

(i) Build capacity of the employers and employees on labour relations matters. Let the Ministry of labour, Malawi Congress of Trade Union (MCTU), Employers Consumers Association of Malawi (ECAM) sensitize the stakeholders on employment relations and labour law. This may ensure that the employee is aware of his or her rights and the employer how to handle employment relation according to labour laws.

5.3 Future studies

(i) It is proposed that future studies be widened to assess whether magistrate courts are supposed to settle disputes. The Magistrate court recourse to hear labour disputes in the satellite places like Nkhatabay, Kasungu, Chikwawa, Salima and Mchinji because IRC is not accessible to the majority of the complainants as the court is in the main cities of Blantyre, Lilongwe and Mzuzu. The magistrates are lay-officer, trained in civil and contract matters. The question is what law do they apply when settling labour disputes? According to LRA 1996 IRC is the only court mandated to deal with labour matters.

(ii) It will be interesting to conduct a comparative analysis of IRC with High or Supreme Court. It is important to compare these courts to ascertain the right court that will exclusively deal with labour disputes. As it is the law conflict with one another. IRC has original jurisdiction in labour matters at another point it says High court has unlimited jurisdiction including labour matters. If this is going to be clear one court should have supreme powers and eliminates the possibility of appeal. This will assist litigants to access justice speedily and improve the reputation of courts in its function.

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ANNEXES

Annex 1: Research Design Table/Template

OBJECTIVE	TYPES OF DATA	SOURCE OF DATA	METHOD OF DATA COLLECTION
Determining the extent of IRC mandate in dispute settlement	Primary data from IRC employees and all other key informants. -Secondary data on dispute settlement will be sourced from journals, publications, legal statutes, IRC reports books among others	IRC employee, complainants, panelist, Journals, Publications, legal statutes, IRC reports among others.	- in-depth interviews with key informants - Literature Review
Determine the existing dispute settlement process at IRC in Malawi	-Primary data from IRC employees and all other key informants. -Secondary data on dispute settlement will be sourced from journals, publications, legal statutes, IRC reports books among others. -Purposive selection.	-IRC employees, complainants, panelist, journals, publications, legal statutes, IRC reports among others.	-in-depth interviews with key informants. - Literature review.
Assess effectiveness of IRC in dispute settlement process	-Primary data (IRC employees) -Secondary data (review of documentation	- IRC employees - Panelist - Litigants	-- In-depth interviews with key informant. - Literature review.
Challenges faced by IRC in Malawi	Primary data (IRC employees and all other key informants) Secondary data (review of documents) -purposive selection.	-IRC offices (employees) - Panelist -Litigants	-In-depth interviews with key informant. - Literature review.

Annex 2: New Filling fees

PURSUANT TO RULE 6 (3) OF THE INDUSTRIAL RELATIONS COURT (99 PROCEDURE) RULES, 1999, WHICH STATESTHAT

"THE COURT SHALL IN RESPECT OF ANY DOCUMENT FILED WITH THE COURT LEVY A FILING FEE AT THE SCALE APPLICABLE IN THE HIGH COURT."

AND

PURSUANT TO THE REVISION OF THE FILING FEES APPLICABLE IN TH HIGH COURT, THE CURRENT FILING FEES ARE AS FOLLOWS:-

NO.	**NATURE OF DOCUMENTS**	**NEW FILING FEES (MK)**
1	Order/Submissions	1,000.00
2	Miscellaneous Application	1,000.00
3	Notice of Assessment of Damages	1,000.00
4	Bundle of Pleadings	1,000.00
5	Warrant of Execution	5,000.00
6	Garnishee Order Nisi	1,000.00
7	IRC Form 1	1,000.00
8	IRC Form 2	1,000.00
9	Notice of Motion	2,000.00
10	Ex-parte Application for Stay	1,000.00
11	Default Judgment	2,000.00
12	Application to set aside Judgment	1,000.00
13	Order to stay of Execution	2,000.00
14	Application to Transfer Proceedings	1,000.00

NO.	NATURE OF DOCUMENTS	NEW FILING FEES (MK)
15	Pre hearing conference	5,000.00
16	Notice to adjournment	5,000.00
17	Application to pay debt by Installment	1,000.00
18	Notice of hearing /pre hearing conference	5,000.00
19	Affidavit of document	1,000.00

NB: THESE FEES ARE APPLICABLE IN THE INDUSTRIAL RELATIONS COURT EFFECTIVE 28TH APRIL, 2014

Annex 3: Semi structured questionnaire for Panelist

Number/Name of interviewee	**Interviewer……..** **Phone……** **Email…….**
Position	**Date of Interview……**
Phone Number	**Time ……..**
Email address	**Place of interview …….**

A. The extent of IRC fulfilling its Mandate

(i) What do you think is the mandate of IRC in Malawi? Explain to what extent is IRC fulfilling its Mandate?

……

……

B. Determining the dispute settlement process

(i) Explain the procedure in dispute settlement process?

……

……

(ii) What is the benefit of this procedure?

……

……

(iii) Explain the challenges of this procedure?

……

……

(iv) What is your role in dispute settlement?

……

……

(iv) What impact does your role have in dispute settlement?

……

……

C. Assessing effectiveness of the dispute settlement process

(a) Court User satisfaction

(i) Are you satisfied with IRC dispute settlement process? Yes /No

Explain.

……

……

(b) Explain whether the court delivers justice that :

(i) Accessible

……

……

(ii) Fair

……

……

(iii) Courteous

……

……

(b) On-time processing

(i) Do you think IRC handles disputes on –time?

Yes/No

(ii) If No. What are the reasons for delayed settlement?

……

……

(D). Challenges faced by IRC

(i) Explain the major challenged faced by IRC at:

(a) Organizational (IRC) level

……

……

(b) Human Resources level

……

……

(c) Complainant level

……

……

(iii) What is the impact of the delayed justice delivery to the complainant and IRC?

……

……

D. Proposed interventions to improve IRC functioning

(i) What interventions would you propose that can be implemented to improve IRC functioning

in dispute settlement?

(a) Organizational level

……

……

(b) Human Resource level

……

……

(c) Complaint level

……

……

E. Closing Remarks

Do you have anything else that you would like to share with me on IRC functioning?

……

……

I would like to thank you so much for your time and above all, for accepting to talk to me, I do not take this gesture for granted.

Annex 4: Semi structured questionnaire for IRC employees.

Respondent's personal details

Number/Name of interviewee	**Interviewer**
	Phone
	Email
Position	**Date of Interview**
Phone Number	**Time**
Email address	**Place of interview**
QUESTIONS	

A. The extent of IRC fulfilling its Mandate

(i) What is the mandate of IRC in Malawi

……

……

(ii) Explain to what extent is IRC fulfilling its mandate?

……

……

B. Determining the Dispute settlement process

(i) Explain the procedure in dispute settlement

……..….

……...

(ii) Explain if there is any law that supports dispute settlement procedure.

……

……

(iii) Explain the benefits of this procedure

……

……

(iv) Explain the challenges of this procedure

……

……

C. Assessing effectiveness of the IRC in dispute settlement process

(a) **Court user satisfaction**

(i) Are you satisfied with IRC in handling cases?

Yes/No

(ii) Explain whether or not the court provides procedural justice that is:

(a) Accessible……..……..……

(b) Fair ……..……

(c) Courteous……

(b) **Case Clearance rate**

Give statistics of cases at IRC covering the period 2010 to 2015 in the follow categories: (Brought/Forward, registered, disposed and backlog).

Year	**Brought/Forward**	**Registered**	**Disposed**	**Backlog**
2010-2011				
2011-2012				
2012-2013				
2013-2014				
2014-2015				

(c) On-time Processing

(i). Is there any law that provides time limit for cases to be concluded?

Yes/No……

(ii). If Yes, what is the time limit to conclude a case (Tick where necessary)

1.30 days …….….

2.3 months…….……

3.6 months…….……

4.1 year…….…….

5.Other specify……..……..…....

(iii). If No, what do you think is the impact to the complainant on the delivery of justice?

……..

……...……...

(iv). In practice how long does it take for dispute to be concluded (Tick where necessary).

1. Longest period……..……

2. Normal Period…….…….

3. Shortest period……...……..…….

(v). Explain the impact of the delayed justice delivery to the litigant and IRC.

……

…….…….……..

(vi). Do you think IRC is adequately funded for its activities? If no, explain the impact of inadequate funding.

……

(vii) Do you experience case backlog? What are the reasons for such case backlogs?

..……..

(d) Identify challenges faced by IRC in dispute settlement a

(i) Organizational (IRC) level

……

……

(ii) Human Resources level

……

……

(ii) Complainant level

……

……

(e) Apart from the levels above do you have any other levels and their challenges?

Explain. **……..**

……

D. Proposed interventions to improve IRC functioning

(a) What interventions would you propose that can be implemented to improve IRC functioning in dispute settlement at:

(i) Organizational (IRC) level

……

……

(ii) Human Resources level

……

……

(iii) Complainant level

……

……

(b) Apart from what you have mentioned above, what other improvement can be done to enhance IRC functioning in dispute settlement?

……..……

……..……

Thank you so much for allowing me to interview you and for responding to my questions

Annex 5: Semi structured questionnaire for Complainants

Number/Name of interviewee	**Interviewer……..** **Phone……** **Email…….**
Position	**Date of Interview……**
Phone Number	**Time ……..**
Email address	**Place of interview …….**

A. Mandate of IRC

What do you think is the mandate of IRC in n Malawi? In your opinion to what extent is IRC is fulfilling its Mandate?

……

……

B. Determining dispute settlement process

(i) Explain the procedure in dispute settlement?

……

……

(ii) What is /was your complaint you brought to IRC?

……

……

(iii) When did you register your case?

……

……

(iv) Since you registered your case how many times have you come for the follow up?

……

……

(v) What were the reasons for all the subsequent visits?

……

……

B. Assessing Effectiveness of IRC

(a) Court User Satisfaction

(i) Are you satisfied with the way IRC is handling your case? Yes/No

……

……

(ii) Explain whether the court delivers justice that

(a) Accessible

……

……

(b) Fair

……

……

(c) Courteous

……

……

(iii) Do you think IRC handles disputes on time? Yes/No

(a) If No. What are the reasons for delayed settlement?

……

……

(b) Explain the impact of delayed justice?

……

……

D. What are the challenges faced by IRC in terms of:

(i) Organization

……

……

(ii) Human Resources

……

……

(iii) Complainants

……

……

(C) What interventions would you propose that can be implemented to improve IRC functioning in dispute settlement?

(i) Organizational (IRC) level

……

……

(ii) Human Resources level

……

……

(iii) Complainant level

……

E. Closing

Do you have anything else that you would like to share with me on IRC functioning?

……

……

I would like to thank you so much for your time and above all, for accepting to talk to me, I do not take this gesture for granted.

Annex 6: Cases Statistics for Judicial Officer, July 2011 to June 2012

INDUSTRIAL RELATIONS COURT OF MALAWI

LILONGWE REGISTRY

CASE STATISTICS FOR JUDICIAL OFFICER July 2011 to June 2012

NAME OF HONOURABLE/MONTH	**CASES ALLOCATED**		**CASES DISPOSSED**		
HER HON.DEGABRIELE	**FULL HEARING**	**MOTION**	**FULL HEARING**	**MOTION**	**REMARKS**
July 2011	-	-	-	-	
August 2011	58	-	25	-	**Absence of employer Panelist**
September 2011	35	-	18	-	**Absence of employer Panelist**
October 2011	42	-	16	-	**Absence of employer Panelist**
November 2011	166	-	1	-	**Absence of employer Panelist**
December 2011	-	-	-	-	
January 2012	-		-	-	**Sick Leave**
February 2012	-	28	-	20	**Absence of employer Panelist**
March 2012	75	-	69	-	**Absence of employer Panelist**
April 2012	26	-	24	-	**Absence of employer Panelist**
May 2012	187	-	93	-	**Absence of employer Panelist**
June 2012	29	-	2	-	**Absence of employer Panelist**

Annex 7: Cases Statistics for Judicial Officer, January 2013 – June 2013

INDUSTRIAL RELATIONS COURT OF MALAWI

LILONGWE REGISTRY

CASE STATISTICS FOR JUDICIAL OFFICER HER HON. C.KAMOWA

(THE DEPUTY CHAIRPERSON) FROM JANUARY 2013 TO JUNE 2013

MONTH	CASES ALLOCATED			CASES DISPOSED JUDGEMENT/ORDERS			REMARKS
HER HON C.KAMOWA	PRE-HEARING	FULL HEARING	ASSESMENT /Motion	PRE-HEARING	FULL HEARING	ASSESSMENT/Motion	
January 2013	2	-	16	-	-	15	2 Cases adjourned because of discrepancies of notices. 1 case adjourned because of lack of quorum
February 2013	-	-	-	-	-	-	No allocation of cases because Her Hon. C. Kamowa (The Deputy Chairperson) was writing exams.

MONTH	CASES ALLOCATED			CASES DISPOSED JUDGEMENT/ORDERS			REMARKS
HER HON C.KAMOWA	**PRE-HEARING**	**FULL HEARING**	**ASSESMENT/Motion**	**PRE-HEARING**	**FULL HEARING**	**ASSESSMENT/Motion**	
March 2013	-	15	-	-	-	-	15 Cases failed because of transport problem of Her Hon. Kamowa (The Deputy Chairperson)
April 2013	-	40	4	-	20	2	22 cases adjourned because parties sought an adjournment
May 2013	1	6	7	1	3	7	3 cases adjourned because the parties sought an adjourned
June 2013	-	29	6	-	-	-	24 cases pending because of non-availability of Employer panelist. 11 cases adjourned because of fuel problem.

Annex 8: IRC Authorized Staff Establishment

NO OF EST POST	FILLED	GRADE	POST TITLE	REMARKS	CURRENT GRADE
1	1	P2	***Chairperson***		
			H/H D Degabriere	Substantive	
2	1	P4/E	***Deputy Chairperson***		
			H/H J Nriva	Substantive	
2	1	P5/F	***Assistant Registrar***		
			H/H M Mvula	Substantive	
3	0	P7/G	***Court Assessor***	Vacant	
1	0	CEO/I	***Court Reporter***	Vacant	
1	0	SEO/J	***Personal Secretary***	Vacant	
1	0	SEO/J	***Senior Accountant***	Vacant	
1	0	SEO/J	***Senior Law Clerk***	Vacant	
1	1	EO/K	***Assistant Human Resource Officer***		
			S A T Haliwa	Substantive	
1	1	EO/K	***Assistant Accountant***		
			L C Mwenera	Substantive	
1	0	EO/K	***Law Clerk***	Vacant	
3	1	EO/K	***Short Hand Typist/Stenographer***		
			Angella Namwelo	Substantive	
2	0	SCO/L	***Senior Court Clerk***	Vacant	
1	0	SCO/L	***Senior Clerical Officer***	Vacant	

NO OF EST POST	FILLED	GRADE	POST TITLE	REMARKS	CURRENT GRADE
2	1	CO/M	***Accounts Assistant***		
			Daniel Mwasima	Substantive	
2	1	CO/M	***Clerical Officer***		
			Achitenji Gowa	Substantive	
1	2	CO/M	***Court Clerk***		
			Maggie Mbobe	Substantive	
			Zione Kachingwe	Substantive	
			Rosemary Msimuko	Administrative	
4	3	SCI/N	***Driver***		
			Rex Ndagoma	Substantive	
			Patricia Banda	Substantive	
			Macfalen Guta	Substantive	
1	1	SCI/N	***Messenger/ Sergeant***		
			Anthony Phiri	Substantive	
2	0	SC111/O	***Corporal Messenger***	Vacant	
3	3	SC1V/P	***Court Marshal***		
			Nellie Nakhule	Substantive	
			Peter Iphani	Substantive	
			Brighton Chipaza	Substantive	
			Clemence Logato	Administrative	
5	2		***Security Guard***		
		SC1V/P	Gabriel Yohane	Substantive	
			George Chibisa	Substantive	
CENTRAL					
1	1		***Deputy Chairperson***		
		P4/E	H/H.C. Kamowa	Substantive	

NO OF EST POST	FILLED	GRADE	POST TITLE	REMARKS	CURRENT GRADE
1	0		***Assistant Registrar***		
		PS/F	H/H M Msungama	Administrative Arrangement	P/7
3	0		***Assessor***	Vacant	
1	1	P7/G	***Personal Secretary***		
		P/7G	VC Mononga	Leave pending retirement	
1	1		***Senior Copy Typist***		
		SCO/L	N Munthali	Administrative	
1	0	SCO/L	***Senior Court Clerk***	Vacant	
1	1		***Accounts Assistant***		
		CO/M	M Kachisi	Substantive	
3	3		***Court Clerks***		
		CO/M	F Dzikanyanga	Administrative	
			H Nyirenda	Substantive	
			S Kataika	Substantive	
			M Seveni	Substantive	
3	1		***Driver***		
		SC1V/N	C Kumbuyo	Substantive	
1	1		***Corporal Messenger***		
		SC111/O	M Banda	Substantive	
3	3		***Court Marshal***		
		SCIV/P	P Likwengwa	Substantive	
			M Malinda	Substantive	
			S Nkhwangwa	Substantive/Pending Transfer-SRM LL	

NO OF EST POST	FILLED	GRADE	POST TITLE	REMARKS	CURRENT GRADE
			S J Chiwala	Administrative Arrangement	
			S Dyton	Administrative Arrangement	
3	0		***Security Guards***		
		SCIV/P	Isaac Mthiko	Administrative Arrangement	
			Bezai Chathyoka	Administrative Arrangement	
NORTH					
1	1		***Deputy Chairperson***		
		P4/E	H/H Msowoya	Substantive	
1	0		***Assistant Registrar***		
		P5/F	H/ H K Banda	Administrative Arrangement	P/7
3	0		***Assessor***	Vacant	
1	0	E0/K	***Assistant Accountant***	Filled @ Central Registry	
			Gershom Vitsitsi		
1	1	CO/M	***Accounts Assistant***		
			E Wowo	Substantive	
2	1		***Court Clerk***		
		CO/M	W Mwenelupembe	Substantive	
1	1	CO/M	***Copy Typist***		
			Chirwa Ester		
2	0 1	SC1V/P	***Court Marshal***	Substantive.	
			Charles Nyangulu		
3	2	N/SC1	**Driver**	Vacant	

Annex 9: Level of funding (ORT) at Mzuzu registry from 2011-2015

Month	Year	Other Recurrent Transactions (ORT)in MK	Remarks
June	2011	289,777.99	Received
July	2011	185,773.21	Received
August	2011	428,773.21	Received
September	2011	385,617.25	Received
October	2011	367,987.50	Received
November	2011	477,329.25	Received
December	2011	261,318.00	Received
January	2012	225,659.00	Received
February	2012	108,520.50	Received
March	2012	489,037.53	Received
April	2012	202,664.75	Received
May	2012	-	No funding
June	2012	-	No funding
July	2012	126,768.47	Received
August	2012	416,923.22`	Received
September	2012	-	No funding
October	2012	1,141,648.79	Received
November	2012	412,990.17	Received
December	2012	-	No funding
January	2013	257,444,81	Received
February	2013	242,249.04	No funding
March	2013	165,527.11	Received
April	2013	115,676.67	Received
May	2013	-	No funding
June	2013	-	No funding
July	2013	490,780.50	Received
August	2013	333,952.65	Received
September	2013	240,323.27	Received

Month	Year	Other Recurrent Transactions (ORT)in MK	Remarks
October	2013	273,429.77	Received
November	2013	292,266.18	Received
December	2013	-	No funding
January	2014	462,400.00	Received
February	2014	405,048.97	Received
March	2014	319,504.27	Received
April	2014	398,101.77	Received
May	2014	482,500.00	Received
June	2014	383,246.77	Received
July	2014	589,398.56	Received
August	2014	398,876.23	Received
September	2014	581,046.95	Received
October	2014	590,909.70	Received
November	2014	374,405.70	Received
December	2014	407,811.72	Received
January	2015	385977.70	Received
February	2015	779,950.00	Received
March	2015	-	No funding
February	2015	385,977.70	Received
March	2015	-	No funding