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## **The Role of the International Labour Organization in Improving Botswana's Labour Dispute Resolution Framework: An Analysis of Key International Labour Standards**

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**Abstract.** *The objective of this study was to examine the role of the International Labour Organization (ILO) in strengthening Botswana's Labour Dispute Resolution Framework. Specifically, the study sought to analyse how the ILO can contribute to enhancing the effectiveness of Botswana's system and to identify the key ILO instruments that are most relevant to labour dispute prevention and resolution. To establish a solid foundation for this inquiry and refine the research problem, a literature review was conducted to assess existing studies in this field. The research adopted a qualitative methodology, guided by an exploratory research design and anchored within an interpretivist phenomenological research strategy. A purposive sampling technique was employed to select fifteen (15) participants drawn from both Botswana and the wider SADC region. Primary data was collected through virtual semi-structured interviews, conducted mainly via electronic platforms to accommodate participants' diverse geographic locations and ensure broad regional engagement. The findings of the study underscore the importance of the ILO as a critical partner in supporting member states to reform and strengthen their labour dispute resolution systems. The results further indicate that aligning Botswana's framework with international labour standards would reinforce fundamental principles such as independence, due process, and equitable access to justice for both employers and employees.*

**Keywords:** International labour standards, Labour Dispute Resolution Framework, Alternative Dispute Resolution, Conventions, Recommendations

**JEL Codes:** J52; J53

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### **1. Introduction**

The European Foundation for the Improvement of Living and Working Conditions (2009) posits that the idea of a Labour *Dispute Resolution Framework* originated from a combination of statutory provisions and industrial relations practices, designed to manage and resolve workplace



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disputes more effectively without relying solely on the traditional court system. With the growth of industrial societies, particularly between the late 19th and mid-20th centuries, many nations incorporated these approaches into their labour legislation, seeking to foster industrial harmony and uphold fair standards of employment.

Alternative Dispute Resolution is a term which is intertwined with the Labour dispute resolution framework, given that they both use mechanisms such as Conciliation, Mediation and Arbitration. According to the World Bank Group (2011), the roots of Alternative Dispute Resolution (ADR) date back to times preceding Western civilisation. Research on early societies reveals indications of conciliation practices and peaceful methods of settling disputes long before the advent of organised civilisation. As for the definition of ADR, most scholars appear to agree that ADR, as a process in which parties are supported by a neutral third party to resolve their differences without the imposition of a binding decision, is generally acceptable (Davis, 2002).

Since its establishment in 1919, the International Labour Organisation (ILO) has been instrumental in the establishment of global labour standards. Effective dispute resolution has been one of its primary objectives, which has been achieved through the promotion of voluntary methods such as arbitration and conciliation (Musukubili, 2013). International labour standards are established by the International Labour Organisation (ILO) through Conventions and Recommendations. Conventions are legally binding treaties that are adopted by the International Labour Conference and ratified by member states, whereas Recommendations are nonbinding guidelines. ILO instruments that are dispute resolution include the Voluntary Conciliation and Arbitration Recommendation, 1951 (No. 92), Collective Bargaining Convention of 1981 (No.154), Labour Relations Convention of 1978 (No. 151 and Examination of Grievances Recommendation, 1967 (No. 130) (Gathongo, 2018).

### **1.1 Background of the study**

Botswana, a landlocked country in the middle of Southern Africa, at the time of independence in 1966, was traditionally preoccupied with animal husbandry and subsistence farming, so there was no urgent need for a labour dispute resolution framework because there were no major industries (Bojosi, 2009). During this time, the traditional kgotla system, whereby community elders mediated disputes, striving for consensus-based decisions, served Botswana well (Briscoe, 2007). In the 1970s and 1980s, Botswana's economy increased tremendously due to the discovery of diamonds, making it impossible not to have a robust labour dispute management system in place (Du Toit, 2006). During 1982–1983, the government made extensive changes to the current labour laws, including a new and improved Employment Act, updated Trade Disputes Act, and an



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extended Trade Unions Act that included Employer Organisations (Koorapetse, 2011). In 1992, the Industrial Court of Botswana was established. This court is a specialized judicial body responsible for managing labour disputes, resolving trade disputes, and fostering positive industrial relations (Kalula, 1993).

The 2004 amendment to the Trade Disputes Act fundamentally changed Botswana's method of resolving conflicts by formally integrating Alternative Dispute Resolution (ADR) into the country's legal system through a new panel of mediators and arbitrators (Koorapetse, 2011). However, the use of ADR was immediately faced with various challenges that hindered its effectiveness from the start. Bushe (2019) identified these challenges as a lack of autonomy, the use of unskilled and unqualified staff, and an insufficient budget for the Ministry of Labour and Home Affairs to operate the ADR system.

When it comes to labour disputes and other global labour issues, it is generally expected that the ILO will take the lead. This is because the organisation has a unique structure that is composed of instruments (conventions and recommendations), the International Labour Conference (ILC) and the supervisory bodies. In order to strengthen consensus-based procedures and lessen the systemic need for social partners to turn to adjudicative processes, the ILO through O'Donovan & Oumarou (2013), published guidelines aimed at increasing the efficacy of dispute resolution and prevention by creating or reviving administrative units and institutions for voluntary arbitration and mediation.

## **1.2 Problem Statement**

Briscoe (2007) points out that the government has historically been central to resolving labour disputes in Botswana since its independence. There is a general lack of alternative dispute resolution (ADR) procedures for industrial disputes and resistance from the government to use private arbitration or mediation in the public sector.

According to Mogapaesi (2023) the Trade Disputes Act, which was amended in 2004 to introduce less formal methods of dispute resolution like mediation and arbitration, has not lived up to expectations. Although mediators play a crucial facilitating role in resolving trade disputes under Botswana's labour law, many people (users of the ADR system) are unaware of the value of mediation as an alternative to litigation, which contributes to courts being overwhelmed with disputes. Briscoe (2007) also noted that the quality of service from district labour officers is often poor due to a lack of training in mediation and a weak grasp of employment law.



### **1.2.1 Research Questions**

- What role should the ILO be playing to improve the efficacy of Botswana's dispute resolution framework?
- What are the key ILO instruments related to dispute prevention and resolution?

### **1.2.2 Research Objectives**

- To analyse the role the International Labour Organisation (ILO) should play in improving the efficacy of Botswana's labour dispute resolution framework.
- To identify and examine the key ILO instruments relevant to labour dispute prevention and resolution

## **2. Literature Review**

Since 1919, the International Labour Organisation (ILO) has primarily operated through the development of international labour standards. These standards are expressed either as Conventions or Recommendations. Conventions function as international treaties that legally bind member states once ratified, requiring them to implement the provisions both legislatively and in practice. Recommendations, on the other hand, are not legally binding treaties but rather provide non-compulsory guidelines for shaping national policies and practices, often serving as a complement to Conventions (ILO, 2008). International standards are of paramount importance for two primary reasons. Firstly, they demonstrate that an international agreement has been reached on minimum best practices in labour matters. Secondly, and more importantly, the ratification of a standard by a member results in a binding legal obligation that can be incorporated into national law through the process of domestication (Gathongo, 2018).

The Voluntary Conciliation and Arbitration Recommendation, 1951 (No. 92) is the primary ILO Convention that relates to dispute resolution. It indicates that voluntary conciliation should be implemented in order to effectively prevent and resolve disputes between parties (ILO, 2007). The recommendation promotes the utilisation of conciliation and arbitration mechanisms as instruments for resolving disputes between employers and employees. The framework establishes a process for peacefully resolving disagreements and preventing the need for government intervention. It is particularly focused on proactive measures to avoid workplace disputes (Kocijaj & Sina, 2025).

Collective Bargaining Convention, 1981 (No.154) is also one of the ILO instruments that relates to dispute resolution. According to the ILO (2007), this Convention establishes a framework for



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promoting collective bargaining by incorporating conciliation and arbitration into the negotiation process. Its primary goal is to facilitate the mutual resolution of disagreements between workers and employers, thereby reinforcing the overall collective bargaining process. Olney & Ruenda (2005) state that the convention posits that bodies and procedures for labour dispute resolution, namely conciliation, mediation, and arbitration, ought to facilitate collective bargaining, emphasising assistance in achieving agreements rather than enforcing decisions. Parties should have the option to voluntarily engage in conciliation and/or arbitration institutions within collective bargaining frameworks, indicating that dispute resolution processes are based on mutual agreement rather than coercion.

The third ILO standard that relates to dispute resolution is *the Examination of Grievances Recommendation*, 1967 (No. 130). The text of this Recommendation, concerning the examination of grievances and dispute settlement within the undertaking, was adopted by the International Labour Conference at its 51st session in 1967 (ILO, 2007). According to Koçiaj & Sina (2025), this recommendation aims to resolve both individual and collective disputes at the enterprise level. A complaint is defined as any situation or measure that is, or could be, in conflict with existing collective agreements, individual employment contracts, internal regulations, laws, or established workplace norms. The core purpose is to address these issues before they escalate.

The Labour Relations Convention, 1978 (No. 151) is another key instrument that establishes principles for integrated labour relations systems in the public sector, covering civil rights and dispute resolution. In the context of public service, the Convention stipulates that disputes concerning employment terms and conditions must be resolved through negotiation or via independent and impartial mechanisms such as mediation, conciliation, or arbitration (ILO, 2013). According to Kalamatiev & Ristovski (2013), before Convention No. 151 was adopted, ILO regulations had encouraged and interpreted the scope of collective bargaining in a limited manner.

### **3. Research Methodology**

This section provides an overview of the research methodology that was utilised in the study. This methodology encompasses a number of essential components, such as the research design, the underlying philosophy, the technique, the strategy, and the measures that were taken to ensure quality and ethical considerations. A research design is the overarching roadmap through which a researcher endeavour to carried out his/her research. According to Myers (2013), the design encompasses all of the key actions that will be carried out in the course of the research. The research design adopted for this study is exploratory research design (Cresswell, 2003).



The study adopted a qualitative research methodology anchored within a phenomenological research strategy. As Creswell (2003) notes, phenomenology provides a powerful way to understand why things happen the way they do from a first-person perspective. The researcher's goal is to delve into the subjective experiences of individuals to find out what those experiences mean to them. This study utilised a purposive sampling technique to select fifteen (15) individuals within the dispute resolution space from both Botswana and the broader SADC region. Semi-structured interviews were the method of choice for this study's data collection. This approach was particularly well-suited for the research as it allowed the interviewer to gain a deeper understanding of the participants' personal perspectives on the phenomenon of interest. Woods (2006) observes that a key advantage of using semi-structured interviews is their ability to use open-ended questions. This not only keeps the conversation centered on the research topic but also encourages a richer and more meaningful dialogue between the interviewer and the participant. This method allows the interviewer to ask for clarification or more details as needed, which helps to gather more comprehensive and in-depth responses. According to Hancock (2002), there are many tools that could be used to analyse qualitative data, but for this study computer software program known as Atlas.ti was used to support the data analysis process. This software is particularly useful for organising and categorising qualitative data based on identified themes. In quantitative research, quality is established through concepts like validity, reliability, generalisability, and objectivity. In contrast, qualitative research emphasizes trustworthiness, which is a comprehensive concept that includes several criteria such as credibility, transferability, dependability, and confirmability, to ensure the quality of the study (Polit & Beck, 2012). Ethical considerations were certainly observed through out the study, with particular attention paid towards upholding the doctrine of informed consent, privacy, and confidentiality of all research participants.

#### 4. Findings

The first theme that emerged from the findings was the **role of the International Labour Organisation (ILO) in assisting Botswana's dispute resolution system**. In this regard, the table below summarises the participants' responses.

*Table 1: Views of the participants on the role of ILO*

Participant	Observations
Temo B	<i>"ILO has a big role to play; be it financially or coming to train staff. The current ILO Decent Work Country Programme of Botswana mentions the dispute resolution machinery processes like mediation".</i>



Thato B	<i>“Technical assistance from the ILO is needed. If we approach them for assistance with setting up an independent dispute resolution system, they will jump at the chance to assist us”.</i>
Thapelo B	<i>“The ILO provides a platform whereby we can learn good examples practiced by other countries”.</i>
Uyapo B	<i>“ILO rules and regulations should be strengthened so that the organisation can authoritatively tell member states that do not have independent dispute resolution systems to do so. Also, financial assistance can be sought from ILO”.</i>
Priya S	<i>“They should train, create awareness and carry out workshops”.</i>
Mary S	<i>“ILO helps with training and financial assistance”.</i>
Tumelo B	<i>“Standardisation of the dispute resolution systems is something that the ILO should pursue. Committee on Application of Standards should extend its mandate also to the Labour Inspectorate”.</i>
Steve B	<i>“The ILO should continue providing technical assistance to member states like Botswana. I do not remember them conducting training in a long time. Capacity building is key”.</i>
Kenneth B	<i>“Yes, ILO could be performing that role; enforcing members to have independent, well-functioning dispute resolution systems, but the problem is that it seems that the ILO does not have a commanding voice to force members to improve their dispute resolution systems. I see ILO as a toothless body unless it changes its constitution and try to be more active like organisations such as FIFA”.</i>
Joseph S	<i>“ILO assisted our system when we changed to the independent system, and they still assist us with training of staff. They also assisted with our case management guide”.</i>

Source: Researcher`s fieldwork

A significant number of participants stated that the International Labour Organisation (ILO) has a crucial role to play in enhancing Botswana’s dispute resolution system, particularly through capacity building and technical support. Participants from the SADC region indicated that they also benefited from the ILO in their journey to render the systems independent.





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**International labour standards:** International labour standards emerged as another theme in the findings. The ILO establishes international labour standards in the form of conventions and recommendations that provide and serve as a framework for fair and equitable labour practices. These standards cover various aspects of labour relations, including freedom of association, collective bargaining, and dispute resolution. Hence, Lucky B noted:

*“Equal remuneration convention is an example of a standard that can be used to uplift the Botswana dispute resolution system”.*

Although he did not mention any particular standard, **Phenyo B** opined that labour standards could be used to improve the Botswana system. He advanced:

*“Yes, technical assistance is needed from the ILO to improve the system. The labour standards can be used to guide tripartite partners in the process of making laws.”*

According to **Wethu S**, Botswana should ratify all ILO conventions that relate to dispute resolution. He also stressed the importance of domesticating the conventions after ratification. He stated:

*“Botswana should become a signatory to ILO conventions, especially those related to dispute resolution. After ratification, it is important to domesticate them and also very important to be compliant with the reporting obligations, otherwise the country will run the risk of being called by the Committee of Application of Standards to explain why the conventions are not in practice”.*

As observed by the two participants above, labour standards have a role to play in the development of a dispute resolution system. Countries often turn to the ILO standards when developing or amending labour laws and regulations, notably those that govern dispute resolution systems. This helps to guarantee that domestic legal systems are consistent with international best practices.

## 5. Discussion of Findings

**International labour standards:** A couple of the participants argued that international labour standards can be used to improve Botswana's labour dispute resolution system. The International Labour Organization promulgates international labour standards through conventions and recommendations, which serve as a foundational framework for the establishment and maintenance of fair and equitable labour practices. These standards encompass a broad spectrum of labour relations issues, notably including freedom of association, the right to collective bargaining, and mechanisms for dispute resolution. In line with this view, Lucky B noted:





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“(The) equal remuneration convention is an example of a standard that can be used to uplift the Botswana dispute resolution system”.

Apart from the Equal Remuneration Convention, 1951 (No. 100), as mentioned by Lucky B, the primary ILO instrument pertaining to dispute resolution is the Voluntary Conciliation and Arbitration Recommendation, 1951 (No. 92). This recommendation advocates making voluntary conciliation available as a crucial tool for both preventing and settling disputes. It promotes key principles such as equal representation for employers and workers, and the use of procedures that are cost-effective and fast. The recommendation also encourages all parties to voluntarily engage in the process and to refrain from strikes or lockouts while conciliation or arbitration is underway. (Masukubili, 2013).

Wethu S expressed the view that Botswana should ratify all International Labour Organization (ILO) conventions that are relevant to dispute resolution. Furthermore, the participant emphasized the critical importance of domesticating these conventions into national law following ratification. In this respect, he said:

“Botswana should become a signatory to ILO conventions, especially those related to dispute resolution. After ratification, it is important to domesticate them and also very important to be compliant with the reporting obligations; otherwise, the country will run the risk of being called by the Committee of Application of Standards to explain why the conventions are not in practice”.

Wethu S's recommendation that Botswana should ratify and domesticate pertinent ILO conventions is well-reasoned. Ratification alone is insufficient; compliance with reporting obligations and domestication into national law are essential to guarantee the effective implementation and enforcement of these standards. This method would not only improve the dispute resolution system but would also avert potential scrutiny from the Committee of Application of Standards.

Aside from the Collective Bargaining Convention of 1981 (No.154), which promotes collective bargaining by outlining mechanisms for the prevention and settlement of labour disputes (Musukubili, 2013), the Labour Relations Convention of 1978 (No. 151) outlines principles for integrated public sector labour relations systems, including civil rights and dispute resolution, and the Collective Bargaining Convention of 1981 (No. 154) (Sivananthiran, 1998) and the Examination of Grievances Recommendation, 1967 (No. 130), which focus on dispute resolution at the level of the enterprise (ILO, 2007).

Phenyo B claimed that international labour standards could be effectively utilised to enhance Botswana's labour dispute resolution system. In this context, he asserted:



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“Yes, technical assistance is needed from the ILO to improve the system. The labour standards can be used to guide tripartite partners in the process of making laws”.

Phenyo B's emphasis on the necessity of technical assistance from the ILO is consistent with the organization's ability to offer specialised expertise and advisory services. Ultimately, the ILO's assistance can contribute to more effective and equitable labour relations frameworks by guiding tripartite partners in law-making processes, strengthening national labour institutions, and improving staff skills.

The ILO provides technical assistance, advisory services, and specialised expertise to its member states on a wide range of labour issues. This support includes capacity-building measures to strengthen national labour institutions and to improve staff skills. The ILO also provides authoritative recommendations to establish and improve dispute resolution systems, helping member nations build strong and fair labour relations frameworks.

Based on the above, one cannot disagree with the participants' assessment that Botswana's labour dispute resolution system can be substantially improved by adhering to international labour standards. Through its conventions and recommendations, the ILO establishes a fundamental framework that encompasses a wide range of labour relations issues such as collective bargaining, freedom of association, and dispute resolution mechanisms.

For example, the Equal Remuneration Convention, 1951 (No. 100), as noted by Lucky B, can be beneficial to promote fairness and equity in employment practices, thereby reducing disputes that relate to unequal remuneration. The Voluntary Conciliation and Arbitration Recommendation, 1951 (No. 92) is another crucial instrument that advocates voluntary conciliation as a key method to prevent and resolve disputes. Other important ILO instruments include the Labour Relations Convention, 1978 (No. 151), which outlines principles for integrated public sector labour relations systems, and the Collective Bargaining Convention, 1981 (No. 154), which encourages collective bargaining by establishing bodies and procedures for dispute prevention and settlement. Additionally, the Examination of Grievances Recommendation, 1967 (No. 130) is specifically aimed at resolving disputes that occur within a single company or workplace.

In fact, Botswana can improve its dispute resolution mechanisms, promote fair employment practices, and cultivate a more harmonious labour relations environment by utilising these international labour standards and by requesting technical assistance from the ILO.

**Role of the International Labour Organisation (ILO):** The role of the International Labour Organisation, in making dispute resolution systems more effective, was mentioned by a significant number of the study's participants (10). The ILO plays a crucial role in enhancing the effectiveness of labour dispute resolution systems. It achieves this by offering technical assistance to member states, establishing international labour standards, and promoting best practices for dispute



resolution. The issue of providing technical assistance was mentioned by some of the participants. Thato B averred:

“Technical assistance from the ILO is needed. If we approach them for assistance with setting up an independent dispute resolution system, they will jump at the chance to assist us”.

Thato B was supported by Steve B, who also advocated that technical assistance from the ILO would benefit member states immensely. He said:

“The ILO should continue providing technical assistance to member states like Botswana. I do not remember them conducting training in a long time. Capacity building is key”.

The ILO has several technical cooperation projects to help member countries assess and revise their dispute prevention and settlement systems. The ILO also conducts advisory services and promotional activities, which include providing a diagnosis of the existing system; training of users and providers; reviewing and revising the legislative framework; developing codes of conduct; setting up conciliation/mediation/arbitration services; bolstering labour administration systems; and promoting ratification of relevant instruments (Olney, 2004).

The issue of international labour standards was also mentioned. In this regard, Tumelo B posited:

“Standardisation of the dispute resolution systems is something that the ILO should pursue. (The) Committee on Application of Standards should extend its mandate also to the Labour Inspectorate”.

The ILO supports countries in designing and reforming their labour dispute resolution mechanisms, ensuring that these are accessible, transparent, and equitable. It emphasizes the importance of voluntary conciliation and mediation processes that are free of charge and expeditious, as highlighted in its recommendations No. 92 and No. 130. These recommendations advocate for consensus-based systems that involve both employers and workers equally, fostering cooperation and minimising disputes (Talvik, 2014).

Other participants mentioned that the ILO should support member states with financial aid and capacity building (training) of staff who are involved in dispute resolution systems. Hence, Priya S stated:

“They should train, create awareness, and carry out workshops”

In support of Priya S, Mary S added:

“(The) ILO helps with training and financial assistance”.



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In Botswana, the law governing mediation and arbitration does not specify minimum academic qualifications that are required for practitioners in those categories, such as whether a diploma or degree is necessary. Furthermore, the Act does not address the need for ongoing skills development and training for these experts (Bushe, 2019).

According to Oumarou and O'Donovan (2013), the ILO offers country-specific technical assistance to establish or strengthen dispute resolution institutions such as labour courts or mediation services. It collaborates with national agencies to ensure that these systems operate efficiently, whilst providing timely resolutions. The ILO also conducts capacity-building programs, including training on negotiation, conciliation, and mediation skills to enhance the capabilities of stakeholders involved in dispute resolution.

Hence, the notion that the ILO can significantly assist in improving the effectiveness of dispute resolution systems cannot be repudiated. It does this by offering technical assistance to member states, establishing international labour standards, and promoting best practices. Participants in the current study emphasised the need for technical assistance from the ILO, with some suggesting that the ILO would be willing to assist in establishing independent dispute resolution systems. ILO provides various technical cooperation initiatives to aid member states in reviewing and revising their dispute prevention and settlement systems.

The ILO also contributes to the standardisation of dispute resolution systems, ensuring that they are accessible, transparent, and equitable. It emphasizes the importance of voluntary conciliation and mediation processes that are free of charge and expeditious, as highlighted in its recommendations No. 92 and No. 130. These recommendations promote consensus-based systems involving both employers and workers, fostering cooperation and minimising disputes. Furthermore, the ILO supports member states with financial aid and capacity building, including training and workshops for staff involved in dispute resolution systems. It conducts capacity-building programs such as training on negotiation, conciliation, and mediation skills to enhance the capabilities of stakeholders involved in dispute resolution.

However, it is important to note that in some countries like Botswana, there are gaps in the legal framework that governs mediation and arbitration, such as the absence of specified minimum academic qualifications and the lack of mandatory ongoing skills development and training for practitioners. This highlights the need for continued ILO support to strengthen these systems.

## 6. Conclusion

The findings of the study emphasize the significant role the ILO continues to play in assisting member states to design and reform labour dispute resolution systems that are fair, accessible,



and transparent. They further underscore that adopting international labour standards, particularly those contained in ILO Conventions and Recommendations, is crucial to strengthening Botswana's dispute resolution framework. These globally recognised instruments offer a solid foundation for establishing impartial, efficient, and just processes. Aligning Botswana's system with these standards would help safeguard fundamental principles such as independence, due process, and equal access to justice for both workers and employers.

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