



# **EXAMINING THE COST AND CAUSES OF THE RISING INDUSTRIAL DISPUTES IN GHANA**

**REPORT**

**OCTOBER 2020**

## EXECUTIVE SUMMARY

Ghana has a long history of industrial relations practice and established institutional and legal frameworks for overseeing the condition of the industrial relations environment. The institutional mechanisms comprise of the Government, through the Ministry of Employment and Labour Relations (MELR), Employers', represented by Ghana Employers' Association (GEA), and Organized Labour. The legal framework comprises of the, 1992 Republican Constitution of Ghana, Labour Act, 2003 (Act 651), Factories, Offices & Shops Act, 1970, NLC Regulations 2006, Labour Regulations 2007, National Pensions Act 2008, National Pensions (Amendment) Act 2014, Persons with Disability Act 2006, Workmen's Compensation Law, 1987, and Fair Wages & Salaries Act 2007. Adoption of Collective Agreements and HR Policy manuals are other regulations, policies and procedures that characterize the conduct of IR in Ghana.

The Labour Act 2003 (Act 651), provides the procedures for resolving industrial disputes in Ghana. Section 153 of the Labour Act 2003 requires parties to negotiate in good faith to reach a settlement using their own procedures agreed upon in Collective Bargaining Agreements (CBAs) or contracts of employment. The law adds that if the parties are unable to settle the dispute within seven (7) days, either or both parties may refer the dispute to the National Labour Commission.

However, the Commission is often overwhelmed by the number of cases it receives monthly. This development has impacted the Commission's capacity to render efficient and effective resolution to the disputes that are lodged before it. Consequently, GEA, the mouthpiece of employers in the country, with its development partner, the Bureau of Employers' Activities (ACT/EMP) wing of the International Labour Organization (ILO) initiated this survey to evaluate the cost for enterprises and causes of the rising industrial disputes in Ghana. This will guide the Association to sensitize employers as well as dialogue with the labour administration institutions and the trade unions to create a harmonious industrial relations atmosphere in Ghana.

### Summary of key findings

- The survey found that 45.4 percent of the enterprises have unions at the workplace, with 54.6% indicating no trade union activities in the organization .
- Majority of the enterprises (i.e. 75.5%) indicated that Collective Bargaining in terms of inadequate framework and delays in negotiation of collective bargaining framework are the major cause of labour disputes in Ghana.
- Over 60 percent (i.e. 64%) of the enterprises also revealed that the rising labour disputes in the country emanate from complaints regarding the terms and conditions of employments, while more than half (i.e. 55%) of the enterprises attributed major cause of the rising disputes to unfair termination.
- Close to 70 percent (i.e. 69%) of the enterprises resorted to the National Labour Commission for the resolution of outstanding disputes.

- Over two-thirds (i.e. 68.7%) of the labour disputes progressed from the negotiation stage to Mediation and Arbitration and sometimes to the Law Courts, with almost a third (31.3%) of labour disputes settled at the Negotiation stage.
- In all, every 7 out of 10 enterprises (71.7%) covered in the study found Ghana's dispute resolution process satisfactory or very satisfactory with about a quarter (or 23.4%) of the enterprises expressing dissatisfaction with the process.
- In terms of clarity of the existing labour laws on dispute settlement, 66 percent of employers found the provisions of labour laws on labour dispute resolution, especially, Act 651, are unambiguous.
- Majority of the enterprises (i.e. 87.4%) indicated that the rising labour disputes affect their productivity through reduced output per man-hour.
- More than 70 percent (i.e. 71.6%) of the enterprises revealed that it took them less than 6 months to resolve an outstanding dispute.
- About two-fifth of the enterprises (i.e. 41.18%) revealed that they lost in valuable time during the dispute settlement process, which could have been used to augment production of their goods and services.
- The unions indicated that the disputes tend to intimidate their members, leading to low morale for work, loss of jobs and unpaid redundancies. Additionally, rising disputes affects the productivity of their members through loss in productive man-hours used to resolve the disputes, depression and anxiety.
- The labour administration institutions revealed that lack of human resource and logistics are the significant factors that affect the NLC's capacity to resolve disputes on time; and also indicated that it cost the country transportation, representation and documentation expenses, which drains the government purse.
- According to the labour administration institutions, the social partners need sensitization on termination of employment and non-payment of salaries, among others.

### **Policy Recommendations**

Based on the survey findings, the following policy recommendations are made:

- The Government through the Ministry of Employment and Labour Relations (MELR) should resource the National Labour Commission (NLC) in terms of material logistics and human resource to enable it effectively and efficiently adjudicate and settle the numerous disputes that come to its table.

- The NLC in collaboration with the Social Partners should organize capacity building and sensitization programmes for employers and workers on regular basis to ensure their absolute understanding of the labour laws and best labour practices.
- Employers and Organized Labour should endeavour to build the capacity of members to expose them to the design of clear and applicable Collective Agreements to reduce industrial disputes in the country.
- The MELR should resource the National Tripartite Committee to enable its Technical Sub-Committees to continuously monitor Ghana's labour market and industrial relations environment to ensure the proactive design and implementation of effective policies to prevent the escalation of industrial disputes in Ghana.
- The MELR should also resource the Labour Department to enable it effectively deliver on its mandate of labour policy formulation and implementation.
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- It is the responsibility of employees to always make it a point to obtain complete comprehension of the terms and conditions of the employment contracts to avoid misunderstanding and disputes during the lifespan of the employment relationship.
- Employers and workers must endeavor to move away from verbal agreements/contracts to a more formal and written ones to aid effective resolution of disputes as and when they arise.
- It is important for unions to always endeavour to channel their grievances through the appropriate mechanisms to ensure that productivity is not affected while a dispute is being settled.
- The Ministry of Employment and Labour Relations, and its Social Partners should work to establish strong bipartite relations at the enterprise level to ensure a generally peaceful industrial relations atmosphere and effective dispute resolution at the Negotiation level
- Finally, Government should strengthen the social dialogue institutions in Ghana, to ensure that the principles and ideals of Social Dialogue are enshrined in every aspect of Ghana's labour market.

## Table of Contents

EXECUTIVE SUMMARY .....	ii
Summary of key findings.....	ii
Policy Recommendations.....	iii
LIST OF FIGURES .....	vi
LIST OF ABBREVIATIONS .....	vii
CHAPTER ONE.....	1
1.1 Background of the study .....	1
1.3 Research Methodology .....	3
1.3.1 Focus Group Discussions (FCD) and Key Informant Interview.....	4
1.3.3 Survey instrument .....	5
1.3.4 Pre-test .....	5
1.3.5 Data collection and fieldwork .....	5
1.3.6 Organization of the Report.....	6
CHAPTER TWO .....	7
ENTERPRISE CHARACTERISTICS .....	7
2.1 Enterprise size, sector of operation and years of enterprise existence .....	7
2.2 Trade Union presence at the workplace.....	9
CHAPTER THREE .....	11
CAUSES AND RESOLUTION OF INDUSTRIAL DISPUTES AT THE WORKPLACE .....	11
3.1 Causes of the rising labour disputes at the workplace .....	11
3.2 Resolution of Industrial Disputes at the Workplace .....	12
CHAPTER FOUR.....	17
PRODUCTIVITY AND COST IMPACT OF THE RISING LABOUR DISPUTES .....	17
4.1 Employers .....	17
4.2 Trade Unions.....	19
4.2.1 How do the disputes impact employment of your members? .....	19
4.2.2 To what extent do the rising labour disputes affect the productivity of your members? .....	19
4.2.3 What are some of the real time cost borne by the union/workers in times of industrial disputes?.....	19
4.3 Government.....	20
CHAPTER FIVE .....	21
SUMMARY, CONCLUSION AND POLICY RECOMMENDATIONS.....	21
5.1 Summary of key findings.....	21
5.2 Conclusion .....	22
5.3 Policy Recommendations.....	23
REFERENCES .....	24

## LIST OF FIGURES

Figure 1.1 : Structure of Ghana’s Industrial Relations system .....	2
Figure 1.2: The three phased approach to implementing the survey .....	4
Figure 2.1: Enterprise size, by workforce .....	7
Figure 2.2: Sectoral Distribution of Enterprises .....	8
Figure 2.3: Age of Enterprise.....	8
Figure 2.4: Trade Union presence at the workplace .....	9
Figure 3.1: Factors responsible for the rising labour disputes at the NLC .....	11
Figure 3.2: Specific causes of the rising industrial disputes in Ghana .....	12
Figure 3.3: Experience of industrial disputes over the past 2 years.....	13
Figure 3.4: External party consulted for dispute settlement .....	14
Figure 3.5: Method deployed by third party in the dispute resolution process.....	14
Figure 3.6: Employers satisfaction at the dispute resolution process .....	15
Figure 3.7: Employers perspective about the clarity of the existing Labour Laws on dispute settlement .....	16
Figure 4.1: Impact of rising labour disputes on business productivity .....	17
Figure 4.2: Time it takes to resolve labour disputes .....	18
Figure 4.3: Resources deployed for dispute settlement .....	18

## LIST OF ABBREVIATIONS

CBA	-	Collective Bargaining Agreement
FDI	-	Foreign Direct Investment
FID	-	Factories, Inspectorate Department
FWSC	-	Fair Wages and Salaries Commission
GEA	-	Ghana Employers' Association
GFL	-	Ghana Federation of Labour
GMA	-	Ghana Medical Association
GNAT	-	Ghana National Association of Teachers
GRNA	-	Ghana Registered Nurses Association
ICU	-	Industrial and Commercial Workers Union
ILO	-	International Labour Organization
IR		Industrial Relations
LD	-	Labour Department
MELR	-	Ministry of Employment and Labour Relations
MSMEs	-	Micro, Small and Medium Scale Enterprises
NAGRAT	-	National Association Graduate Teachers
NLC	-	National Labour Commission
NPRA	-	National Pension Regulatory Authority
NTC	-	National Tripartite Committee
TOR	-	Terms of Reference
TUC	-	Trades Union Congress

# CHAPTER ONE

## INTRODUCTION

### 1.1 Background of the study

Industrial Relations (IR) encompasses the relationship between management and workers, and the role of a regulatory body to resolve any industrial dispute. The IR climate is a critical factor in determining the pace of private sector progress and economic development of any society. A peaceful IR environment encourages business expansion, employment creation, increased productivity and attraction of Foreign Direct Investment (FDI). Government also tends to gain significant tax revenues when the IR atmosphere is stable. A harmonious IR climate therefore provides a win-win outcome for all the actors in the labour market and economy as a whole (i.e. employers, workers, government, consumers and population).

Ghana has a long history of IR practice and established institutional and legal frameworks for overseeing the condition of the IR environment (See Figure 1.1). The institutional mechanisms comprise of the Government, through the Ministry of Employment and Labour Relations (MELR), Employers', represented by Ghana Employers' Association (GEA), and Organized Labour. The MELR serves mainly as the regulatory wing of Ghana's IR system. It works with specialized departments, agencies and committees such as the Labour Department, Department of Factories Inspectorate, National Pension Regulatory Authority (NPRA), National Tripartite Committee (NTC) and National Labour Commission (NLC).

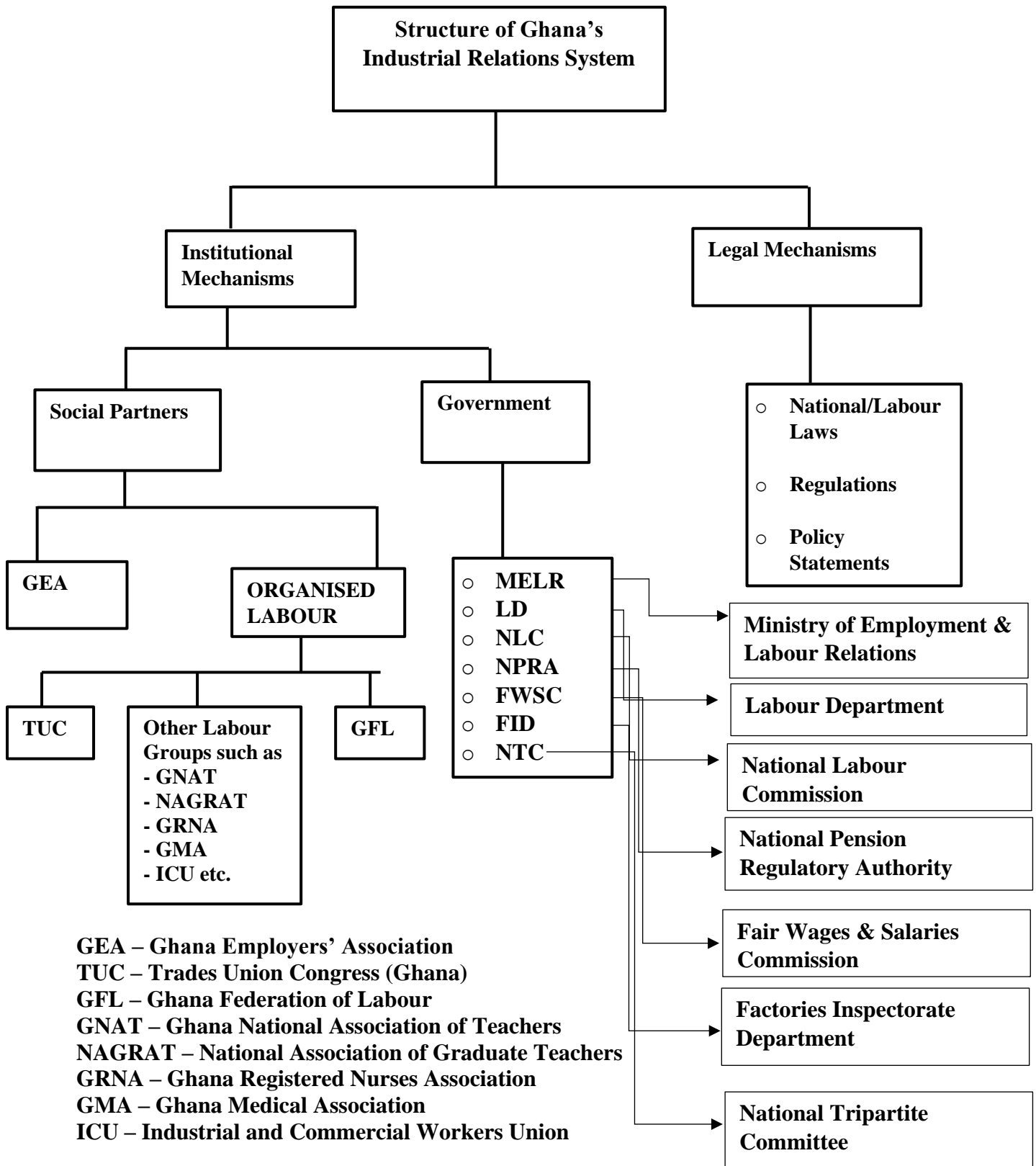
The legal framework comprises of the, 1992 Republican Constitution of Ghana, Labour Act, 2003 (Act 651), Factories, Offices & Shops Act, 1970, NLC Regulations 2006, Labour Regulations 2007, National Pensions Act 2008, National Pensions (Amendment) Act 2014, Persons with Disability Act 2006, Workmen's Compensation Law, 1987, and Fair Wages & Salaries Act 2007. Adoption of Collective Agreements and HR Policy manuals are other regulations, policies and procedures that characterize the conduct of IR in Ghana. It is imperative to note that these legal and policy mechanisms draw inspiration from the labour standards set out by the International Labour Organization (ILO), which Ghana is a signatory.

The main objective of IR is to safeguard the interest of workers and management by securing the highest level of mutual understanding and goodwill among all those sections in the industry that participate in the production process. However, in the process of interaction between actors at the workplace, industrial disputes do occur, and this is often attributed to lack of strong laws that clearly outline the dispute resolution path, or inadequate comprehension of the provisions of the laws.

The Labour Act 2003 (Act 651), provides the procedures for resolving industrial disputes in Ghana. Section 153 of the Labour Act 2003 requires parties to negotiate in good faith to reach a settlement using their own procedures agreed upon in Collective Bargaining Agreements (CBAs) or contracts of employment. The law adds that if the parties are unable to settle the dispute within seven (7) days, either or both parties may refer the dispute to the NLC.



Figure 1.1: Structure of Ghana's Industrial Relations system



Author's Construct

Our interaction with the NLC, however, reveals that the Commission is overwhelmed by the number of cases it receives monthly. The NLC reports that it receives between 80 to 120 complaints per month, of which it is able to settle only 48. This development has impacted the Commission's capacity to render efficient and effective resolution to the disputes that are lodged before it. GEA's observations indicate that most of the complaints received by the Commission are right-based disputes such as unfair termination, summary dismissal, redundancy and issues on employees' compensation. The observations further suggest that the IR mechanisms are unable to proactively address the grievances at the enterprise level. The rising level of industrial disputes has the tendency of impacting the cost of production, productivity, decent work and economic development of Ghana.

It is against this background that the GEA with technical and financial support from the employers wing of the ILO, Bureau of Employers' Activities (ACT/EMP), initiated this exercise to conduct a study of Ghana's IR system (Employers, Labour Administration institutions, and Trade unions). Specifically, the survey aims at investigating the cost and underlying causes of the rising industrial disputes in the country. The outcome of the study will enable GEA to obtain critical information needed to work with stakeholders to secure a peaceful industrial relations environment in Ghana.

## **1.2 General Objective**

According to the Terms of Reference (TOR), the overall objective of the assignment is to evaluate the cost for enterprises and causes of the rising industrial disputes in Ghana, in order to sensitize employers as well as dialogue with the labour administration institutions and the trade unions to create a harmonious industrial relations atmosphere in Ghana.

### **1.2.1 Specific objectives**

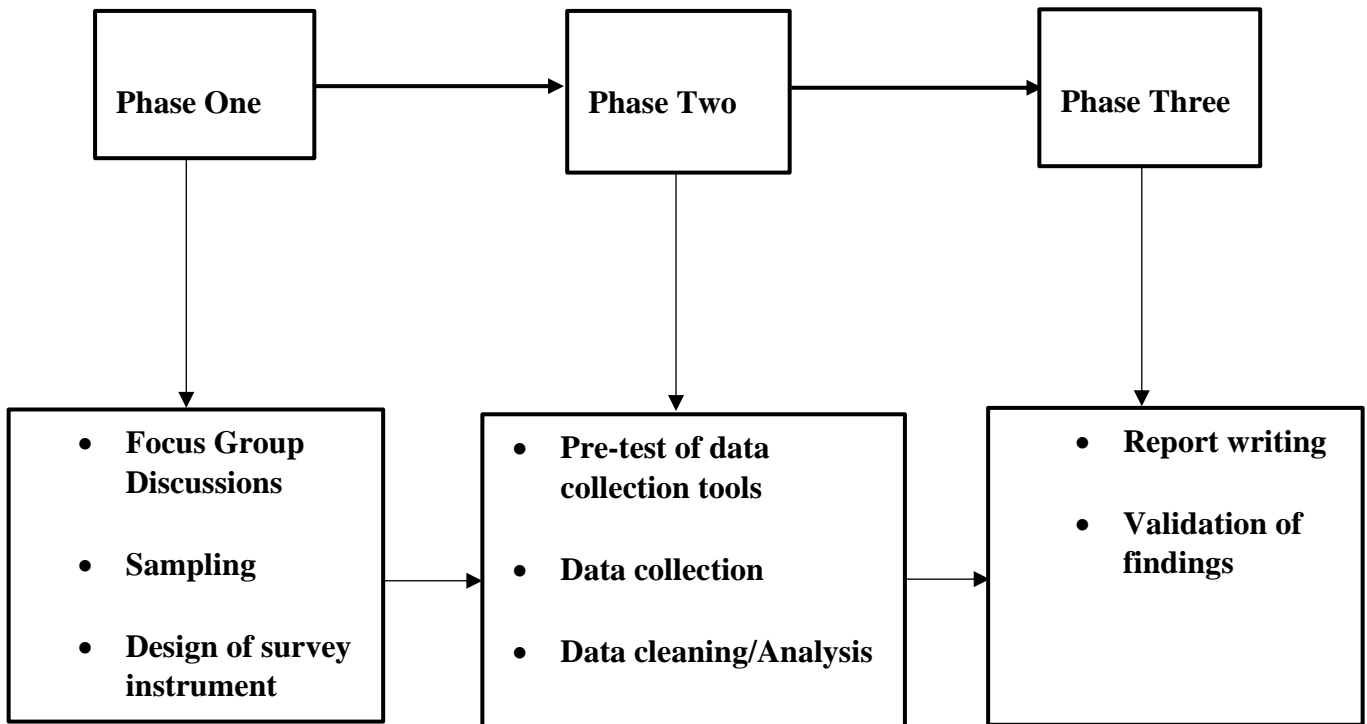
The specific objectives are:

- To evaluate the cost for businesses (and the country at large) and causes of the rising industrial disputes in Ghana;
- To examine impact of the rising industrial disputes on firm productivity in Ghana especially within the context of Covid-19 pandemic.

## **1.3 Research Methodology**

The study adopted primary field survey approach to gather relevant information for analysis. A three-phased general sequential approach was employed to undertake the survey. Phase One selected organizations and officials for focus group discussions (FCD) and key informant interview, the suitable sampling techniques for the study, and designed the survey instrument. Phase Two was devoted to pre-testing of the data collection tools, the actual data collection as well as data cleaning and analysis. Phase Three focused on report writing and presentation of the findings at a validation workshop on a platform suitable for the current regime of the Coronavirus pandemic. (see Figure 1.2).

*Figure 1.2: The three phased approach to implementing the survey*



### *Author's Construct*

#### **1.3.1 Focus Group Discussions (FCD) and Key Informant Interview**

The design of the instruments was preceded with focus group discussions (FCD) involving heads of IR at the TUC (Ghana), GEA and representative of the Chief Labour Officer. The underlying reason for engaging these officials was to obtain real time information about the state of Ghana's IR ecosystem for onward development of the survey instrument. A FCD can be considered as a planned discussion made up of less than ten participants guided by a facilitator and held in a neutral non-threatening environment where participants are encouraged to share their opinions about the topic being discussed<sup>1</sup>. All the focus group discussions were held in the various offices of the institutions outlined.

#### **1.3.2 Sampling**

The survey deployed mixed methods (i.e. quantitative and qualitative) research design, with a focus on the IR system of Ghana, particularly, the Social Partners (Employers and Organized Labour), the Labour Administration institutions, including the NLC. A purposive and random sampling technique was used to identify enterprises from the twenty (20) Interests Groups of

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<sup>1</sup> Rolfe, J., Khorshed, A., Windle, J. and Whitten, S. (2004) 'Designing the choice modelling survey instrument for establishing Riparian Buffers in the Fitzroy Basin'. Research Report, No.3.

GEA and non-members to respond to the survey instrument. First, the purposive sampling technique was used to rope in all the Interest Groups. Second, the random sampling technique was adopted to give equal chance to each enterprise in an Interests Group the opportunity of being interviewed. A total of five hundred and fifty (550) enterprises were therefore sampled to respond to the survey instrument. Four hundred and forty-one (441) enterprises representing 80.2 percent responded fully to the questionnaire. The analysis of the data is therefore based on the four hundred and forty-one (441) responses retrieved. We also obtained responses from the Trades Union Congress (Ghana), Ghana Federation of Labour, Labour Department and National Labour Commission through key informant interviews.

### **1.3.3 Survey instrument**

The information from focus group discussions and literature reviewed were used to produce a well-structured questionnaire. The questionnaire comprised of three main parts: Part one, which focused on employers, was organized into three sections. It was designed purposely for eliciting information from the members and non-members of GEA. The first section sought information on the characteristics of the enterprises. The second and third sections obtained information on the causes of industrial disputes at the workplace, resolution and disputes prevention strategies at the enterprise level as well as the cost of labour disputes to employers. Part two focused on the effect of labour disputes on workers and trade unions. The final part of the questionnaire sought the views of the Labour Department and NLC regarding the cost of the labour disputes to the economic progress of Ghana.

### **1.3.4 Pre-test**

Testing the methodology of data collection and assessing the flow of questions in the questionnaires are two key aspects of pre-test which must be undertaken before the actual fieldwork. In developing questionnaires, one important principle to consider is the clarity of the questions posed. This is necessary to ease burden on respondents and eliminate or minimise field problems. To achieve this goal, the questionnaires were pre-tested before the main field work. The pre-test gave critical information regarding the respondent burden and interviewer workload. The pre-test exercise also served as a practical training for the five (5) enumerators who eventually collected the data for the survey.

### **1.3.5 Data collection and fieldwork**

As indicated above, the respondents to the questionnaires were employers, heads of the IR departments at TUC (Ghana), GFL, NLC and Labour Department. At the enterprise level, the target respondents were the Managing Directors, Human Resources Directors, and Administrative Managers. In the Micro, Small and Medium Scale Enterprise (MSMEs) which mostly had sole proprietorship features, the enterprise owners were interviewed.

Due to the outbreak of the COVID-19 in Ghana and the need to limit face-face contacts, we leveraged on the “Google Form” survey technology to collect data where it was impossible to physically meet the respondents. The link generated from the Google Form was emailed to the respondents and follow up calls were made to obtain their responses. The face-to-face technique was used when the respondent was comfortable in meeting the enumerator and

agreed to respond instantly. The fieldwork took approximately one and half months to complete. The survey began on 20<sup>th</sup> July and ended on 3<sup>rd</sup> September 2020.

### **1.3.6 Organization of the Report**

The report is organized into five chapters. Chapter One gives an introduction to the study. It also contains the background, the objectives, research methodology, focus group discussions, description of the survey instrument, the sampling frame and sampling selection, pre-test of the survey instrument and the fieldwork. Chapter Two presents the findings on the firmographics (characteristics) of the sampled enterprises. Chapter Three presents the results on the causes and resolution of industrial disputes at the workplace. The Fourth Chapter presents the results of the productivity and cost impact of the rising industrial disputes on employers, workers/trade unions and government. The final chapter provides the summary, conclusion and policy recommendations.

## CHAPTER TWO

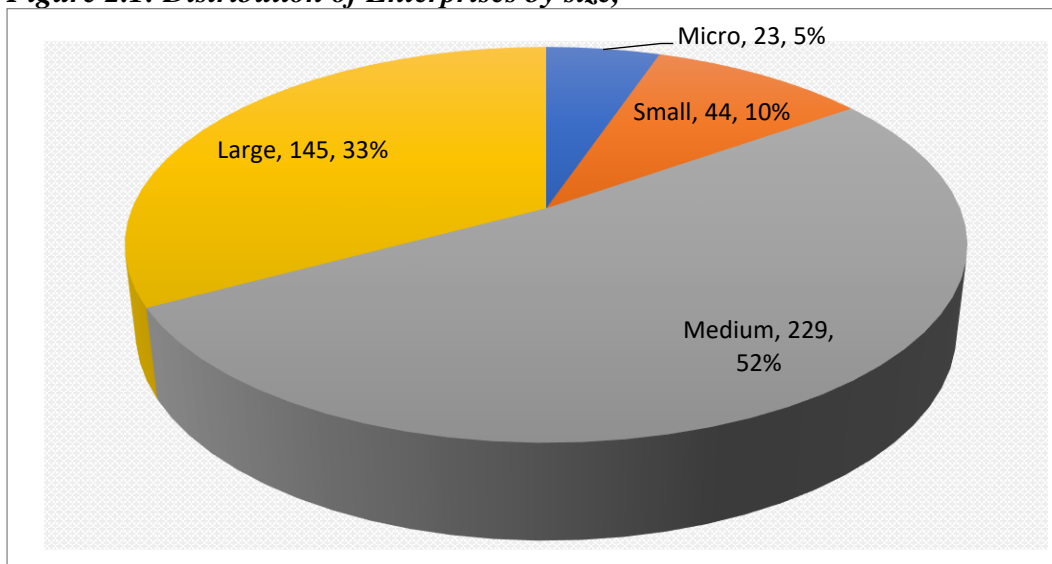
### ENTERPRISE CHARACTERISTICS

#### 2.1 Enterprise size, sector of operation and years of enterprise existence

The number of employees engaged by the enterprises was used to measure the size of the organizations interviewed. Enterprises with less than five (5) employees were labelled as micro enterprises whilst those engaging between 5 and 19 employees are classified as small. Medium scale enterprises comprises those employing between 20 and 99 employees with firms engaging 100 or more employees considered large-scale enterprises<sup>2</sup>.

In all, 229 firms were medium scale enterprises representing 52% of total number of firms covered in the study with 145 (or 33%) being large scale firms. Small and micro firms accounted for 10% and 5% of total number firms in the study (see Figure 2.1). The distribution of the results reflects the fact that the survey focused on the GEA members and employers that operate in the formal economy, whose activities are relevant to the topic under study.

**Figure 2.1: Distribution of Enterprises by size,**



**Source: Author's Estimation from survey dataset**

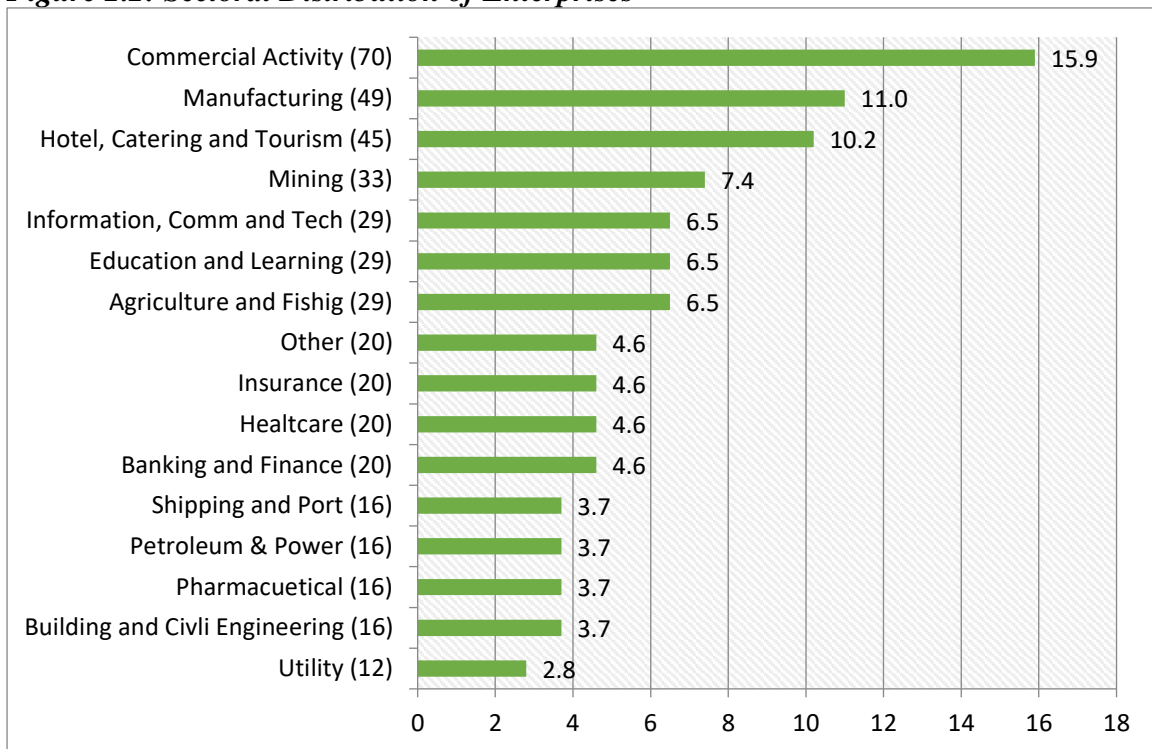
Figure 2.2 presents the sectoral distributions of enterprises surveyed. GEA groups its members into twenty (20) interest groups, comprising of Manufacturing, Banking and Finance, Pharmaceutical, Agriculture and Fishing, Commercial, Oil and Gas etc<sup>3</sup>. As a result, this method of categorization was employed. The results revealed that 70 (or 15.9%) of the enterprises are into commercial business activities. A little above 10 percent (i.e. 11.0%) undertake manufacturing activities whiles 10.2 percent are engaged in hotel, catering and tourism activities. Only 6.5 percent and 7.4 percent of the enterprises undertake business activities in agricultural and fishing as well as mining activities. The high proportion of

<sup>2</sup> See World Bank Enterprise Survey 2013.

<sup>3</sup> See GEA (2018) [https://ghanaemployers.com.gh/index.php/about/#membership\\_cat](https://ghanaemployers.com.gh/index.php/about/#membership_cat)

enterprises involved in commercial activities could be attributed to the fact that the Ghanaian economy is service based<sup>4</sup>.

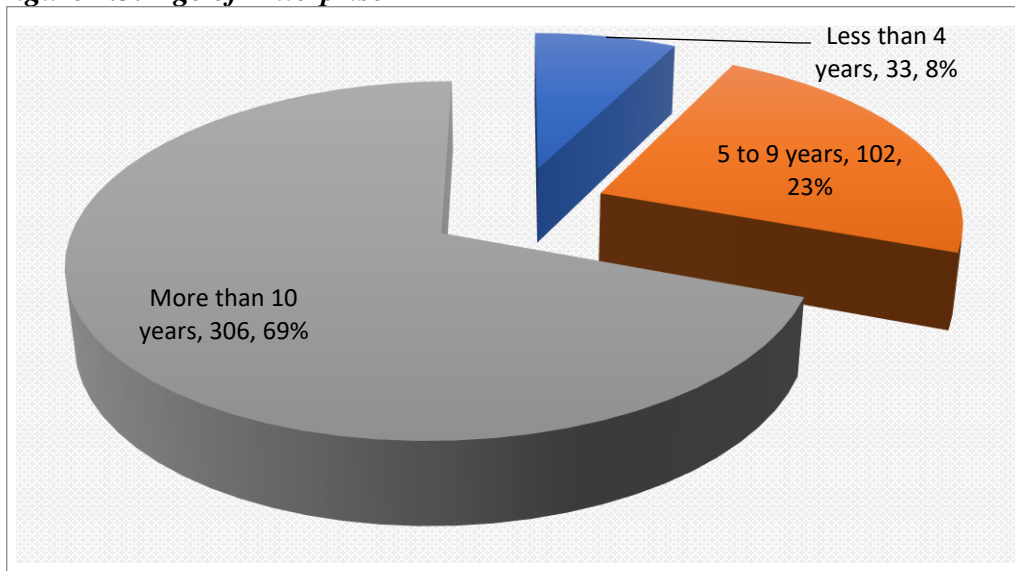
**Figure 2.2: Sectoral Distribution of Enterprises**



**Note:** Number of Firms for each sector in parenthesis

**Source:** Author's Estimation from Survey dataset

**Figure 2.3: Age of Enterprise**



**Source:** Author's Estimation from Survey dataset

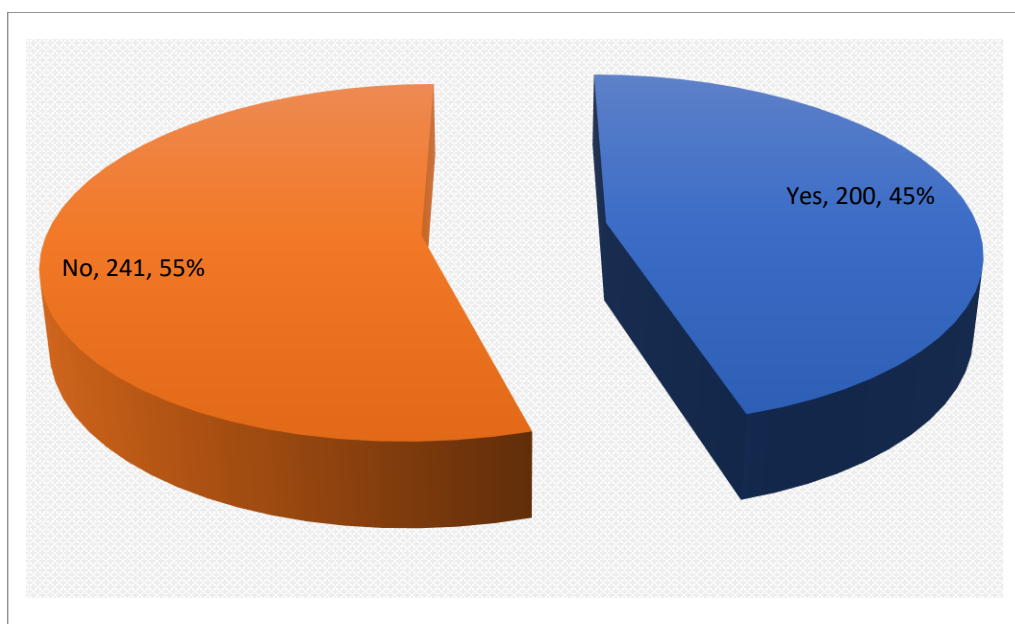
<sup>4</sup> See 2019 Budget Statement and Economic Policy of the Government of Ghana.  
[https://www.mofep.gov.gh/sites/default/files/budget-statements/2019-Budget-Statement-and-Economic-Policy\\_.pdf](https://www.mofep.gov.gh/sites/default/files/budget-statements/2019-Budget-Statement-and-Economic-Policy_.pdf)

Most (306 enterprises, or 69%) of the enterprises have operated for more than 10 years whilst 102 representing 23% have been in operation over 5 to 9 years (see Figure 2.3). The remaining 33 enterprises (or 8%) are less than four years old. Again, the high number of old firms covered in the study could be as a result of the surveys focus on GEA members and employers that operate in the formal economy and are well established in Ghana.

## 2.2 Trade Union presence at the workplace

The study sought to investigate whether the organizations surveyed have trade unions at the workplace. The result revealed that 200 (or 45%) of the enterprises have unions at the workplace with more than half (i.e. 241 enterprises or 55%) of the enterprises indicating that trade union activities are not present in their organizations. (see Figure 2.4). This could be due to the continuous reduction in trade union density in the country. Establishments that have trade unions were asked to declare the identify union.

*Figure 2.4: Trade Union presence at the workplace*



*Source: Author's Estimation from Survey dataset*

Table 2.1 presents the identities of these unions. A total of 16 unions are present in 200 enterprises where union activities exist. The industrial and commercial workers union (ICU) is present in the highest number (i.e. 42%) of enterprises representing 20.6%, followed by Ghana Mineworkers' union (GMU), which is present in 29 enterprises (or 14.7%). A total of nine different unions have their presence in less than 3% of enterprises with union activities with the remaining five unions operating in 5.9 – 8.8% of enterprises with union presence (see Table 2.1).



**Table 2.1: Identities of Trade Unions present at the workplace**

<b>Name of Union</b>	<b>Frequency (%)</b>
Union of Industry, Commerce & Finance Workers' (UNICOF)	8.82
Industrial and Commercial Workers' Union (ICU)	20.59
General Agricultural Workers' Union (GAWU)	8.82
Maritime and Dock-workers' Union (MDU)	5.88
Ghana Mineworkers' Union (GMWU)	14.71
Health Services Workers' Union (HSWU)	2.94
Teachers and Educational Workers' Union (TEWU)	5.88
Construction and Building Workers' Union (CBWU)	2.94
Public Utility Workers' Union (PUWU)	2.94
Ghana Transport Petroleum and Chemicals Worker Unions (GTPCWU)	8.82
General Manufacturing and Metal workers Union (GEMM)	2.94
Ghana Hotels Association (GHA)	2.94
Ghana Private Road Transport Union (GPRTU)	2.94
Timber and Wood-workers' Union (TWU)	2.94
The National Union of Teamsters and General Workers (NUTEG of GFL)	2.94
Federation of Universities Senior Staff Association of Ghana (FUSSAG)	2.94

## CHAPTER THREE

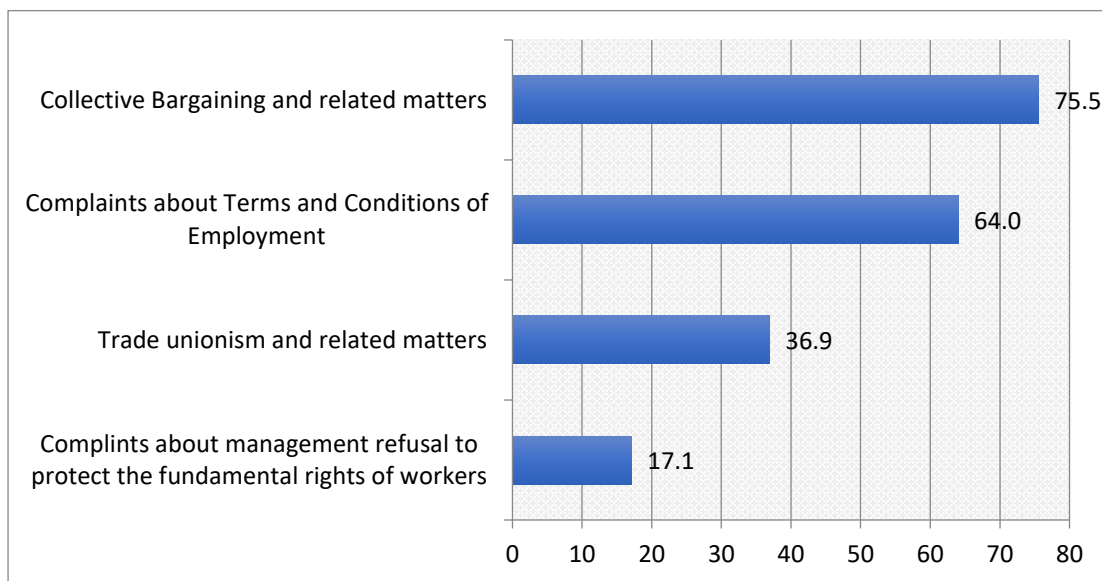
### CAUSES AND RESOLUTION OF INDUSTRIAL DISPUTES AT THE WORKPLACE

#### 3.1 Causes of the rising labour disputes at the workplace

Enterprises were asked to select among four (4) broad factors that are mostly responsible for industrial disputes. These factors are Collective Bargaining and Related matters, Trade Unionism and Related matters, Complaints about the Terms and Conditions of Employment and Complaints about Managements refusal to protect the Fundamental Rights of Workers.

Figure 3.1 presents the results of this query. Majority of the enterprises (i.e. 75.5%) indicated that Collective Bargaining and its related matters are the major cause of labour disputes in Ghana. This was highly noted by enterprises that responded that trade unions were present in their organizations. Over 60 percent (i.e. 64%) of the enterprises also revealed that the rising labour disputes in the country can be attributed to complaints regarding the terms and conditions of employments. About 37 percent (i.e. 36.9%) of enterprises divulged that trade union activities and its related matters were the reason behind the rising labour disputes. Only 17.1 percent of the respondents indicated that refusal of management in protecting the fundamental rights of workers triggers the disputes at the NLC.

**Figure 3.1: Factors responsible for the rising labour disputes at the NLC**

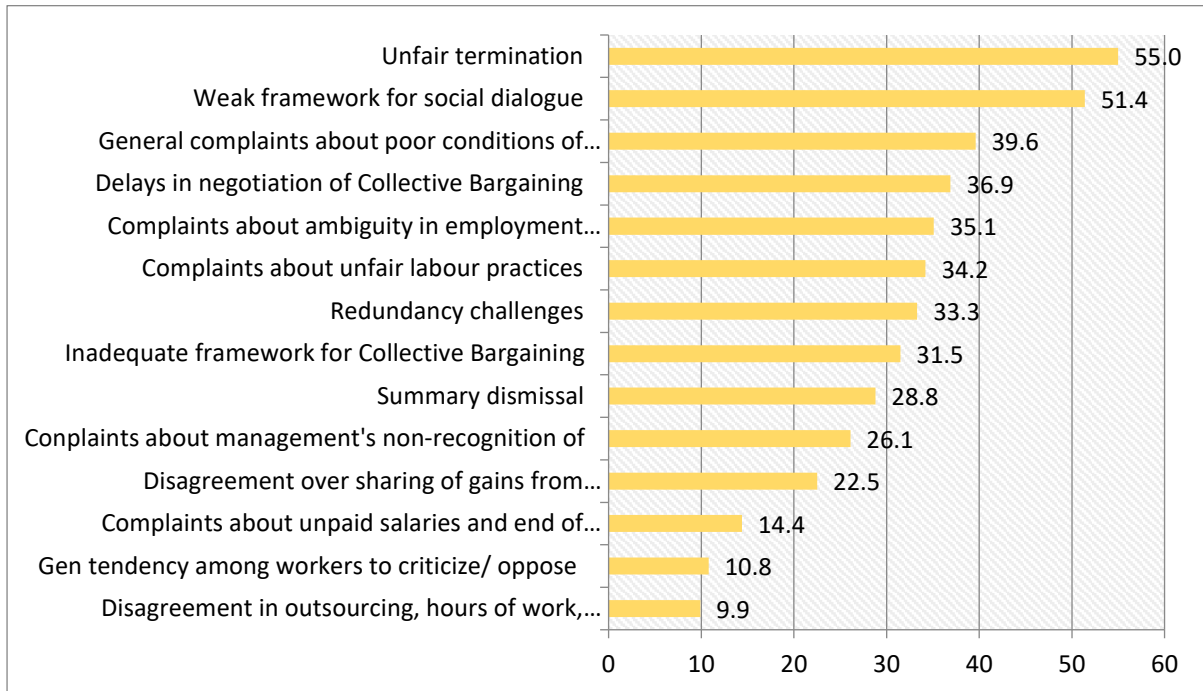


**Source: Author's Estimation from Survey dataset**

The four broad disputes triggering factors in Figure 3.1 were broken into specific factors requesting enterprises responses. Figure 3.2 presents the results. Top on the list is unfair termination. More than half (i.e. 55%) of the enterprises indicated that the major cause of the rising disputes is due to unfair termination. About 35 percent of the enterprises also revealed the causing of the rising disputes in the country is due to the complaints about ambiguity in employment contract. Employers also revealed that general complaints about poor conditions of services (i.e. 39.6%) by workers constitute the reason behind the rising disputes in the country. Enterprises further indicated that delays in negotiation of collective bargaining (i.e. 36.9%) and weak Social Dialogue frameworks can be cited as the reasons for the rising

industrial disputes. From a qualitative analytical perspective, one enterprise responded as follows: “*Stalling of CBA Negotiations due to Union's refusal to budge from their standpoint(s) and Union's inability to educate Union members on the limits of their rights as Union members*”. Complaints about unfair labour practices (i.e. 34.2%) and redundancy challenges (i.e.33.33%) were also top factors accounting for the rising industrial disputes.

**Figure 3.2: Specific causes of the rising industrial disputes in Ghana**



**Source: Author’s Estimation from Survey dataset**

### 3.2 Resolution of Industrial Disputes at the Workplace

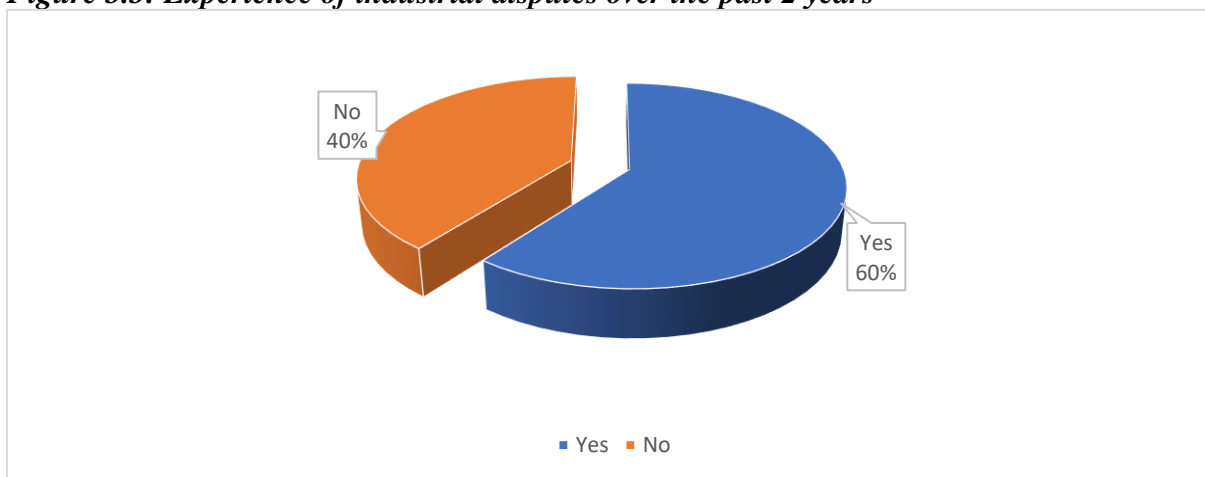
The survey sought answers on whether enterprises have experienced any form of industrial disputes over the past two (2) years. This was done to provide an impression on the frequency of disputes employers encounter on periodic bases. The results showed that 60 percent of employers experienced some form labour disputes in their workplace over the past 24 months. In other words, 6 out of 10 employers had to deal with some form of labour disputes in their organizations for the period understudy. The remaining 40 percent responded otherwise.

Of this 40 percent, a follow up question requested them to outline the disputes prevention mechanisms deployed in their organizations that ensured that the workplace was free from disputes over the past two years. The following were the strategies adopted by the enterprises:

- *Open discussion of issues and allowances of employees and unions to voice their concerns early and quickly before its degenerates into disputes.*
- *Effective employee engagement strategies, open door policies and addressing of employee concerns on time.*
- *Frequent engagement and information sharing to keep Unions and take responsibility to contribute to business.*

- *Respecting the dictates of Collective Agreement*
- *Regular engagement with employees, branch and national Union executives*
- *Undertaking industrial relations “heat maps” and taking proactive steps to address them before they escalate*
- *Clearly developed Collective Bargaining Agreement*
- *Education of the employees on the terms and conditions of employment*
- *Constant Social Dialogue and involvement of the Local Union in some aspects relating to employee relations*
- *Establishment of committees to investigate and dissolve dispute at the emerging stage*

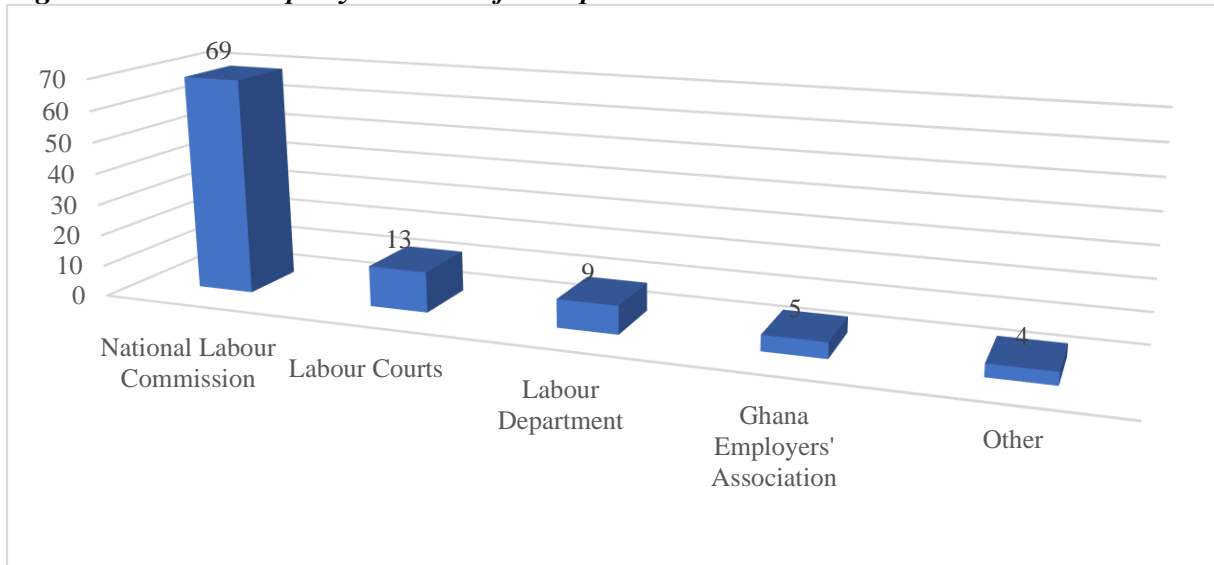
**Figure 3.3: Experience of industrial disputes over the past 2 years**



**Source: Author’s Estimation from Survey dataset**

Employers were requested to inform on which external/third party they consulted for the resolution of disputes that occurred the workplace. Close to 70 percent (i.e. 69%) of the enterprises revealed that they fell on the NLC for the resolution of their disputes (see Figure 3.3). This could be due to the provisions in Section 154 (1) of the Labour Act 2003 (Act 651) that disputes that have dragged for more than seven (7) days should be reported at the NLC. Section 154 (1) provides as follows: “*Subject to the time limit in respect of essential services, if the parties fail to settle a dispute by negotiation within seven (7) days after the occurrence of the dispute, either party or both parties by agreement may refer the dispute to the Commission and seek the assistance of the Commission for appointment of a mediator*”. The survey also revealed that 13 percent of disputes recorded at the workplace were resolved at the Labour Courts whiles 9 percent were resolved by the Labour Department. Of the 9 percent remaining, the Ghana Employers’ Association played a key role in resolving 5 percent, whiles the 4 percent were resolved through other channels such as the Supreme Court.

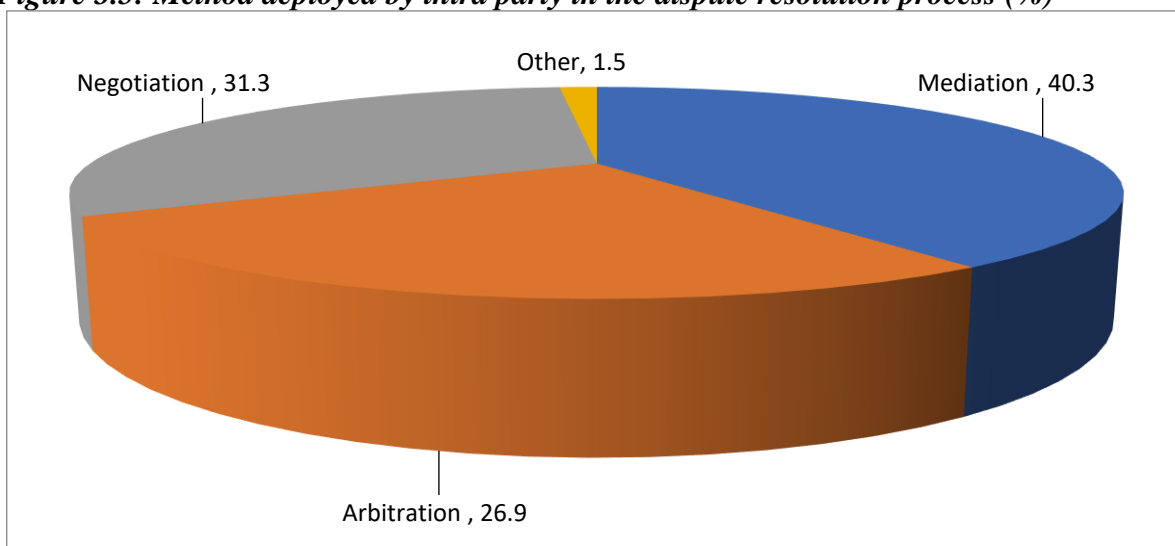
**Figure 3.4: External party consulted for dispute settlement**



**Source: Author's Estimation from Survey dataset**

The survey revealed that the third parties used various methods in the dispute resolution process. Generally, the NLC which is the institution mandated by law to settle industrial disputes in the county, uses methods such as Negotiation, Summary Settlement, Facilitation, Mediation and Arbitration. Mediation and Arbitration attracts a fee and therefore costs (i.e. monetary cost) the employer and employee (s) during the settlement process. The Labour Act 2003 (Act 651) requires that a dispute is resolved through one of the following steps: Negotiations, Mediations and Arbitration. According to the Act, dispute settlements commence at the Negotiation stage and progresses to Mediation and Arbitration if agreement is not reached between the disputing parties.

**Figure 3.5: Method deployed by third party in the dispute resolution process (%)**

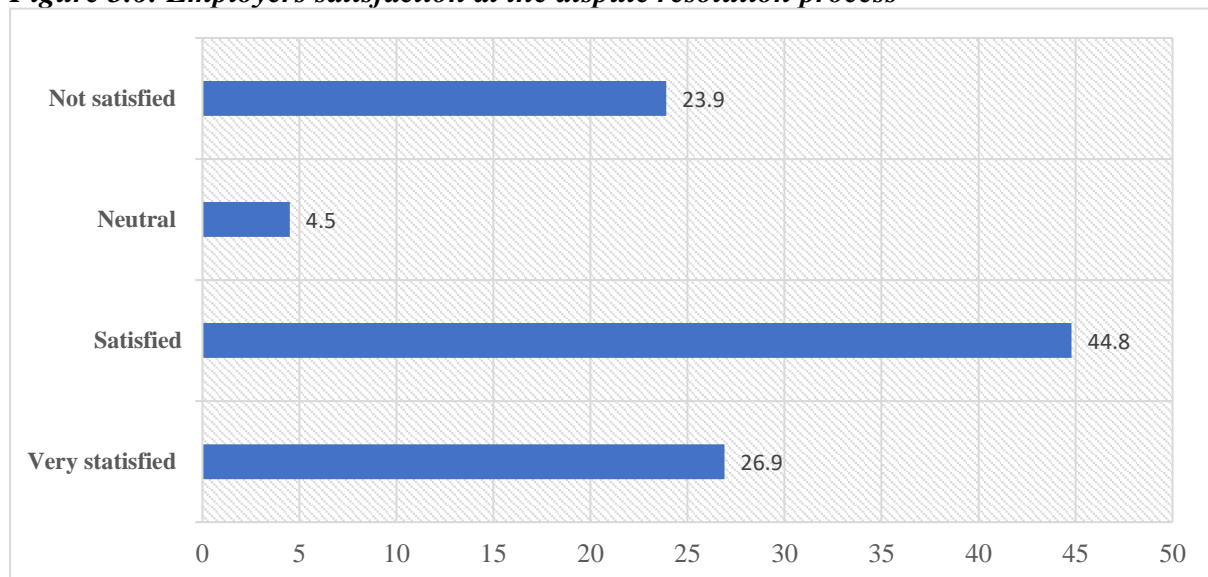


**Source: Author's Estimation from Survey dataset**

The results show that 68.7 percent of the labour disputes progress from the negotiation stage to Mediation and Arbitration as well as the Superior Courts. There is therefore the need for stakeholders to design and enforce policies to ensure that most disputes are resolved at the negotiation stage, if they do arise. Specifically, the survey found that only 31.3 percent of the labour disputes are settled at the Negotiation stage. In other words, 31.3 percent of disputes were settled at the enterprise level (i.e. between Management and Workers) without the involvement of a third parties. About 40 percent (i.e. 40.3%) of the disputes were settled through Mediation, while 26.9 percent were settled at Arbitration. The remaining 1.5 percent were settled through other channels such as the Superior Courts.

Enterprises were asked to rank their level of satisfaction after going through the various dispute resolution mechanisms. Generally, the survey revealed that employers were comfortable with the existing disputes resolution systems. While 26.9 percent revealed that they were “Very Satisfied” with the process, 44.8 percent indicated that they were Satisfied. Of the remaining 28.4 percent, 23.9 percentage points expressed dissatisfaction about disputes resolution systems whilst the remaining 4.5 percentage points was not neither satisfied or dissatisfied with the system. Statistically, this is significant and requires that the labour administration authorities improve on the dispute resolution process to satisfy majority of the disputing parties. This is necessary for sustained productivity growth.

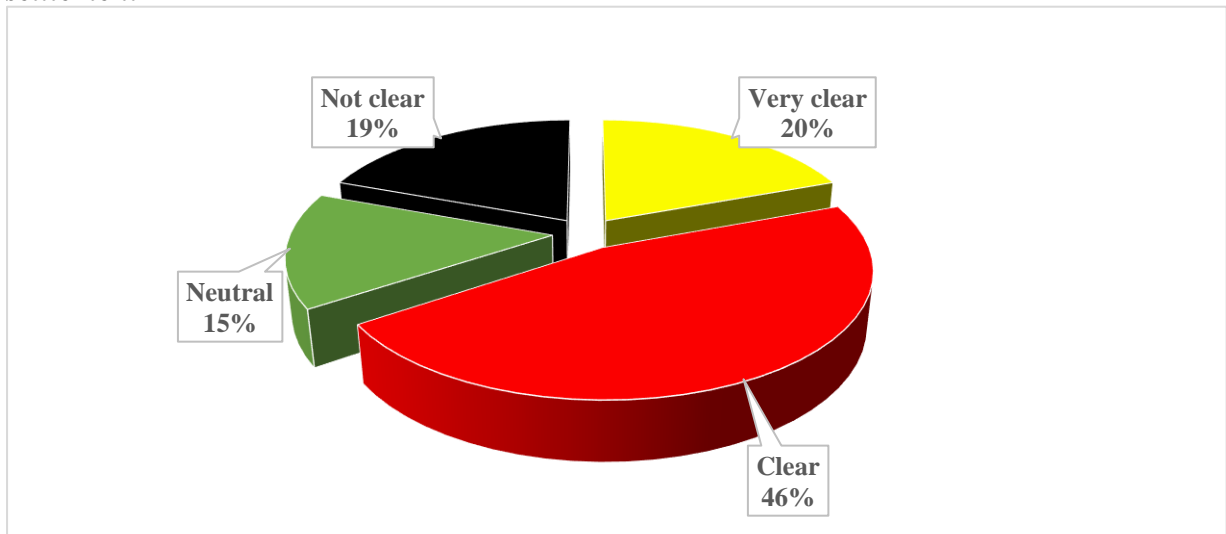
**Figure 3.6: Employers satisfaction at the dispute resolution process**



**Source: Author’s Estimation from Survey dataset**

Act 651 provides the steps and channels for dispute settlement. The study therefore sought to find out if there were ambiguities in the provisions of the Act. Over 40 percent (i.e. 46%) indicated that the provisions of the Labour laws are Clear. Another 20 percent of the enterprises revealed that the Labour Laws are Very Clear. A little below 20 percent (i.e. 19%) indicated that the laws were Not Clear while 15 percent said they were Neutral (see Figure 3.6).

**Figure 3.7: Employers perspective about the clarity of the existing Labour Laws on dispute settlement**



**Source: Author's Estimation from Survey dataset**

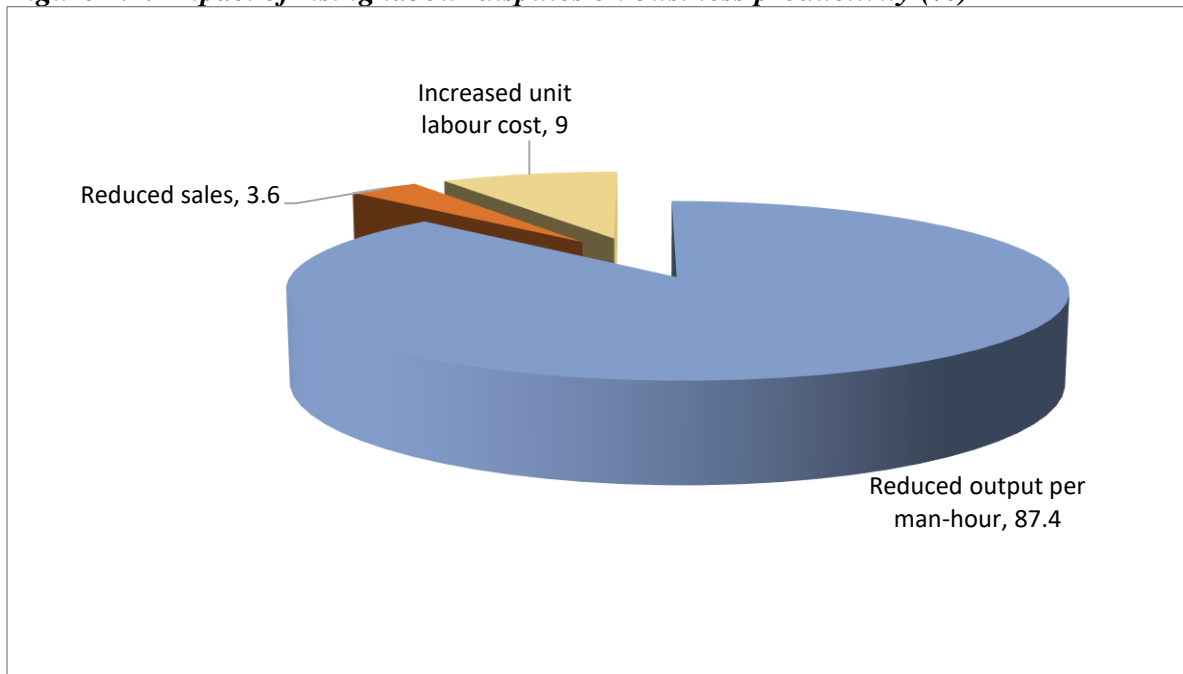
## CHAPTER FOUR

### PRODUCTIVITY AND COST IMPACT OF THE RISING LABOUR DISPUTES

#### 4.1 Employers

A key objective of the survey is to investigate the impact of the rising labour disputes on the productivity of businesses in Ghana. The results indicate that the rising disputes really impact the productivity/performance of business activities. About 87 (i.e. 87.4%) percent of the enterprises indicated that they experience reduced output per man-hour as a result of the rising labour disputes. Another 9 percent indicated that labour disputes leads to increased unit labour cost. About 4 percent (i.e. 3.6%) of the enterprises revealed that labour disputes reduce the organization's revenue through reduction in sales.

**Figure 4.1: Impact of rising labour disputes on business productivity (%)**

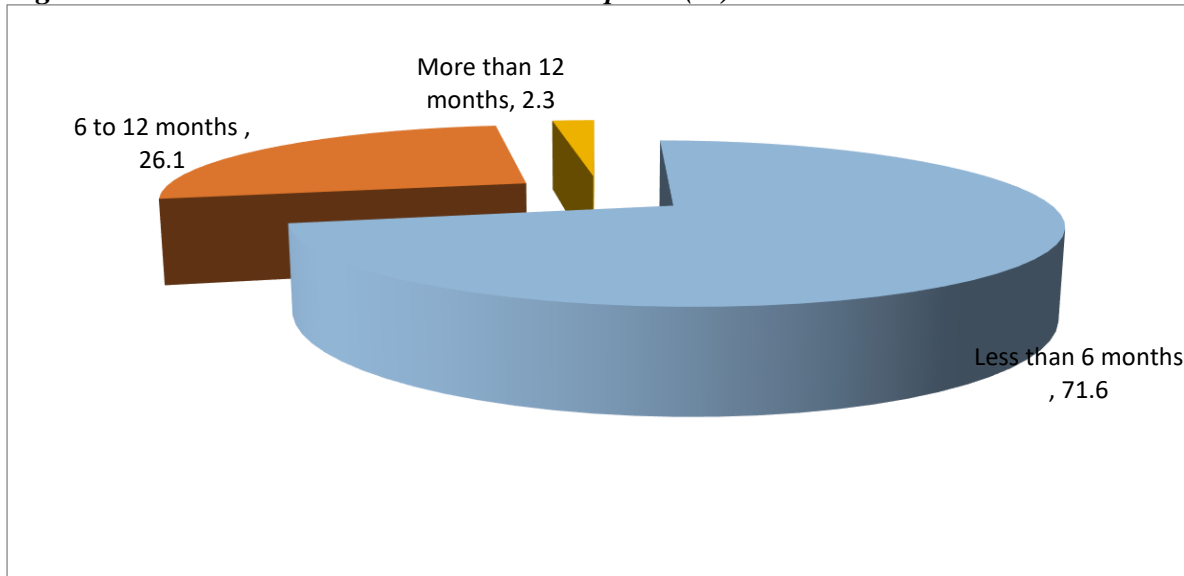


**Source: Author's Estimation from Survey dataset**

Figure 4.2 presents the time it takes a respective enterprise to settle an existing dispute. More than 70 percent (i.e. 71.6%) of the enterprises revealed that it took them less than 6 months to resolve an outstanding dispute. About 26 percent (i.e. 26.1%) of the enterprises indicated that it took them 6 to 12 months to settle an existing dispute. The remaining 2.3 percent of the enterprises revealed that it took them more than 12 months to resolve an existing dispute. It is important to note that dragging disputes negatively affects enterprise productivity. It is therefore necessary to adopt strategies to significantly reduce the time for all disputes that emerge at the workplace.



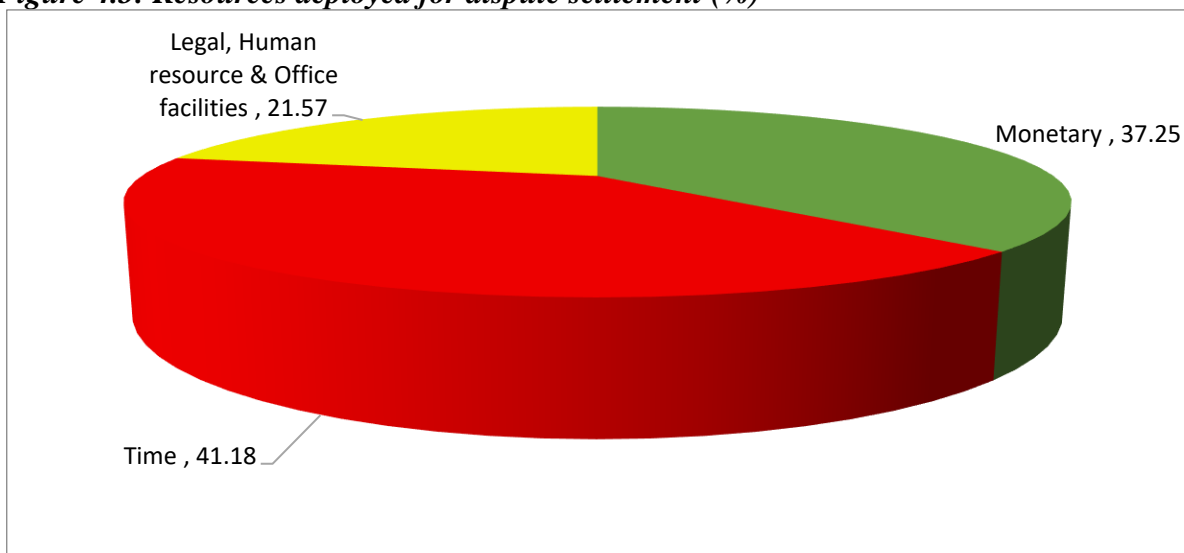
**Figure 4.2: Time it takes to resolve labour disputes (%)**



**Source: Author's Estimation from Survey dataset**

Among the resources deployed for dispute settlement, employers informed that Time was the most pronounced. About 40 percent (i.e. 41.18%) of the enterprises revealed that they lost invaluable time during the dispute settlement process, which could have been used to augment production of their goods and services. Another 37.25 percent indicated that the monetary expenditure relating to the dispute resolution was taking a heavy toll on them. The remaining 21.57 percent revealed that use of legal services, human resource and office facilities were the critical resources traded for the resolution of outstanding disputes. In all its form and purposes, the results indicate that disputes are costly to employers and their disputing counterparts.

**Figure 4.3: Resources deployed for dispute settlement (%)**



**Source: Author's Estimation from Survey dataset**

## **4.2 Trade Unions**

The Trades Union centres were asked to inform on how the rising disputes impact the employment and productivity of their members, as well as the real time cost borne by unions/workers in the dispute resolution process. The questions and responses are produced as follows:

### **4.2.1 How do the disputes impact employment of your members?**

The unions indicated that the disputes intimidate their members, leads to low morale for work, loss of jobs and unpaid redundancies. The following are the specific qualitative responses given:

- *“Job cuts and unpaid redundancies*
- *Fear of dismissal*
- *Disputes may lead to loss of employment and low morale for work*
- *This sometimes leads to the loss of job for our members and sometimes the principal clients terminate the contract and closes the site making workers to lose their work.”*

### **4.2.2 To what extent do the rising labour disputes affect the productivity of your members?**

The unions revealed that rising disputes affects the productivity of their members through loss productive man-hours used to resolve the disputes, depression and anxiety. Specifically, the following qualitative responses were provided:

- *“Productive man hours that should be used judiciously are used to either litigate or gossip/ resolve issues, which eventually lead to lackadaisical attitude towards work and low productivity*
- *It leads to drop in the productivity of our members, man hours for work are used to resolve issues*
- *Anxiety, depression etc.”*

### **4.2.3 What are some of the real time cost borne by the union/workers in times of industrial disputes?**

The survey further sought to find the real time cost incurred by unions/workers during an outstanding dispute that is being resolved. The unions mentioned the opportunity cost of time, working hours, loss of property and financial resources as real cost borne by unions/workers. The specific responses are presented below:

- *Opportunity cost of time spent on a single negotiation with employers or any dispute resolution institution*
- *Adjournment of meetings for the principals of management*
- *Low productivity, financial drain, waste of time, loss of property,*
- *Loss of social, injuries and emotional satisfaction etc.*
- *Working hours*

### **4.3 Government**

The labour administration institutions were asked to inform on the factors that accounts for the rising disputes, the cost of the disputes to the country and critical areas the social partners need to be sensitized on. It was revealed that lack of human resource and logistics are significant factors that affect the NLC capacity to resolve disputes on time. The survey also found that it cost the country transportation, representation and documentation expenses which drain the government purse. According to the labour administration institutions, the social partners need sensitization on termination of employment and non-payment of salaries, among others.

## CHAPTER FIVE

### SUMMARY, CONCLUSION AND POLICY RECOMMENDATIONS

#### 5.1 Summary of key findings

- More than half of the enterprises (i.e. 51.93%) that responded to the survey instrument are large-scale establishments. The remaining 48.07 percent are in the category of medium, small and micro enterprises.
- Most of the enterprises (i.e. 69.39%) that responded have been in operation for more than 10 years.
- The survey found that 45.35 percent of the enterprises have unions at the workplace. More than half (i.e. 54.65%) of the enterprises however indicated that trade union activities are not present in their organizations.
- Majority of the enterprises (i.e. 75.5%) indicated that Collective Bargaining and its related matters are the major cause of labour disputes in Ghana.
- Over 60 percent (i.e. 64%) of the enterprises also revealed that the rising labour disputes in the country can be attributed to complaints regarding the terms and conditions of employments.
- More than half (i.e. 55%) of the enterprises further revealed that the major cause of the rising disputes is due to unfair termination.
- Close to 70 percent (i.e. 69%) of the enterprises revealed that they fell on the National Labour Commission for the resolution of outstanding disputes.
- The survey found that 68.7 percent of the labour disputes progress from the negotiation stage to Mediation and Arbitration as well as the Superior Courts.
- The results indicate that only 31.3 percent of the labour disputes are settled at the Negotiation stage.
- The study found that 23.4 percent of the enterprises were Not Satisfied with Ghana's dispute resolution process; while the 71.7 percent were either Satisfied or Very Satisfied with the dispute settlement process.
- In terms of clarity of the existing labour laws on dispute settlement, the survey found that 66 percent of employers indicated that provisions of labour laws on labour dispute resolution, especially, Act 651, are unambiguous.
- Majority of the enterprises (i.e. 87.4%) indicated that the rising labour disputes affect their productivity through reduced output per man-hour.

- More than 70 percent (i.e. 71.6%) of the enterprises revealed that it took them less than 6 months to resolve an outstanding dispute.
- Most of the enterprises (i.e. 41.18%) revealed that they lost in valuable time during the dispute settlement process, which could have been used to augment production of their goods and services.
- The unions indicated that the disputes intimidate their members, lead to low morale for work, loss of jobs and unpaid redundancies.
- The unions also revealed that rising disputes affects the productivity of their members through loss in productive man-hours used to resolve the disputes, depression and anxiety.
- The labour administration institutions revealed that lack of human resource and logistics are the significant factors that affect the NLC's capacity to resolve disputes on time.
- The labour administration institutions also indicated that it cost the country transportation, representation and documentation expenses which drains the government purse.
- According to the labour administration institutions, the social partners need sensitization on termination of employment and non-payment of salaries, among others.

## 5.2 Conclusion

The study concludes that majority of the disputes are caused by Collective Bargaining and its related matters, complaints about the terms and conditions of employments and unfair termination. Most of the outstanding disputes could not be resolved at the negotiation stage of the dispute settlement ladder as recognized by the Labour Act 2003 (Act 651). Majority of the disputes were however resolved at the Mediation stage. This was followed by Arbitration. As a result, most of the outstanding labour disputes were brought before the National Labour Commission for settlement.

Majority of employers indicated that the rising labour disputes affect their productivity through reduced output per man-hour. The disputes also cost them valuable time to settle. The opportunity cost is the lost time that could have been used to augment production of their goods and services. The unions also maintain that the rising disputes affects the productivity of their members through lose in productive man-hours used to resolve the disputes, depression and anxiety. The labour administration institutions cite transportation, representation and documentation costs as expenses that drain the government purse due to the rising disputes in the country.

### 5.3 Policy Recommendations

Based on the survey findings, the following policy recommendations are made:

- The Government through the Ministry of Employment and Labour Relations should resource the National Labour Commission in terms of logistical arrangements and human resource to enable the Commission effectively and efficiently settle the disputes that are brought it.
- The National Labour Commission in collaboration with the Social Partners should from time to time organize capacity building and sensitization programmes for employers and workers to ensure their absolute understanding of the labour laws and best labour practices.
- Employers and Organized Labour should endeavour to build the capacity of members to expose them to the design of clear and applicable Collective Agreements to reduce industrial disputes in the country.
- The Ministry of Employment and Labour Relations should resource the National Tripartite Committee to enable its Technical Sub-Committees to continuously monitor Ghana's labour market and industrial relations environment to ensure the proactive design and implementation of effective policies to prevent the escalation of industrial disputes in Ghana.
- The Labour Department should be well resourced to enable it effectively deliver on its mandate of labour policy formulation and implementation.
- Employees should always make it a point to obtain complete comprehension of the terms and conditions of the employment contract they are offered to avoid misunderstanding and disputes during the lifespan of the employment relationship.
- Employers and workers must always replace oral agreements/contracts with written ones to enable for effective resolution of disputes as and when they arise.
- Workers should always endeavour to channel their grievances through the appropriate mechanisms to ensure that productivity is not affected while a dispute is being settled.
- The Ministry of Employment and Labour Relations, and its Social Partners should work to establish strong bipartite relations at the enterprise level to ensure a general peaceful industrial relations atmosphere and effective dispute resolution at the Negotiation level
- Finally, Government should strengthen the social dialogue institutions in Ghana, to ensure that the principles and ideals of Social Dialogue are enshrined in every aspect of Ghana's labour market.

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