

## **TRADE UNIONS NOT SERVING THEIR MANDATE AND NO LONGER A FORCE TO RECKON WITH: THE ZIMBABWE EXPERIENCE**

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**Abstract:** Trade unions in Zimbabwe became very popular in the late 90s and after the turn of the new millennium, as they forced employers to accede to most of their demands for the improved well-being of their constituency. One of the most powerful labour body to emerge after independence, the Zimbabwe Congress of Trade Unions (ZCTU) organised a number of labour unrest incidences countrywide as manifested by massive strikes and stayaways which caused serious economic business losses. It later formed a formidable political party in 1999 which almost won the general elections of 2000, just a year after its formation. However the impact of trade unions over the past decade has been less convincing with hundreds of thousands of workers having been retrenched. This qualitative study used unstructured interviews to probe the major labour bodies representing workers in the private sector, government officials, civil servants representatives, labour experts and some workers across several sectors. Trade unions impact was being adversely affected by the underperforming economy which had caused lots of company closures and retrenchments. Political interests to join mainstream government, repressive laws to quell industrial action, in-house fighting, abuse of members' affiliation fees and hostility between the three social partners, have contributed to the weakening of the once vibrant unions. The study recommends the rescinding of repressive laws and incorporating the provisions of the International Labour Organization (ILO) conventions that enhance the freedom of expression and rights of workers since Zimbabwe is a bonafide member.

**Key terms:** collective bargaining, ILO conventions, labour body, legislation, social partners, trade union,

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## 1. Background

Trade unionism in Zimbabwe has undergone a lot of transformation since the early years of colonization at the beginning of the twenty century. Before the national independence of 1980, trade unions were polarised. These had two broad categories namely; the skilled labour unions, mainly dominated by whites and controlled with ideological linkages with the colonial regimes and the unskilled and semi-skilled unions that were organised and controlled by Africans (Gwisai, 2007). At independence in 1980, workers had high expectations that the political change would unveil a new labour regime. These African trade unions had no capacity to meet the workers expectations and were moved by inter and intra conflicts within them (Sambureni, 2001; Mudyawabikwa, 2004). This widened their incapacity to deliver expectations of workers. This resulted in a series of strikes across all sectors as workers demanded for improved wages and better working conditions. Employers were faced with the challenge that these actions had political connotations and required political solutions.

The promulgation of the Labour Relations Act of 1985, was a deliberate move by the government to protect the workers against unfair labour practices and failure to uphold fundamental rights of workers by the largely dominated white owned firms, most of which were still discriminatory. The Zimbabwe Congress of trade Unions (ZCTU) was formed soon after independence as a coalition body of the largely African unions and earmarked to work towards the improvement of the welfare of workers. The government still had stronghold on industrial relations. The awarding or payment of minimum and maximum wages for almost all trades and professions, was fixed by the state and most major conditions of service were determined by statutes (Sambureni & Mudyawabikwa, 2003). Therefore the ZCTU had its wings clipped by then.

The advent of the economic reforms in 1990, ushered by the economic blueprint programme, the Economic Structural Adjustment programme (ESAP), transformed the labour relations set up in Zimbabwe by opening a new chapter. There was government deregulation of its stronghold on issues to do with employment contracts and service conditions. There were market reforms meant to reduce government expenditure (huge civil service salary bill, provision of subsidies and the financing of public utilities) were instituted by the Bretton Woods institutions, the International Monetary Fund (IMF) and the World Bank in 1990 (Uzhenyu, 2015). The new

economic dispensation was meant to also remove monopoly on service delivery by bringing in a number of other players including removal of protectionist policies such as import quotas and high tariffs. However, the move brought in some negative effects that caused the downsizing of the workforce and liquidation of several companies due to stiff competition faced by mostly local manufacturing industries owing to a proliferation of cheaper imports. This culminated in the untold suffering of many black Zimbabweans who became jobless and redundant due to macroeconomic challenges.

Around the mid-1990s, the ZCTU began to clash with the government and began to adopt a confrontational approach which caused lots of business and industrial disruptions in operations through boycotts, “stay-aways” and strikes. One of the most devastating labour unrest was experienced in 1997 when there was almost a total shutdown of the economy due to a massive and highly supported 3 days ‘‘stayaway’’ called by the ZCTU. Government relations with the ZCTU became irreconcilable resulting in the labour body forming a political party in 1999 together with the support of some civic society organizations including National Constitutional Assembly (Mudyawabikwa, 2004). Most of its senior officials became actively involved in politics. This signaled the end of ZCTU as a government backed labour party and many other stakeholders especially workers saw the political dimension of ZCTU as negatively affecting industrial relations in pursuit of a political agenda. The formed political party, the Movement for Democratic Party (MDC) has since been the Zimbabwe’s main rival political party to the ruling Zimbabwe African National Union Patriotic Front (ZANU PF) political party.

In 2001, the War Veterans Association which had the support of the ruling government, ‘‘invaded factories’’ on the pretext of trying to assist workers who were being retrenched willy-nilly and underpaid. This brought turmoil, lawlessness and confusion in industrial relations. At this point, the War veterans masterminded the creation of a splinter labour body, the Zimbabwe Federation of Trade Unions (ZFTU), which had close links with the ruling ZANU PF political party. The ZFTU was formed as a form of retaliation in order to counteract the then politically motivated ZCTU (Uzhenyu, 2015).

Since then, the functions of most trade unions which have been affiliated to either of the two politically motivated labour bodies, ZCTU and ZFTU, have since become questionable albeit at the workers' expense or demise (Mudyawabikwa, 2004). The heavily polarised labour bodies have failed to engage the government in order to make any notable national dialogue on labour relations in Zimbabwe and that is why no meaningful Social contracts have been achieved to date due to numerous irreconcilable differences.

To make matters worse, government full time workers (civil servants) have also separate unions that are known as staff associations that represent their different professions and trades. The umbrella body of all the civil servants is called the **Apex council** and it is also having its fair share of teething problems.

### **1.1 Statement of the problem**

Worker representation in Zimbabwe seems to have failed to improve the welfare of the working population. A combination of political motives, prohibitive legislation and economic hardships, has rendered the major labour bodies namely; the ZCTU, ZFTU and the Apex council ineffective. A number of workers grievances such as; unfair dismissals, willy-nilly retrenchments, underpayments, poor conditions of service, inadequate social security and protection, have not been addressed for a very long time especially since the hyperinflationary period of 2007/2008 and the subsequent dollarization of the economy in 2009. It is against this background that this study was meant to find the real critical issues regarding the current status core of perennial trade unionism failure in Zimbabwe.

### **1.2 Research questions (Sub-problems)**

1. What are the operational guidelines of Trade unions in Zimbabwe?
2. How effective are current strategies being used by trade unions to promote workers interests?
3. What are the major challenges facing trade unions in Zimbabwe?
4. How can Trade unions become more relevant (effective)?

### **1.3 Relevant Literature**

#### **1.3.1 Theoretical framework**

Usually there are two perspectives to industrial relations philosophy or approach regarding the acceptance or legality of trade unions

### **1.3.1.1 The Pluralistic Perspective**

The characteristics (tenets) of this perspective (Kleinhenz, 2011) are:

- The organization is understood by all stakeholders especially management, that it is a coalition of individuals with different interests, objectives and leadership styles’
- In light of this recognition that the organization is multi-structured and competitive, there is bound to be tensions and competing claims that have to be managed properly for the benefit of the organization;
- conflict is perceived as both rational and inevitable because of the nature of the organization, which has people with different aspirations, values, norms, attitudes, perceptions etc.;
- The legitimacy of workers forming trade unions to represent their interests is accepted and not a crime’
- Trade unions are accepted as legitimate representatives of employees and have a positive role to play in terms of influencing management decisions, as well as protecting the interests of workers at an organization;
- conflict is not necessarily caused by trade unions rather but they simple are a vehicle that simply provides a highly organized and continuous form of expression for sectional interests which exist anyway.
- The perspective also acknowledges the fact that there is “widespread distribution of authority and power within society, a separation of ownership from management, a separation of political and industrial conflict”.
- This perspective therefore promotes democracy at the work place as it enables participation of workers committees and their trade unions.

### **1.3.1.2 Marxist perspective**

This perspective focuses mainly on the nature of the capitalist society (Sambureni&Mudyawabikwa, 2003). This is a society where very few people own the means of

production; profit is the major focus of the organization' and control of workers is enforced vertically by management

The major tenets of this perspective are;

- industrial conflict is views not only in terms of organizational demands and tensions but also in economic and social divisions that characterize the society, in particular the struggle between capital and labour;
- industrial conflict is a continuous process inherent in a capitalist society, it is unavoidable and synonymous with political and social conflict;
- The balance of power within organizations is tilted in favour of management; employees accept the role of management.
- Trade unions and collective bargaining processes are accepted since they enhance the capitalist system rather than opposed to it,
- The contractual relationship between employer and employee is one which is unequal;
- legislative laws are always on the side of management rather than taking a neutral position between the two parties;
- the growth of trade unions is seen as an inevitable worker response to capitalism
- Trade unionism is a vehicle for the expression of the interests of the exploited working classes.
- industrial relations and trade unionism are inseparable/interwoven; they are “integrated with and not separated from the political and economic spheres” (.....)

### **1.3.2 Conceptual framework**

**1.3.2.1 Trade Union** can be defined as;

- an elected body of workers set up to improve the status and conditions of employment of its members in a specific industry, profession or trade (Uzhenyu, 2017) OR
- an association of workers which by means of collective bargaining endeavors' to improve their working conditions , economic and social position (ILO, 2005) OR
- any organization, whose membership consists of employees, which seeks to organize and represent their interests both in the workplace and society and, in particular, seeks to regulate the employment relationship through the direct process of collective bargaining with management (Kleinhenz, 2011) OR

- any association or organization formed to represent or advance the interests of any employee or class thereof in respect of their employment (Labour Amendment Act (5), 2015)

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### 1.3.2.2 Functions of a Trade Union

There are a number of functions a trade union can perform (Kleinhenz, 2011), namely;

- **power** – to protect and support the individual by providing a collective strength to act as a countervailing force to management and also as a pressure group within society’
- **economic regulation** – to maximize the wages and employment of its members
- **job regulation** – to establish a joint rule-making system which both protects its members from arbitrary management actions and allows them to participate in decision-making within the organization which they work;
- **social change** – to express the social cohesion, aspirations or political ideology of its membership and seek to develop a society which reflects this view;
- **member services** – to provide a range of benefits or services to the individual member in times of trouble (i.e. disciplinary hearings, dismissal, retrenchment, social/family challenges such as bereavement or illness etc.);
- **Self-fulfillment** – to provide a mechanism whereby individuals may develop outside the immediate confines of their jobs and participate in decision-making processes.

The general mission of the trade unions has traditionally been seen as that of protecting the individual worker and improving his lot, through collective action. It may also be necessary, to think in terms of trade unions as a vehicle for increasing employee participation in management decision-making on subjects or matters which are not immediately related to the traditional wage/work bargain. Health and safety, occupational pension schemes and industrial democracy are cases in point where long-term, rather than short-term interests are an issue (Sambureni, 2001).

It would be a mistake to assume that all trade unions are identical in structure, membership, power, political affiliation or points of view (Gwisai, 2007). Quite clearly they are not. Their power depends not only on the size of the membership, but on the significance of those members to the smooth running of the organizations’ which employ them (Neuman, 2011). Although the ‘trade union movement’ is a description often used, the interests of one union movement’ is a

description often used. The interests on one union, perhaps representing managers and professional staff, may be at variance with the interests of a general union (however in Zimbabwe, managers cannot belong to trade unions, Uzhenyu, 2015).

### **1.3.2.3 Union Character**

This conveys some differences which exist between unions in terms of goals, policies and activities. There are five categories which can be identified (Mudyawabikwa, 2004);

- Expression of class consciousness – this places emphasis on the potential role for unions in mobilizing sectional interests within a revolutionary political party to develop a particular society.
- Social responsibility – it displays an expectation that unions will exercise their role and activities in a way which is not detrimental to the existing capitalist economic, social and political system.
- Business unionism – an almost exclusive emphasis on securing members' interests within the economic/industrial system through direct negotiation of the employment relationship with employers.
- Welfare unionism – looking beyond the narrow economic, industrial and job regulation interests of their immediate membership and concerning themselves with wider social, economic and political issues.
- Political unionism – emphasis is on union's involvement in political issues of the day; no separation between struggles for bread and butter issues and the politics of the country.

### **1.3.3.4 The structure of Trade Unions**

Although generalizations are dangerous, there are some basic similarities in structure which can be outlined (Sambureni&Mudyawabikwa, 2003). These are;

- Trade unions are staffed by full-time headquarters officials, headed by an executive and a president or a general secretary. In some unions, these posts are all elected for a three-or five-year term. The headquarters staff give a range of advisory, legal, welfare and social services and provide professional negotiators to take part in national level negotiations with employers. They are determined by delegates to the annual national conference which is held by each trade union. These delegates are elected by the membership through the branch structure and vote on



issues of general importance, providing a framework that will be determined by the views aired by the executive in debate as well as by those of the members that they seek to represent.

- The next tier in the structure is generally the district or regional level, and then the local branch depending on size and resources
- In terms of **collective bargaining**, the Labour Amendment Act 2015 does not specifically deal with the levels at which this may take place. Two levels are clearly implied, that is, *enterprise level and industry level* (Uzhenyu, 2015). At the enterprise level, an employer is free to enter into collective bargaining negotiations with the workers' committee at his/her enterprise provided that the resultant collective bargaining agreement does not provide inferior conditions to those contained in an industry-wide collective agreement. Further, if there is a trade union representing the workers concerned, the workers' committee has to be specifically authorized by the trade union. It is also a requirement that an enterprise level collective bargaining agreement entered into with a workers' committee be referred to the trade union for approval. Given that the law already makes the enterprise agreement inferior to the industrial agreement, this latter requirement is unnecessarily superfluous, with or without trade union approval. The second level of collective bargaining is the industry level negotiation between the trade union and the employer's organization. Invariably, this takes place under the guidance of the National Employment Council, a body formed by the union and the employers. The Labour Amendment Act 28:01 lays more emphasis on this level of collective bargaining and hence its extensive regulation of it in section 74-82. There is nothing in the Act to stop any plant level collective bargaining although this will essentially be governed by the common law. On the other hand, there is no scope for national collective bargaining between the Zimbabwe Congress of Trade Unions (representing most employees in the private sector) and the Employers' Confederation of Zimbabwe (EMCOZ representing most employers). The Act takes cognizance of the view that not every employee is represented by the ZCTU, so are employers with the EMCOZ.

## **1. Research method**

The process of planning and actual collection, presentation and analysis of data was done as follows;

### **2.1 Research philosophy**

The study was premised on the interpretivism philosophy since it utilized the qualitative paradigm (Saunders, Lewis & Thornhill, 2009; Meloy, 2012).

## **2.2 Target population, sampling method used and sample determination**

Most key stakeholders involved in negotiations or dialogue on issues of employment contracts were looked at. were targeted drawn from the parent Ministry of Public service, Labour and Social welfare, major labour bodies namely the ZCTU and ZFTU (and their affiliates), the Apex Council (and staff associations of different civil servants professions and trades), National Employment Councils (NECs), Tripartite Negotiating Forum (TNF) and the Joint Negotiating Council (JNC) ,Labour experts and workers drawn from various sectors. The quotasampling method was used to accommodate at least each of the participants from the various groups (Khothari, 2014; Kennedy, 2009) outlined above. The number per each group was based on the use of the data saturation technique(Sale, Lohfeld& Brazil, 2002; Mouton, 2001), which allowed the researcher to use his discretion to move on and interview the next group of participants once he felt that there was no longer any new data coming from participants drawn from a particular group.

## **2.3 Sources of data**

Unstructured interviews were conducted in order to get individual responses freely since there was anticipation that the subject matter was likely to attract diverse views from participants (Creswell, 2012; Bryman, 2001)

## **2.5 Research ethics**

In line with research best practices, the researcher was guided by research ethics during the entire conducting of the study. Major observed parameters were; gettinginformed consent, upholding confidentiality, being honesty and verifying verbal statementsmade by participants (Leedy&Omrod, 2016; Collis & Hussey, 2009)

## **3 Analysis of data**

The Content analysis method was used which involved the categorization of data, classification, coding and summarization of findings in thematic form and selected narrative statements (Babbie& Mouton, 2008; Burns & Grove, 2001). The following were the *major findings*;

### ***3.1 Different legislation used for government and private sector employees***

In terms of the legal operational framework, the civil servants (full time government workers) are guided by the Public Service Act 16:04 and the Official Secrets Act 11:04 which are a bit restrictive on freedom of expression and the nature of concluding negotiations or dialogue. The Labour Amendment Act 28:01 caters largely for the private sector including state enterprises' (parastatals).

### ***3.2 Nature of Agreements made***

For trade unions in the private sector, they use a two-tier system. Firstly at the enterprise level, it is usually the workers representatives (workers committee) and the employer's representative (management) who constitute what is known as a works council to reach an agreement. At industrial level, the meeting of the two parties is constituted but the National Employment Council (NEC). A decision made by the NEC is superior to that made by the works council and should take precedence unless if better benefits have been made by the works council. At National level there is no provision for a common position on conditions of service but issues of national dialogue involve all the three social partners (government, employers and employees).

### ***3.3 Effectiveness of dialogue mechanisms used***

The study found that the use of both the works councils and NECs, was not bringing fruitful results due to other reasons such as economic hardships and low business

One official of a labour body said

*“Dialogue has proved a futile exercise. There is deliberate victimization of workers committee or union members such as unfair dismissals, threats and use of duress, since the employer(s) has the upper hand largely owing to economic hardships. It is now a give and take situation without need to argue for reconsideration or for a compromise”*

A member of the Apex council representing government full time employees had this to say

*“In our case, it is even pathetic as we can only make recommendations to the Minister of labour whose recommendations take precedence and are the ones that guide the cabinet and even the presidium to make a decision. We are only consulted and do not participate in collective bargaining. This is in violation of ILO provisions, Convention 151”*

### ***3.4 Major challenges affecting operations of trade unions***

The following were major constraints faced;

- Politicization of the major labour bodies, the ZCTU and the ZFTU and even infiltration of the Apex council and its affiliates
- Massive retrenchments especially after the Supreme court landmark ruling of 17 July 2015 where employers were allowed to terminate one's employment by giving 3 months' notice without being forced or required to give a reason. This resulted in massive loss of formal employment and this affected Unions operation due to dwindling members' fees (subscriptions)
- Liquidity crisis which has forced some companies not to use formal banking system and thereby not paying remittances or members subscriptions
- Rampant corruption among the trade unions executives who embezzled funds and worsened by financial audits that were not being conducted
- In the Apex council, there has been a lot of accusations and mistrust among members with allegations that some members were pro-government after having been co-opted.

• In house fighting for positions worsened by proliferation of splinter groups. One labour expert said,

*‘After independence, there was only one teacher association, the Zimbabwe Teachers Association representing all teachers but as of today, I am reliably informed that they are now around 9 and each has its own different vision and mandate. This makes it difficult to reach a consensus as they want to muscle out each other’.*

- Non-functioning of the Tripartite Negotiating Forum (TNF), a coalition body of all the three social partners, that is supposed to discuss broad economic fundamentals due to sharp differences and a protracted TNF Act which has made coordination and operational framework a challenge

One member of the employers' confederation said

*‘ We have not met as TNF fora very long time....I think for even more than 14 years. If meetings are called for, we do not form a quorum because of boycotts especially by the largest labour body, ZCTU’*

- Failure to improve employee welfare. Trade unions had failed to negotiate for salary increments for a very long time. Instead a lot of fringe benefits (perks) were being removed by employers yet inflation has been on the increase. In addition companies were employing

workers on a contractual basis in violation of the period that one should be employed as a contract worker. There were so many problems of non-submission by employers of tax returns or pension premiums. A number of companies were no longer providing medical, pension or insurance benefits or medical cover. This was threatening social security and social protection of mostly the vulnerable workers.

A member of one labour body said

*'In industry, bonuses have since been a thing of the past. Payment ceased around 2014 yet that was the major motivating incentive and employers do not want to be engaged as they apportion blame to the economic malaise in the country''*

An official from the Public Service Commission (the employer of civil servants) said

*'We are struggling to pay salaries and bonuses. Salaries chew around 89% of total government expenditure. We started staggering payment of salaries and bonuses since 2014. The previous year bonus, for some ministries is paid even seven months into the new year (7 months arrears). We have experienced lots of industrial action threats especially from teachers, doctors and nurses but we do not have any option out of this quagmire''*

- Biased NECs who make most decisions in favour of the employers. This has been aided by the fact that NEC employees are usually employed on a full time basis and their employment contract terms such as remuneration and other benefits are paid by the association of employers in that industry or sector.
- Repressive laws meant to quell down any form of industrial action or protests by trade unions such as the Public Order Security Act (POSA, 2002) and Access to Information and Protection of Privacy Act (AIPPA, 2002) had resulted in numerous arrests of leaders and ill treatment by the law agents (police) who have been very brutal as a way of ensuring "zero tolerance" to demonstrations or unauthorized industrial action.

## **2. Conclusion**

Trade unions in Zimbabwe have become docile and can no longer influence the conditions of service at the workplace due to largely economic and political factors. As a result, the workers feel let down by trade unions, as their grievances related to the employment contract are not

effectively addressed and this has made working conditions less conducive and subjecting them to poverty.

## **5. Recommendations**

### **5.1 Streamlining major labour administrative pieces of legislation**

Urgent alignment of the Public Service Act (Chapter 16:04) to the more user friendly, the Labour Amendment Act (Chapter 28:01 No. 5 of 2015). This would avoid confusion currently being caused by conflicting provisions especially on matters of termination of employment or retrenchment procedure, collective job action (industrial action or strike) and collective bargaining.

### **5.2 Repealing of repressive labour laws**

Draconian laws namely, POSA and AIPPA should be repealed as they do not meet international humanitarian requirements so that trade unions can have freedom of expression and the right to be heard and demonstrate.

### **5.3 Resuscitating the Tripartite Negotiating Forum (TNF)**

Promotion of social dialogue by resuscitating the almost 'defunct' TNF which also calls for the urgent enactment of a TNF Act which has been a stumbling block, for effective engagement and dialogue since it has taken so long to be concluded. There is need for political will by all the social partners so that these issues are taken seriously for national benefit and not for individual or sectoral gains.

### **5.4 Complying with ILO Conventions**

Zimbabwe should implement in good faith the ILO provisions (e.g. 87, 98, 151, 154) in order to address those contentious issues so that she moves in line with global industrial relations best practices and avert labour conflicts (disputes).

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