# Perennial Antagonism On Collective Bargaining in the Public Sector: A Study of Zimbabwe Experiences

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#### ABSTRACT

The issues of salary negotiations and other conditions of service in Zimbabwe's public sector, have always been contentious issues following the failure by both, the employer (government) and employees (civil servants) to seriously engage in collective bargaining for time immemorial. The civil servants through their representatives, staff associations and their coalition body, the Apex council have often resorted to collective job action in a bid to force government to accede to their demands. This has always resulted in poor labour relations between the two parties epitomised by confrontational approach and hatred. The study used the library analysis and interviews which culminated in interesting findings such as; civil servants were only consulted at times but government predominantly apply arbitrary decisions much to the discontentment of government workers. The final decisions comes from the Minister of public service, labour and social welfare after consultation with the cabinet and treasury and at times approval by the presidium. The study recommended that there was need to amend both the Public Service Act and the Amended Labour Act 2:01 (2015) and that they be aligned with the New National Constitution of 2013 which has provision for collective bargaining. Also staff associations who represent the civil servants different professionals should speak with one voice so that there is a holistic approach without prioritising sectoral interests.

#### **KEY TERMS**

Antagonism, Collective bargaining, Labour unrest, Perpetual conflicts, Public sector

### **BACKGROUND TO THE STUDY**

Industrial and labour relations cannot be complete in the Zimbabwe context without covering the Public Service. The Public Service in Zimbabwe is the largest employer and as at the end of March 2022, there were 478,540 full-time equivalent civil servants (Institute for government, 2022)at a time when other sectors like the manufacturing sector are downsizing (retrenching) or going into liquidation and bankruptcy. Collective bargaining is defined in ILO Convention 154 as a voluntary process for reconciling the conflicting interests and aspirations of management and labour through joint regulation of

terms and conditions of employment. Several researchers have examined the efficacy of collective bargaining in the private sector in Zimbabwe, however little work has been done relative to public sector collective bargaining. Labour relations in Zimbabwe have undergone extensive change in the past thirty-five years since the attainment of independence in 1980 (Mudyawabikwa, 2004; Samburen, 2003). However, public sector labour law in Zimbabwe seems to have developed on a somewhat different track than private sector law. With the advent of Labour Relations Act, 1985, a new ball game came into existence, in particular for the private sector.

Zimbabwe has a dual labour system. Workers in the Private Sector and State owned enterprises are covered under the Labour Act [Chapter 28:01]. The Labour Act provides for collective bargaining in the private sector as well as in State owned enterprises (SOEs) but the same rights are denied to civil servants. As of mid-September 2022, government unilaterally tabled a 25 percent cost of living adjustment on the United States Dollar (USD) component of civil servants salaries and those employed in grant aided institutions (Gatsi, 2022). The move appeared aimed at stemming new industrial action by State workers who have long demanded that their full salaries should be paid in USD as a hedge against inflation. The government invited the umbrella body representing civil servants, the Apex Council where they tabled the 25 percent offer with effect from the beginning of September 2022. State workers were being paid US\$100 and a Covid allowance of US\$75, meaning the proposed adjustment increased their USD salary component to US\$200. The employer did not offer or table any increase on the ZWL\$ salary and the workers demanded that this be also reviewed without fail (Gatsi, 2022). The employer did not offer or table any increase on the Zimbabwe dollar (rtgs) salary component and the workers demanded that this be also reviewed without fail. Civil servants also registered displeasure on the School fees assistance to teachers which is currently pegged at ZWL20, 000 per child. They demanded that this year's 13th cheque (bonus) should be in United States dollars. Government committed to paying the 2022 bonus in USD but did not provide any figures and, again, asked for time to consult on the payment details and the total offer thereof. Teachers and nurses have always been vowing to embark on a full blown strikes if salaries were not reviewed but that has not brought any meaningful results (Tshili, 2022). Government workers have always been arguing that runaway inflation has decimated their salaries as the country's economy continued to struggle.

The behaviour by the Zimbabwe government to make unilateral decisions without involvement of other stakeholders has been the norm for time immemorial. The government surprised industry and commerce by issuing a proclamation of the minimum wage for all sectors through a Statutory Instrument number 81 of 2020 (SI 81/20) effective 1 April 2020, against a background that financial matters and remuneration for a particular sector be resolved through dialogue by acoalition body of workers and employers, known as the National Employment Council (NEC) (Uzhenyu, 2020). This paradigm shift was announced when the country was just embarking on a national lockdown caused by the devastating COVID-19 global pandemic.

Collective bargaining and wage determination process in the Public sector in Zimbabwe is laborious, stressful, emotional and characterised by a confrontational approach towards dialogue.Section 20 (1) of the Public Service Act states that the Civil/Public Service Commission (CSC) shall be engaged in regular consultations with recognized Public Service Associations with regards to the conditions of service. According to the Public Service Act the role of the associations ends with consultation alone, meaning the associations do not have the final say in terms of the actual salaries and allowances paid to civil servants. The final say on salaries, allowances and benefits, according to Section 203 (4) of the Zimbabwean Constitution rests with the President. Section 203 (4) states that in fixing the salaries, allowances and other benefits of the civil service, the CSC must act with approval of the President given on the recommendation of the responsible Minister for Finance in consultation with the Minister responsible for the Public Service. Following the directive of the President, the CSC can then enter into any agreement with the employees.

The Public Services Act Chapter 16:04 only gives them the right to consult. Civil Service employees, for the past two decades, were at most "consulted" over their terms and conditions of employment, with the real determination being done by the employer, represented by the Civil Service Commission. Civil Servants in Zimbabwe are denied an opportunity to determine their direction, future and to improve their standard of living.. Section 19 and 20 of the Public Service Act should be amended to provide for collective bargaining processes as provided for in section 65 (5) (a) as read with 203 (1) (b) of the new Constitution of Zimbabwe. Collective bargaining agreements are usually not collectively reached as parties coerce each other to force the other party to accede to their demands. All public service employee unions among them mainly, Zimbabwe Teachers Association (ZIMTA), Progressive Teachers Union of Zimbabwe (PTUZ), Zimbabwe Nurses Union (ZNU), and College Lecturer's Association of Zimbabwe (COLAZ), have on numerous occasions castigated their employer for making unilateral decisions about government employees' salaries.

Civil service workers are not able to engage in collective bargaining due to the current labour laws as shown by the Public Service Act Chapter 16:04 extract below,

Subject to this Act and the Constitution, conditions of service, applicable to members of the Public Service (with the exception of the Army, Police, Prisons and Central Intelligence Organisations which have separate arrangements) including their remuneration, benefits, leave of absence, hours of work and discipline, shall be determined by the Commission in consultation with the Minister (responsible for Public Service), provided that, to the extent that such conditions may result in an increase in expenditure chargeable on the Consolidated Revenue Fund the concurrence of the Minister responsible for Minister shall be obtained

This serves as clear testimony that collective bargaining in the public service in Zimbabwe is engulfed by a host of enormous problems and challenges. It was the intention of this study to unfold the impediments of collective bargaining in the civil service and to suggest remedies to eliminate conflicts which continued to adversely affect service delivery in the public sector. Clearly, this means that there is no effective collective bargaining in the public sector since the role of the CSC ends with consultation alone and they do not have the final say in terms of the final outcome of salaries and allowances for public sector wages. This means workers in the public sector do not have the right to collective bargaining since they are forced to accept what is finally determined by the President.

#### STATEMENT OF THE PROBLEM

The issue of salary negotiations in Zimbabwe's public sector has become a contentious issue following the failure by both, the employer (Civil Service Commission) and employees (civil servants) to seriously engage in collective bargaining. The current arrangement of using the poverty datum line as the basis of determining remuneration in the public sector appears to be not fruitful given that the government has been struggling to pay its workers due to serious financial constraints, which government is using as an excuse. Decisions to review or engage in negotiations have been based on threats by individual staff associations or through their coalition arrangement, Apex council, to engage in collective job action (strike). Such a situation of not having a concrete position on a bargaining structure at the moment in Zimbabwe, has resulted in poor relations between the government and its employees. The resorting to industrial action by the civil servants has culminated in serious disruption of service delivery of essential services such as health and education, just to mention a few.

### **RESEARCH QUESTIONS**

The study sought to answer the following sub-problems

- (i) Which legislative documents influenced the conditions of service and negotiations in the public sector in Zimbabwe?
- (ii) What was the impact of current negotiation strategies on collective bargaining used in the public sector in Zimbabwe?
- (iii) Which selected cases of conflict and labour unrest could be reviewed and to establish the causal factors of such unrest?
- (iv) What were the problems and challenges encountered in the process of collective bargaining in the civil sector in Zimbabwe?
- (v) To make recommendations to improve industrial relations between government and civil servants on aspects of collective bargaining in order to eliminate conflicts and labour unrest.

### LITERATURE REVIEW

### Traditional Versus Current Views of Conflict

Organizational conflictis the discord that arises when the goals, interests or values of different individuals or groups are incompatible and those individuals or groups block or thwart one another's attempts to achieve their objective (Iedunote, 2015). In this study, these views apply to the government of Zimbabwe and its workers

The traditional view of organizational conflict	Current view of organizational conflict
Conflict is avoidable.	Conflict is inevitable.
Conflict is caused by management error in designing organizations or by trouble makers.	Conflict arises from many causes, including organizational structure, unavoidable differences in goals, differences in perceptions and values of specialized personnel and so on.
Conflict disrupts the organization and prevents optimal performance.	Conflict contributes and detracts from organizational performance in varying degrees.
The task of the management is to eliminate conflict.	The task of the management is to manage the level of conflict and its resolution for optimal organizational performance.
Optimal organizational performance requires the removal of conflict.	Optimal organizational performance requires a moderate level of conflict.

The traditional view says that some conflicts are dysfunctional and can harm individuals and impede the attainment of organizational goals. The current view also called the interactionist view, is that conflict in organizations is inevitable and even necessary, no matter how organizations are designed and operated. Conflicts can also be functional because they may make organizations more effective. Conflict can lead to the search for solutions (Iedunote, 2015).

### Collective Bargaining in the public sector/service.

In Zimbabwe there is no clear cut procedure on collective bargaining between the civil servants and the employer represented by the Civil/Public service commission. The legislation which is at the centre of industrial relations, that is the Labour Act chapter 28; 01 appears to be not adequately covering the Public service as it even prohibits civil servants from initiating any form of labour unrest as outlined in the Labour Act Chapter 28:014 PART X111 Section 104 (3) (a) (i)

#### **Staff Associations**

Following the numerous 1996 strikes, the engagement of the Government and the staff associations was legislated through the promulgation of Statutory Instrument 141 of 1997 Public Service (Public Service Joint Negotiating Councils) Regulations, 1997.Sections 20(1) of the Public Service Act, Chapter 16.04 passed in 1995 states that the Commission (this is the Civil/Public Service Commission which is the employer representative of Government) shall be engaged in regular consultations with recognized associations in regard to the conditions of service of members of the Public Service who are represented by the recognized associations or organizations concerned which include; Zimbabwe Teachers Association (ZIMTA), Progressive Teachers Union of Zimbabwe (PTUZ),

Teachers Union of Zimbabwe (TUZ), College Lecturers Association of Zimbabwe (COLAZ), the Public Service Association (PSA) made up of 4 other unions which are;Government Workers Association (GWA), Professional and Technical Officers Association (PTOA), Administrative and Executive Officers Association and Civil Service Employees Association (CSEA)

Regarding the actual determination of remuneration and conditions of service, the Act states in Section 19(1) that:

Subject to this Act and the Constitution, conditions of service, applicable to members of the Public Service (with the exception of the Army, Police, Prisons and Central Intelligence Organisations which have separate arrangements) including their remuneration, benefits, leave of absence, hours of work and discipline, shall be determined by the Commission in consultation with the Minister (responsible for Public Service), provided that, to the extent that such conditions may result in an increase in expenditure chargeable on the Consolidated Revenue Fund the concurrence of the Minister responsible for Minister shall be obtained.

In terms of the afore-mentioned Section, what is being addressed **is consultation and not collective bargaining** 

#### The Joint Negotiating Council

In terms of the Statutory Instrument 141 of 1997 Public Service (Public Service Joint Negotiating Councils) Regulations, 1997, nine members from the Apex Council (a council representing all recognized associations and organisations that is formed for the purpose of conducting negotiations on conditions of service) and nine members appointed by the Minister (responsible for Public service) to represent government (employer), constitute the Joint Negotiating Council plus a Chairperson appointed by the Minister. Although not in the regulations, the Director of Labour Administration in the Ministry of Public Service, Labour and Social Welfare sits in the council as an advisor to the Chairperson.

The members representing Government in the Joint Negotiating Council (JNC)are drawn from the following Ministries or Government departments;CSC –(Chair of Government Team), Salaries Service Bureau, Ministry of Public Service, Labour and Social Welfare, Ministry of Finance and Economic Development. , Ministry of Higher and Tertiary

Education, Ministry of Primary and Secondary Education). The Civil servants are represented by members of the Apex Council (coalition body of all staff associations).

### Duties of the National Joint Negotiating Council (NJNC)

The central duties of the National Joint Negotiation Council as stated in Section 4 of Statutory Instrument 141 of 1997 are to:

- Receive representations from both sides represented in the Joint Council on anymatter concerning employment in the Public Service.
- Review and negotiate salaries, allowances and conditions of service in the PublicService.
- Conclude and enter into agreements concerning salaries, allowances and conditions of service for submission to the Minister for his consideration.

From the above, the fact that the output of the National Joint Negotiating Council goes to the Minister as a recommendation, defeats the spirit behind collective bargaining..Recommendations can be adopted, modified or rejected. In a nutshell, these regulations are about legitimatizing the consultation process and outlining details of such consultations. The conditions of service for the Public service, contained in Statutory Instrument 1 of 2000 are not an outcome of negotiations within the realm of the National Joint Negotiating Council. The review of these regulations, currently underway, is being done by the CSC in consultation with line Ministries without involvement of staff associations. In Zimbabwe, there is no salary award, which can be directly or wholly linked to the negotiations within the ambit of the National Joint Negotiating Council in Zimbabwe (Uzhenyu andKasuso, , 2019).

The above gloomy picture is evidence of unfavourable working conditions especially with regard to remuneration and benefits of government workers that have been a perennial problem. Workers are only consulted without any final say in whatever is then finally decided upon by the employer, that is, government and this motivated this researcher/writer to have interest in conducting this study.

### **RESEARCH METHODS**

The following is a synopsis of the methods used by this study in the process of data collection and actual findings

- The study followed the qualitative methodology (paradigm) driven by the interpretivism philosophy (Van der Walt., 2020).
- A case study design was used since focus was on the government and its employees (Rubin and Babbie, 2014)
- Unstructured interviews were held with participants drawn from the Ministry of Labour, Public Service and Welfare, Civil/Public Service Commission, Ministry Of Finance, Apex Council and its staff associations,.
- Judgemental sampling technique was used to choose participants based on this researcher's discretion and number determined by the data saturation technique (Durand and Chantler, 2014; Leedy and Omrod, 2016).

- Library analysis (desk research) was used to a large extent. Most of the information was obtained from different legislation affecting the public sector, as well as, articles from both the print and electronic media (Harper, 2018).
- The Research ethics were observed during the entire collection and analysis of data in light of research best practices as suggested by Porter (2014) and Naagarazan (2006).
- Results were analysed using the content and thematic analysis methods, involving categorization of data, classification, summarization, coding (Cresswell, 2003; Neuman, 2013).

# FINDINGS

1. Lack of coordinated approach and speaking with one voice under a Coalition Arrangement.

The Apex Council is a coalition arrangement. The extent to which staff associations' specific interests, concerns and needs are addressed, is a matter of concern. The study was able to establish the failure of such arrangement to deal effectively with inter-union rivalries which is inherent in the Apex council. This was being compounded by administrative hiccups e.g. problems associated with convening meetings and selection of negotiators. Another major issue was the failure to deal with sector specific demands or sectoral consideration e.g., the Hospital Doctor's Association and Zimbabwe (HODAZ) Nurses Association (ZNA), had been accusing the Apex council of not presenting meaningfully its interests and concerns. As a result they pulled out of the coalition arrangement

Such different interests have seriously been affecting the credibility of the Apex Council and indeed the National Joint Negotiating Council

# 2. Complexities in the Collective Bargaining mechanism in the Public Service This was being affected by

### • Nature of the employer

From those interviewed, it was difficult to conclude which organ could be said to be the employer in Government? As was submitted earlier on, the agreed positions of the Joint Negotiating Councils are by and large recommendations. Although not indicated anywhere in the Regulations, The Minister responsible for Public Service tables the recommendations in Cabinet. Once this is done, the decision that follows becomes that of Cabinet. The president has final say on matters regarding the public sector including working conditions. Again, the role of the Ministry of Finance is central as it controls the purse(budget), while CSC has in its custody the workers but they also fall under specific line Ministry of Public Service, Labour and Social Welfare which is responsible for Labour policies? All these questions make it difficult in Zimbabwe to really know who is responsible for making determinations on issues of collective bargaining or even other conditions of service. In the final analysis, the amorphous nature of the Employer in

Government complicates any arrangement aimed at meaningful collective bargaining in the public sector.

#### **3.** Fiscal Determination of Wages

The fact that the Public Service Wage Bill is part of the expenditure component of the national budget poses a challenge to collective bargaining in the Public Service. The fiscal determination of what constitute the wage bill as a percentage of the gross domestic product (GDP) militates against collective bargaining in the Public Service. The same can also be said about the timing of the processes of budget formulation and collective bargaining. It appears they run parallel to each other and yet the latter's agreed positions should be the input to the former.

### 4. Other challenges affecting Collective bargaining in the Public Sector

# • Consultation and no spirit of collective bargaining

The talks between government and staff associations through the Joint Negotiating Council, the platform is more of a consultative forum without any concrete decision making, as the final decisions rested with the cabinet or treasury in some cases. This has persistently angered the civil servants and they feel hard done by government resulting in them showing their disgruntlement through labour unrest (strikes). However to go on strike or any other form of labour unrest in Zimbabwe has not been easy as all civil servants are classified as providing essential service. According to the main labour legislation, the Labour Act 28 ;01 which has been amended in August 2015 (the Amended Labour Act 28 :01 number 5 of 2015) Public Service Act , all those employed under essential services should desist from participating in any form of labour unrest.

### • Low remuneration

Civil servants in Zimbabwe are some of the lowly paid professionals in Southern Africa and to make matters worse they are still paid well below the poverty datum line although up to 2017 before the new government (second republic) they were closer to that.

### • False promises and partisanship:

A lot of promises has been made by government but to no avail. Promises to pay wages similar to the 2016/7 period of around 540USD for most civil servants has been a thorny issue and remain a nightmare for civil servants as they are lowly remunerated

# • Corruption

A lot of senior government officials and government departments have been involved in corrupt tendencies but nothing has been done to weed out corruption as those implicated have strong roots in the current ruling government. This has always irked civil servants who felt that the already stretched resources were being 'abused ' by those corrupt officials and there were no meaningful cases of litigation which should deter them despite the creation of a commission that should address that, the Anti-corruption commission..

#### CONCLUSIONS

This study established that the issue of implementing Collective Bargaining in Zimbabwe's public sector was a complicated phenomenon. Despite the provision for such dialogue in the New national Constitution of 2013, there is still not much significant progress to date to raise much hope. The issues of staff remuneration, benefits and other conditions of service pertaining to the employment contract for civil servants are determined usually by cabinet with the concurrence of treasury or line ministries at times and at times directives from the presidium. Civil servants are only consulted through their coalition body, Apex council and whatever they decide, is then taken up with Minister of Labour for his/her input before forwarding to cabinet. The sectoral different interests among the civil servants according to their professions and trades, has also been a major drawback when their staff associations represent issues at the Apex council. This has often culminated in sharp divisions which usually stalls progress.

### RECOMMENDATIONS

### 1. Unity within the Apex Council (need to speak with one voice)

The bargaining mandate of the Apex council (representation of staff associations) should have the support of all its members. However the sharp differences which even portray political parties affiliations and differences should not be tolerated. Civil servants should not openly declare their political interests as is the case in Zimbabwe e.g. The Progressive Teachers Union of Zimbabwe (PTUZ) is an affiliate of the Zimbabwe Congress Of Trade Union which is anti the ruling government of ZANU PF. The ZCTU has always been at loggerheads with government since 1998 when its leadership went on to form a political party, the Movement for Democratic Change (MDC-T) led by its now late president Morgan Tsvangirayi who was the ZCTU Secretary general by then. The MDC has become the major opposition party in the country. There is need to weed out such differences among the staff associations for synergy and focus.

#### 2. Expediting implementation of the provisions of new National Constitution of 2013

The new national Constitution has provisions for collective bargaining for civil servants but it appears government has not been showing meaningful commitment to facilitate the implementation of that provision by putting necessary operational framework and logistics. There is need to align it with the Public Service Act to ensure that collective bargaining actually becomes a reality.

### 3. Amendments to the Public Service and Labour Acts

Although there are many options to resolve conflicts (avoiding labour unrest like strikes, go slows and stay-aways, protests etc.), that is the traditional and third party intervention approaches, in Zimbabwe, the impasse is largely as a result of a rigid legislation. There is need to amend the major piece of labour legislation, the Labour Act 28:01. These changes should;

- Reduce the powers of the Minister of Labour who can make unilateral decisions without consulting other parties e.g. He is empowered to issue a disposal order, thereby calling off a strike.
- Not give the Minister, the right to make input on issues deliberated by the Joint Negotiating Council as he/she is bound to be biased and partial.
- Not allow the cabinet to make its own determination outside that concluded by the Joint Negotiating Council.
- Make provisions for the Civil servants to participate fully in Collective bargaining which in Zimbabwe at the moment is a preserve of the private sector mostly.

### 4. Involving use of third parties to settle conflicts/disputes

If the government of Zimbabwe and its employees, the civil servants cannot resolve a dispute on their own with regard to issues of negotiation or collective bargaining, a third party can be called upon to help determine the appropriate action to be done. Third parties are people outside the conflicting parties who are called in or who offer to harmonize the tense relations of the negotiating parties. They come in either as arbitrators, or mediators or process consultants at the time when the negotiation gets rough. They are the go-betweens whose main task is to see the conflicting parties back on the negotiation table. The third party formal intervention methods should take any of the following approaches; conciliation, arbitration and mediation

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