

Policy Reforms and Employment Relations in Zambia

Tayo Fashoyin

ILO Sub-Regional Office for Southern Africa

Harare, Zimbabwe

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Foreword

Employment relations in Zambia are profoundly influenced by successive economic and political developments in the country. Post-independent policies which sought to co-opt, incorporate or form a partnership with labour were largely unsuccessful. Rather such overtures had the positive effect of strengthening the trade union movement, to become formidable voice in advancing favourable economic and political reforms. However, in the era of economic liberalization and market-oriented economic regimes, public policy has by design or default undermined the role of trade unions and the employers' association. Naturally, the employment relationship has been seriously affected.

Yet the paper affirms that government continues to acknowledge the critical role of institutions of trade unions, employers' organizations in employment relations and labour market governance in Zambia. To effectively play this role, the social partners would need to adapt to prevailing economic realities in the country. This calls for internal reform in order to exploit the enormous potentials associated with economic growth. In the case of the employers' organization, there is the additional need to take realistic steps to strengthen the federation's secretariat to enable it provide professional services to the employers of Zambia. In both cases, both the labour and employers' organizations need to step up their recruitment, respectively of the informal economy operators and the SMEs. They also need to develop new products and services that are needed and useful for this category of labour market actors.

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Economic and Political Context

Zambia's post-independence economic policies have followed two clearly distinct development paths. The first covering the period 1964-1991, was dominated by President Kenneth Kaunda's socialist development strategy, through which the government embarked on extensive nationalization of key industries, notably the mining sector. Although the government inherited a strong mono-product copper mining economy at independence, poor management and the inefficiencies of one-party rule soon led to deterioration of the economy over the next three decades.

Sharp declines in copper prices and the oil shocks of the period were aggravated by policy inconsistencies and poor economic management, leading to the worsening of the economy during most of the Kaunda years. Copper, the main source of foreign exchange earnings for the country contributed about 90% to the country's external earnings. The collapse of copper prices contributed immensely to the intractable economic crisis of the 1970s and 1980s. GDP growth reversed from 6.7% to a negative of 2.4% in the same period (World Bank, 1972). Excessive state controls and poor management of the economy made it difficult for the productive sector to generate adequate employment. In trying to reverse the decline, Kaunda had at the twilight of his administration embarked on half-hearted economic reform policies that generally failed to address the embedded structural weaknesses and poverty levels.

The second period, beginning in 1991 to-date, heralded the intensification of market-oriented economy, first by the President Fredrick Chiluba administration (1991 to 2001), and later by the administration of President Levy Mwanawasa, which came to power from 2001 to-date. Chiluba introduced a robust economic policy that focussed on improving efficiency in both the public and private sectors through the creation of appropriate market conditions and implementation of market-enhancing policies. The cornerstone of this policy was liberalization of the economy. Chiluba re-energized SAP, with a key focus on privatization of the extensive public enterprises which had constituted a fiscal drain on public resources.

Privatization was implemented with great zest. For example, 83% of the 280 state enterprises were sold off by 2000 (Kani 2000; Mulindeti 2001). While President Mwanawasa did little to change the privatization policy, it was evident that the administration realized its disruptive effects on the social and economic fabric of the society. Indeed, as Zambia's minister of finance admitted in 2001, "In spite of the uninterrupted implementation of structural reforms, we have noted also a sharp increase in the incidence of poverty among people of Zambia, a situation that is not politically and socially suitable" (Sampa, 2001).

The Mwanawasa administration placed less emphasis on privatization, seemingly because most of the unsold enterprises were not financially attractive to potential buyers. As a result, the policy thrust was commercialization, particularly of those enterprises considered as strategic to the country's development. These included state-owned banks and the electricity supply company. But the overarching economic policy emphasized the creation of an investment led economic development. To achieve this he promptly outlined a governance policy that sought to create a favourable investment climate. This

included an anti-corruption agenda, targeted at influential leaders, including Chiluba, his predecessor and mentor.

An evaluation of the performance of the macro-economic policies of the 1990s onward revealed a moderate economic growth in the last decade (Kani 2001; van Geest and van Hoeven 1999; Mulindeti 2001). As shown in Table 1, the economy had witnessed steady growth beginning in the second half of the 1990s, indicating a GDP growth rate of 10.1% in 2006. Much of this growth is attributable to the dramatic recovery of the copper mining sector, the country's biggest export earners. Between 2001 and 2005, mining grew by almost 50% (EIU 2007).

Table 1: Zambia: Key Economic Indicators

Economic Indicators	1996 (\$m)	1998 (\$m)	2000 (\$m)	2002 (\$m)	2004 (\$m)	2006 (\$m)
GDP (US\$ bn)	3 388	3.6	3.2	3.6	5.4	5.8
GDP per head (US\$)	325	410	328	337	485	855
Consumer Price Inflation (av; %)	43.1	25.2	30.1	26.7	17.5	8.2
Current - account balance (US\$ bn)	-491	-0.4	-0.4	-0.3	-0.3	0.3
Current - account balance (% of GDP)	-14.5	-7.5	-7.5	-7.0	-4.9	3.1
Exports of Goods fob (US\$ bn)	975	0.9	0.8	0.9	1.6	3.8
Imports of goods fob (US\$ bn)	990	1.0	1.0	1.2	-1.7	-2.6
External debt (US\$ bn)	6.85	7.2	5.9	5.9	6.4	2.4
Debt-service ratio, paid (%)	22.0	21.0	20.2	33.6	20.0	4.1

Source: GRZ Economic Reports 2000-2006; EIU Country Profiles.

This growth was also reflected in the per capita GDP which has seen a steady increase in the present decade. Other economic indicators, such as the current account of balance of payments, which deteriorated during the 1980s and 1990s, have started to show improvements in the present decade. A distinctive boost to the country's economy was the significant gesture over the last decade to reduce the country's huge external debt amounting to \$7.1 billion in 1992. Debt servicing had consumed a sizeable proportion of resources that would have gone into development. But the gestures of the creditors, the Paris Club, have from 1992 to-date virtually wiped off the country's debt (Mulindeti 2001, EIU 2007).

However, economic growth generally has had imperceptible effect on poverty and unemployment during the period (UNDP 2003). In the first half of the 20th century national poverty rate stood at 68% of the population, while rural poverty was much higher at 78% (Muneku and Koyi 2007). Indeed, various public interest groups, notably labour and civil society organizations, had criticized the liberalization policy for its adverse effects on the lives of the people and for failing to provide safety net measures to mitigate these effects.¹ The country's labour centre, the Zambia Congress of Trade Unions, ZCTU, faulted the policy for failing to create jobs as promised, while the new businesses that were claimed to have been established were not sustainable (Seshamani and Kaunga 1999). Labour argued that SAP had been donor driven, aimed at meeting IMF benchmarks, and had frustrated mutual agreements between labour and employers. The congress was particularly miffed by the failure to consult with labour on the implementation of SAP and called on the need for dialogue in the tripartite forum that was created under a 1993 law.

¹ For extensive review of the responses to the implementation of SAP, see Seshamani & Kaunga (1999)

Persistent inflation was a feature of the Zambian economy throughout the 1980s and 1990s, reaching a high rate of 50% in 1996 (Kani 2000). This arose from lax fiscal policy, weak exchange rate and unreliable food supply. Any of these conditions was capable of triggering the inflationary pressures. The inflationary experience began to improve by the late 1990s although the reduction in the rate was slow due to the sharp depreciation of the kwacha. As shown in Table 1, inflation has maintained a declining trend in recent years. Poor maize harvests had caused inflation to rise in the earlier part of the present decade. Improved policy consistency, particularly tightened fiscal regime and good agricultural harvests, have largely been responsible for bringing inflation considerably down in recent years.

Hyperinflation had adversely affected wages and incomes. In the first half of the 1990s when the economy experienced a 3-digit inflation, nominal wages increased by a mere 30% per annum. This had severely eroded workers' incomes and the living conditions of families. Labour's response to the unbearable economic conditions was to call for a wages policy that included a minimum wage tied to the poverty datum line (Seshamani and Kaunga 1999).² The economy also witnessed a steady decline in employment. Formal employment, which represented 75% of the labour force in 1975, declined to 10.3% in 1999 (GRZ 2005).

With regards to employment in Zambia, the first thing to note in evaluating the data is the lack of consistent and comparative data even when obtained from the statistical authorities. This weakness makes any analysis somewhat patchy, but still gives indications of the trends and impact of economic reforms on employment. Zambia's labour force, or the economically active population of ages 15-65 years, was estimated at 4.9 million, or 42.8% of the population, according to the 2005 labour force survey. It was also estimated that formal (wage) employment accounted for 495 784 workers, or about 10.1% of the labour force in that year (GRZ 2007).

Between 1985 and 1997, total formal employment fell sharply from 521 900 to 475 100, or by 10% (GRZ, 2007). As Table 2 shows, aggregate and sectoral employment declined throughout the second half of the 1990s, and has also declined in the present decade. Records show that the decline in employment was more severe in such key sectors as mining, manufacturing and construction, where employment fell by proportions of between 33% and 62%. However, employment grew in trade, finance and services, by between 16% and 58% during the same period (Kani 2000, Seshamani and Kaunga 1999). But the issue was that the majority of job increases was in the contingent employment category, also known in Zambia as casualization (Mulindeti 2001).

Concomitant with economic reforms was a public service reform programme. Its main objectives were to reduce the size of the public service and build capacity that was able to provide efficient, quality and cost effective service in support of economic development. Between 1997 and 2000, the size of the public service plunged from 139 000 to 101 000. Although the cut in the public service workforce represented just a 3% reduction when seen in the context of the prevailing job insecurity throughout the economy, the social effects on workers and trade unions, as well as the operational difficulties in the employment relationship, was destabilizing.

² In fact a task force was set up for this purpose, but it did not achieve much, ostensibly because the government appeared not ready for it.

Correspondingly, the economy became profoundly informalized, as shown in Table 2, with the 3.6 million people that were engaged in informal employment in 1999, representing 79% of the labour force. The 2005 labour force survey put the number of people in the informal economy at about 3 million, or 88% of total employed in that year, which accounted for the unusually high labour force participation rate. Those who work in the informal economy normally include job holders in the formal sector but who moonlight for additional income (Seshamani and Kaunga 1999). This underscores the rapid informalization of the Zambian economy.

This labour market experience explains the relatively low unemployment rate. Thus aggregate unemployment declined from 12.2% in 1997 to 10.3% in 1999, but rose sharply to 16% in 2005. In urban areas, unemployment was 28%, while in rural areas it was 10% in the same year (GRZ 2007).

Table 2: Employment/unemployment in Zambia 1996-2005

	1996	1997	1998	1999	2005
Employment by Type	3 468 000	3 739 823	4 033 417	4 156 169	3 404 382
• Formal Sector Employment	479 400	475 161	467 193	477 508	495 784
• Informal Sector Employment (Agric.)	2 988 600	3 264 662	3 566 224	3 678 661	2 908 598
• Informal Non.Agric.	670 000	685 255	759 050	726 990	727 149
Formal Employment by Sector	479 300	475 100	467 193	477 508	495 784
• Central Government	132 000	129 200	117 250	112 345	127 604
• Local Authorities	17 300	15 100	13 048	12 900	6 439
• Parastatal Companies	115 200	73 900	68 046	85 300	81 073
• Private Sector Companies	214 800	256 900	268 849	266 963	280 668
Size of Labour Force	3 982 000	4 411 263	4 579 000	4 635 000	4 918 788
Total Unemployment Rate	12.9	15.2	11.9	10.3	16

Source: MOFED 2000, Economic Report 1999; Central Statistical Office, Zambia, 2007

One indication of the seriousness of the unemployment crisis and the surge of informal economy can be deduced from the records of the Ministry of Labour. In the period 1990-1995, the number of job-seekers at the ministry's employment offices increased from 19 244 to 34 104, or by 77%. Conversely, the number of notified job vacancies fell from 24 291 to 11 947, or by 51% (GRZ 1999). Another indication was given by the ZCTU. According to the congress, over 5,600 workers lost their jobs as a result of the liquidation of 10 public corporations during 1992-94, weakening trade union membership and membership receipts (Banda, 1997; Seshamani and Kaunga 1999).³

In redressing the critical employment problem through policy reforms, the government in 2005 launched a National Employment and Labour Market Policy in which it identified labour as a key factor in economic growth. The policy aimed at creating 'adequate and quality jobs under conditions that ensure adequate income, protection of workers' and basic human rights'. It remains to be seen how this grand initiative will increase the

³ The retrenchment of workers has continued into the present decade. To demonstrate the significant size of casual employment, the example of the Zambia-China Textile company indicates that of the nearly 1400 workers in 2007, 800 or 42% were casual workers. The company was at the time of this research going through a restructuring, which led to a 'temporary' dismissal of all but 72 workers. Labour was worried that the restructuring would lead to greater casualization in this labour-intensive sector.

demand for labour throughout the country. Nevertheless, trade unions have called for the implementation of the policy, and for the government to consider it as its major macroeconomic policy. (ZCTU 2005). It is therefore clear that the way in which this policy is implemented will have significant effect on employment relations in the country.

The political context of employment relations

The involvement of trade unions in the political process that was very visible in the colonial era continued after independence. But while the political alliance between trade unions and the nationalist movements was purposely to gain political independence, the continuing involvement of labour in politics afterwards was essentially to protect and promote workers rights under the new ruling elite. In most of the African countries, violations of labour rights have continued, in some cases on a much higher scale than before (Ananaba 1969). The union-government relations in Zambia were not an exception to this general orientation of the post-independence period.

For much of the mid-1960s to the 1980s, Kaunda made unsuccessful overtures to co-opt or subordinate the labour movement to his government. When he failed, Kaunda sought a partnership or alliance with the labour movement (Banda 1997). Favourable policy initiatives such as making the ZCTU the sole labour centre in the country as well as the one union per industry policy of 1971, were clearly helpful and attractive policies that sought to create a strong labour movement. At the same time, they had political overtones because gestures such as these had the latent possibility of compromising the independence of the labour movement, and they were assiduously resisted. It was thus not surprising that trade unions were among the most outspoken critics of Kaunda's failed development strategy, for which union leaders were severely persecuted by the government (Ananaba 1969).

Kaunda's socialist economic policy failed and severely weakened his government. Correspondingly, opposition groups, including labour, were strengthened in their call for multiparty democracy. When agitations for political liberalization finally succeeded in 1990, Kaunda reversed the earlier labour policy by also 'liberalizing' the labour movement through a new Industrial Relations Act of that year. However, while Kaunda's action had the effect of disorienting labour, the policy was not of immediate threat to it because trade unionism had reached such a high level of consolidation and solidarity during the earlier two decades. Labour, under the leadership of the ZCTU, had managed to strengthen its organizational structure and was a major voice not only in the labour market but also at the national political discourse (Banda, 1997).

The 1990 law was roundly rejected by the opposition, notably the ZCTU under the leadership of Fredrick Chiluba. Labour criticized the law as an anti-union policy designed to divide the labour movement. At the same time, the congress had successfully mobilized a coalition of opposition groups to create the Movement for Multiparty Democracy, MMD. This movement was a disparate alliance of opposition groups determined to oust Kaunda. This popular movement saw the election of Chiluba as the President of Zambia. But on becoming President, Chiluba reneged on the promise to strengthen the labour movement which had been legally weakened through the 1990 Act. The contradiction soon emerged as he embraced the World Bank/IMF structural adjustment programme, SAP, which was anchored on economic liberalization. In fact, Chiluba promptly distanced himself from the trade unions, and began a regime of anti-labour policies that ultimately led to the division of the once solid ZCTU.

Under Chiluba liberalization led to massive privatization of state enterprises. Several of the enterprises were outrightly liquidated and led to extensive redundancy of workers and union members. But SAP provided no safety nets for workers who faced dismissal. In such cases, archaic laws on liquidation, dating back to the colonial era, were enforced, and were grossly unfavourable to retrenched workers (Banda, 1997). The labour policy of the period clearly sought to subordinate the trade union movement, which weakened the employment relationship. Conversely, it strengthened employers, and any role they might play in this relationship.

The election of Levy Mwanawasa as President in 2001 opened new direction from what labour had perceived as a hostile labour policy of his predecessor. Mwanawasa appeased labour by refusing to anchor his development strategy on privatization, thus assuaging the feelings of labour which had suffered a state-orchestrated split, and had also experienced massive membership loss. However, far from abandoning liberalization, Mwanawasa unconditionally embraced a free market economy. The new administration however emphasized good governance, the rule of law and compliance with ratified ILO Conventions.

The Parties and Role of the State

Labour

For a long time until the 1990s, the labour movement in Zambia was not only a united force, it was one of the most effective and influential labour movements in Southern Africa. The Zambia Congress of Trade Unions (ZCTU) was established by law in 1964 as the sole labour centre of the country. The favourable policy appeared as a reward for labour's participation in the struggle for independence, and as inducement for continued cooperation. At its peak in 1991, the congress had a total membership of approximately 480 000 in its 17 affiliated unions. However, the economic restructuring of the decade reduced its membership by over 60%, to just over 200 000. Records of the congress put the current membership at 281 554 in 29 affiliated unions in 2006 (ZCTU 2006). The ZCTU had been the only labour centre in the country since 1964. Under the principle of one union per industry, all the industrial unions were compulsorily affiliated to the Congress. This favourable policy gave the congress a formidable voice in the country's socio-economic development.

However, following the adoption of liberalization of the economy, subsequent amendments to the Industrial Relations Act started to dismantle the monopoly once enjoyed by the ZCTU. In the same period, internal discord began to manifest, leading to the leadership division at its 1994 conference where five of the biggest unions, including the two most resource-based, the Mineworkers Union of Zambia, MUZ, and the National Union of Teachers, NUT, disaffiliating.⁴ The division brought about the formation of the Federation of Free Trade Unions of Zambia, FFTUZ, which was subsequently registered by the government. The federation claimed 11 sectoral affiliates, and a total membership estimated at 50 000 in 2006. The membership was drawn mostly from the public service, local government, mining and agriculture. Overall, the two labour centres claimed just over 331 000 in membership in 2006, which translated to 67% of the total formal sector employment. But when viewed in terms of total (formal and informal) employment, union membership was a mere 8% in that year.

The formation of the FFTUZ and its registration as a competing labour centre consolidated the split in the labour movement, paving the way for the Chiluba government to ratify ILO Convention 87 on Freedom of Association and the Right to Organize. Although the general view was one of a deliberate resolve by government to break the monopoly of the ZCTU, the policy was ironically in accordance with the liberalization policy. The government subsequently enacted the Industrial and Labour Relations (Amendment) Act of 1997 to align the law with the provisions of the ILO Convention.⁵ The changing economy and associated structural transformation in the labour force have eroded the traditional membership base of trade unions. Casual or

⁴ The two unions contributed more than 50% of membership dues in the ZCTU. Other disaffiliating unions were of workers in banks, commercial and industrial and building and engineering.

⁵ Several of the unions which had split to form the FFTUZ had withdrawn their membership. In 2002, the MUZ and the commercial and industrial workers union withdrew from the FFTUZ and rejoined the ZCTU, along with a new union, the University of Zambia Lecturers and Researchers' Union, which had not been affiliated previously.

contingent workers are neither mandated to join unions, nor are employers willing to countenance their membership in unions. On the other hand, casual workers are themselves conscious of the temporariness of their employment, and are thus not motivated to join the unions.

Unions have spent more and more of their time in developing survival strategies than devoting time to vigorous collective bargaining. For example, among the strategies adopted by the ZCTU in the wake of the liberalization of the 1990s were to agree to the reduction of the workforce so as to get a reasonable increase for those who were still employed. As a union official once remarked, “sacrificing membership is one of the painful decisions a trade unionist has been subjected to under the guise of economic pragmatism” (Kasase, 1998). The ZCTU also particularly encouraged unions to merge or amalgamate in order to address employers’ hostility (Kasase 1998).

But union mergers were not a consistent union policy. For example, faced with internal division over the disaffiliation of five major unions, the ZCTU covertly encouraged splinters in the unions that disaffiliated from it. One example was the once influential Zambia Union of Financial Institutions and Allied Workers, ZUFIAW, which became the main founding member of the FFTUZ. A splinter group, the Bankers’ Union of Zambia, became an affiliate of the ZCTU! This was also true of the large teachers’ union, which split into three, one each affiliating to the two labour centres, while the third splinter remained unaffiliated. The division in the labour movement had and continue to cause intra-union rivalry at national, sectoral and enterprise levels. This rivalry undermines unions’ strength and frustrates collective bargaining, especially when dealing with unwilling employers. When unions are divided and weak, they are unable to offer any serious challenge to employers’ policies and practices, nor can they effectively provide quality service to their members and collectively have a united voice on major labour market issues that concern their members.

The division in the labour movement has lingered, despite the strong need for a united voice. Inter-union rivalries, sometimes nurtured by government policy, have precluded a desirable united voice on critical labour market and economic policy issues in the country. Trade unions’ low membership base has also disabled them from remaining active, particularly when a large proportion of workers are engaged under contingent employment terms. The hostility of employers to unionization has caused a chilling effect on the unions’ capacity to organize. Furthermore, unions have done very little to educate workers on the usefulness of trade unions nor have they set aside any budget for training, depending mainly on donor resources.

Employers

The Zambian Federation of Employers, ZFE, was established in 1965 as the main voice of employers on labour market issues. At its peak in 2001, the federation had a total individual membership of 320 enterprises, a figure estimated to be far less than half of its potential membership. As at 2006, the membership of the federation was about 200 enterprises. Individual membership category is drawn mostly from the large and medium-size enterprises, while 15 sectoral associations exist across industry. Very few of these sectoral associations now engage in collective bargaining, for the law no longer embraces negotiations at industry level, employers have preferred to relate individually with their workers, either engaging the unions in collective bargaining at the enterprise level, or through the human resource management policy that emphasizes individual employment relations.

Like the trade unions, the decline in the membership of the ZFE was due in part to the collapse of businesses in the late 1980s and 1990s, and in part to the preference of the 'new' investors who had shunned membership in the ZFE. In such cases, they had discouraged and, or in other cases, promoted a non-union relationship. Not surprisingly, they preferred individual contracts as opposed to collective relations. There are currently other internal and external threats that complicate the status and role of the ZFE. One is the growing preference of employers for other business associations that have the capacity to influence public policy. Specifically, several employers have opted to join employers' bodies, such as the chambers of commerce, which are perceived to have greater capacity or clout to lobby for policies favourable to business. Another is the perception that government consults with other business bodies on issues normally considered to be within the mandate of the ZFE. Very often the latter is left out of such meetings. This is still an unfolding development. The real intentions of the government remains to be seen in what is being perceived so far as a 'divide and rule' policy. A recent case in point was the unsettling proposal to scrap the redundancy package, after consultations between government and other employers' bodies.⁶

But these challenges are hardly surprising because historically, the ZFE has been the weakest in the tripartite relationship. Apart from the aforementioned explanations, a number of reasons account for the relative weakness of the federation. These include the low level managerial leadership at its secretariat, which is made worse by the rapid turnover and the reluctance of the leading employers to fully support the federation. This might have been associated with the lackadaisical attitude of the federation's political leadership to give the required strategic direction. The perspective of the individual employer, whether with regard to membership of the ZFE or to developing an employment relationship with the workers' organization, presents a curious but understandable dilemma. Several of the employers have come from South Africa, where trade unionism is an entrenched institution, and where unions have been contributing to labour market governance and national socio-economic development (Fashoyin and Zampini 2007). Several of the employers in Zambia, including those of Asian and Lebanese origin, have shown their dislike for unions.

Employers in the country were at the forefront of decentralization of collective bargaining, in effect foisting this policy on labour. The first major effort towards decentralization was taken by the banking and financial sector, when in July 1997 the Bankers Association of Zambia voluntarily dissolved itself. In effect, the decision freed its 17 member-banks and other financial establishments to deal with workers' organization on individual basis (Fashoyin 1998). The onus however rests with the ZFE to organize itself in a manner that appropriately responds to the realities of the changing economic and political landscape. It needs to educate employers generally to adopt favourable employment policies that have the capacity to strengthen employment relations for productivity and performance.

The role of the state

Apart from constitutional guarantees of freedom of association for all citizens, the role of the state in the employment relationship is ensuring that appropriate laws are enacted and fully implemented. Thus the legal framework of employment relations in Zambia is

⁶ Information obtained during interviews conducted in Lusaka on 24 July 2007.

the Industrial Relations Act, first introduced in 1964, with fundamental revisions in 1971, and further significant revisions in 1990, 1993 and 1997. The 1993 Industrial Relations Act is particularly significant because it was designed to support the implementation of economic liberalization. There are of course other legislative regimes that regulate other aspects of the labour market, including the Employment Act, which is at the centre of the casualization and contingent employment. The Minimum Wage and Conditions of Employment Act was designed to apply to workers who might not be covered by collective bargaining, while the Factories Act provides minimum safety and health requirements in the workplace. The National Pensions Act was designed to provide some form of social protection for employees in the event of cessation of employment on account of disability, retrenchment or old age. Through this legal framework and its implementation, the state influences the conduct of the employment relationship.

Clearly, there have been genuine gestures on the part of government to strengthen the unions in their relations with employers. The enactment of the Industrial and Labour Relations Act of 1971 which provided for one union per industry, which made it compulsory for the unions to be affiliated to the ZCTU was one such support. In addition, the establishment of the JIC was a major public policy initiative in support of trade unions and collective bargaining. The law required enterprises employing 25 or more workers to recognize unions and bargain with them. Furthermore, a proposed reform will reduce the number of workers required to form a union from 25 to 10 workers, in anticipation that this initiative would broaden the collective bargaining process. The pending reform may also streamline the process of union registration.

On the other hand, public policy which seeks to 'liberalize' the employment relationship has in a very significant manner weakened the foregoing policies. Thus in 1997, the government amended the Industrial and Labour Relations Act, which apart from aligning the law with the international labour standards, also removed the compulsoriness of the Joint Industrial Council, JIC, and allowed employers the freedom as to whether or not they wanted to conduct collective bargaining at the industry-level, or individually at the enterprise level. This policy reversal in effect decentralized collective bargaining to the enterprise level. This reversal of policy (by the Chiluba administration) was made, seemingly to enhance the attractiveness of the privatization policy, but it also had the effect of weakening the capacity of trade unions to effectively conduct collective bargaining, particularly with reluctant employers. Interestingly, the so-called pro-labour policy of the Mwanawasa administration has embraced this policy thrust, essentially for the same reason; to attract FDI into the country. But not only are employers' response not in favour of enterprise bargaining, they have opted for individual contracts. This has contributed to the enormous growth of contingent or casual employment.

A glimpse at the personnel profile of one Chinese firm illustrates the challenges facing labour organization in the emerging enterprises in Zambia (Muneku and Koyi, 2007). Of the company's 2112 workforce, only 52 Zambian workers were permanent and unionized. Another 180 Chinese were also permanent but were not unionized. The majority of the workforce, numbering 687, was on contract of periods ranging from 1 to 5 years. There were 100 casuals. In addition, some 1093 casual workers worked in the company for several Chinese sub-contractors. Since contract workers are temporary, it can be assumed that over 72% of the workers were either in the casual category and non-unionized. An insight into the employment terms for the contract workers tells why this category of workers might not find unionization appealing. Muneku and Koyi (2007, p.24) explains:

“...the company ... attempted to impose on these workers its extremely unpopular ‘scientific encouragement scheme’ whereby half of worker’s salary is delivered in a fixed amount and another chunk ‘floats’ according to management’s assessment of the performance of the company ... the worker’s division and the individual.”

In dealing with the extensive casualization, the government appears to have some sympathy to pressures from labour and some employers on the need to amend the Employment Act, to the extent of inserting unambiguous provisions that workers would have fixed term contracts after a specified length of employment. Such a policy may benefit the unions, but it is yet to be approved by the government. If adopted, it remains to be seen whether the government has the capacity to enforce it, or to faithfully do so.

The reference to the capacity or willingness of the responsible government authority is clearly a key to a favourable and supportive role of the state. For one thing, there is no clear evidence that government wanted to go beyond setting minimum legislative framework for employment relations. Even in this area government has demonstrated its readiness to exempt foreign investors from coverage by certain labour provisions, in compliance with development agreements with such investors (Muneku and Koyi, 2007). Gestures such as this always compromise job quality, or results in decent work deficits for workers. For another, the capacity of the labour administration system to enforce policies is weakened by the severe shortage of personnel in the ministry of labour. For example, of the 72 administrative districts in the country, only 21 of them are effectively manned by labour officers for inspection and monitoring the employment relations in enterprises. This means that employers outside the labour ministry’s coverage have the freedom to conduct their employment relations uninhibited or the surveillance of the labour ministry. This lack of attention to the capacity deficit in the ministry, coupled with the lack of resources to carry out its functions, sharply contradicts a recent government policy in 2005 that upgraded the labour ministry to an ‘economic’ status. This has allowed the labour ministry to join the exclusive club of key government departments responsible for macro-economic policy-making.

Employment Relations Processes

Apart from the discussion on the principal actors in the preceding section, three key labour market institutions and processes are of fundamental importance in the contemporary state of employment relations in Zambia. These are collective bargaining, trade disputes and their settlement, and workers' participation in the undertakings. Together they illustrate the thrust and direction of public policy on labour, as they define the status and role of employers and workers, and their respective organization. They also point to the challenges and prospects for employment relations in the country. These elements are discussed sequentially in the present section.

Collective bargaining

Public labour policy on collective bargaining in Zambia is arguable one of the most progressive policy regimes in Southern Africa. Under the legal framework, workers' organizations have long been granted the right to organize for collective bargaining purposes in both the private and public sectors. In Zambia, any group of 25 workers or more have the right to enter into a recognition agreement and bargain collectively on behalf of the workers. As noted, the Industrial Relations Act of 1971 introduced centralized collective bargaining at industry level, which was hardly a surprise in a centrally planned economy. But this structure was also good for the nascent trade union organizations, which had limited capacity, resources and experienced leaders who could not match the relatively more experienced and better resourced employers at the enterprise level.

To institutionalize centralized bargaining, the same law created the Joint Industrial Council system, JIC, as the machinery for employers and workers' negotiation on wages and other employment conditions. This structure allowed collective bargaining between, on one hand, an industry-based union and a group of employers in the particular industry. A particularly supportive provision allowed all workers, irrespective of their union membership status, or workers in an enterprise which was not a signatory to the agreement, to be covered by the industry agreement. This provision was a critical incentive for workers to join the industry union, or for every employer to join the sectoral employers' group in the negotiations process. Partly as a result of this favourable public policy, collective bargaining gained firm root in the key economic sectors, notably transport, mining, manufacturing, financial services, security and agriculture, as well as the public sector. Largely as a result of this positive public policy gesture, it was estimated that nearly 80% of workers was covered by collective bargaining in the 1970s and 1980s.

However, since the introduction of liberalization, collective bargaining has faced difficulties in the private sector, and indeed in the public service. While hard facts are difficult to come by, cursory evidence as given by the actors show that collective bargaining is today limited to the mines, financial institutions, agriculture, and the public service. In the expanding service and manufacturing sectors, and generally in the small and medium enterprises, collective bargaining is virtually non-existence. For one thing, the significance of the JIC changed dramatically when the law was changed in 1997. While not removing the JIC, the law sought to liberalize collective bargaining by allowing

individual employers to negotiate with their workers. As suggested earlier, by introducing this provision, the government has wittingly demoted collective bargaining. For another, the new investors in the country have shown little interest in a concerted approach to labour relations issues, preferring instead individual contracts and also extensively using contingent forms of employment. The inspiration for these practices has ostensibly been drawn from the flexibility of public policy.

Today, apart from government, as employers of labour, only a few JICs exist in the private sector - in mining and agriculture. In fact, as the unions argue, some employers who claimed to operate within the industry (JIC) agreement are in actual fact offering individual contracts to their workers. The fact that the inspection capacity of the labour ministry is limited and inefficient removes the possibility of monitoring such employers. In agriculture, a prevailing habit among employers is the setting of the collective agreements at the level of the minimum wage, a practice which renders the negotiation process a frustrating exercise and also unattractive to trade unions.

Collective bargaining in the public service. As a major employer of labour, government's relation with workers is important in the overall thrust of the employment relationship in Zambia. In the public sector government had promoted collective bargaining for qualified public servants as far back as 1961 (Fashoyin 1998). Collective bargaining is therefore extensively used, covering over 90% of eligible workers. In this regard, it can be assumed that labour relations in the public service have enormous influence on the overall employment relations system in the country.

Collective bargaining in the public service is also undergoing considerable strain as government sees a connection between its own employment relations practices and the private sector's response in the overall national economic development. Government's resolve in what appears to be an unofficial policy is to discourage 'excessive' labour wage demands which might be a disincentive for FDI. Government does this particularly through its own collective relations with public service workers. For example, the Chiluba administration in 2001 imposed a controversial wage freeze on government workers, seemingly to pre-empt the negotiations that were envisaged in the private sector, which would have caused considerable disruption to the privatization policy of the government. The present Mwanawasa administration has followed this orientation, such as the 2003 reversal of a pay rise for public sector workers, in violation of a tripartite agreement between government, labour and the IMF. Surprisingly though, the government soon imposed an IMF-inspired wage freeze in 2004 which annoyed labour so much that they embarked on the first national strike of the present decade (EIU 2007).

Further, negotiations in the public services have been similarly incongruous in part because the public employer negotiates after the budget, which constrains the readiness of the employer to grant workers' demands. In part, it is related to employers' failure to mandate their negotiating team to commit the government at negotiations. This had been an old practice, but has acquired prominence in recent years, as the political authority has increasingly kept to itself the decision on what level of concession to grant to workers; the negotiators often do not know their principals' upper limit. It is needless to say that this practice frustrates the two sides in the negotiation process. In 2006, government's response to workers' demand of a 25% increase for 2007 was met with resistance. The acrimonious negotiations ultimately moved the employer's offer of 8% to final awards of between 14 and 16%.

Trade disputes and their resolution

The post-independence period up to the early 1980s was an extremely conflictual phase in the employment relationship in Zambia. This period marked high political confrontation between the government and labour, over the independence of the latter, and also over the introduction of an incomes policy that saw considerable squeeze on wage bargaining, with government calling for wage moderation, despite the prevailing high cost of living (Banda 1997; Fashoyin 1982). In both cases, the strikes of the period were to serve both economic and political ends, and the requirement to make any negotiated agreement subject to a ministerial approval was fiercely resisted by the unions.

The 1990s onwards represented one of the notable confrontations between the government and trade unions. As economic conditions worsened and job insecurity manifested across all economic sectors, rampant workers' actions were undertaken over late or non-payment of terminal benefits in the privatized firms. The absence of safety net measures to mitigate the negative effect of economic restructuring contributed to poor labour relations (der Geest & der Hoeven 1999). The strikes of the past decade 1995-2005, have been fewer and for relatively shorter durations. During the period 2001-2005, for example, the number of strikes averaged 19 annually.⁷ A very high proportion of the strikes of the period occurred in the public service.⁸ One notable characteristic of workers' action during this period was their spontaneity. Precisely because of this, such actions were taken without compliance with the prescribed settlement procedures. All such strikes of the period were illegal.

The procedure for resolving disputes are set out in the Industrial and Labour Relations Act. It calls for third party conciliation chosen by the parties, and only where the parties fail to appoint consensus conciliator(s) will the minister make the appointment. A dispute which is not settled through conciliation goes to the Industrial Relations Court, whose award is binding, except where a party appeals to the Supreme Court. The alternative route allows a union to put a dispute to a strike vote, or a notice to lockout in the case of the employers. A legal strike may take place after a 10 day 'cooling off' period, although for the aforementioned reason, a legal strike at this point is highly unlikely.

The processes of dispute resolution have been put under considerable strain in the implementation of economic reforms. A case in point was the award by the Industrial Relations Court of a 45% increase to public sector workers for 1995 (Seshamani and Kaunga 1999). This award was in addition to an earlier government award of 30%. However, after going through the dispute resolution machinery, the government subsequently refused to honour the award, describing it as an 'irresponsible' award capable of derailing the budget. Cases such as this give courage to unions to ignore the statutory procedures and to embark on strike even when legal strikes are practically impossible in the public service (Banda, 1997).

Although the records show appreciable 'improvement' in labour relations that has accompanied economic growth, this masks continuing workers' discontent, as poverty and unemployment remain high. The state of joblessness has been accentuated by the incidence of casualization and the reluctance of investors to engage in collective bargaining. Where bargaining takes place, the process has been protracted, and the

⁷ Annual Reports of the Ministry of Labour and Social Security.

⁸ In 1999, for example, 42% and 65% of all strikes in the country took place in this service.

mandated strike ballot requires cumbersome steps that tend to frustrate labour leaders. Generally fewer workers have engaged in strikes, which had been of relatively short duration. Thus, while this record can be adduced to the effectiveness of the dispute machinery, the threat of job loss, the precarious nature of casual employment and the uncertain outcome of a workers' action have undoubtedly created a climate of relative industrial peace.

Participation and social dialogue

Zambia had a unique and unrivalled model of workers' participation in the post-independence Africa. Worker participation, through the works council system was introduced by the Kaunda administration under the Industrial Relations Act of 1971. The councils provided voice to workers in their relations with management for mutual benefits, particularly in so far as health and safety, efficiency of operation and better working conditions are concerned (Banda, 1993, Nyirenda and Shikwe, 2003). Works' councils were not intended to supplant the union. To ensure this, they were encouraged in workplaces where there were no unions or the workforce was less than 100. Throughout the 1970s and 1980s Joint Industrial Council functioned side by side of the works' councils. But the former was more an institution used by trade unions for negotiations on wages and employment conditions with management. In this regard it served as a forum for bipartite participation and consultation at the industry level. There was, however, an uneasy relationship between works' councils and trade unions, as the former either dabbled into areas where the unions should operate through collective bargaining, or employers used works councils to frustrate collective bargaining. It was inevitable that works councils were phased out in 1993, under the Industrial and Labour Relations Act of that year.⁹

While the collapse of the works councils gave way to collective bargaining as the main means of workers' participation, bargaining did not fully substitute the concept of the former. Collective bargaining has the specific objective of reconciling conflicting interests, through negotiations with management on wages and employment conditions. However, the intensity of the bargaining machinery has waned in the era of free market economy. In other words, the collapse of the works council system and the non-mandatory nature of JICs have limited consultation with workers to the vicissitudes and the uncertainties of enterprise negotiations. In effect, the majority of workers have no forum for consultation and participation on work related issues at this level. It is not surprising that management and labour leaders lamented before this author that the lack of consultation or the institution for it are partly responsible for most workers' action, particularly in the private sector.

Tripartite consultation and social dialogue. Apart from the collective bargaining process which has served primarily as a mechanism for the determination of wages and conditions of employment at enterprise or industry level, the other important participatory mechanism is the tripartite process. Tripartism was instituted under the Industrial and Labour Relations Act of 1993, which established the Tripartite Consultation and Labour Council, TCLC. This institution was intended to serve as the forum for dialogue on broader social and economic development issues.

⁹ In public parastatals, there are provisions that allow the appointment of workers to the management boards, in organizations such as NAPSA, at the national level.

In fact, the creation of this body was crucial to the liberalization programme as it was intended to allow for tripartite dialogue on the formulation and implementation of policies during the period. Unfortunately, it did not serve this purpose; rather it was involved only in discussions around how to cushion the consequences arising from job losses and possible palliatives for workers (Fashoyin, 2001). However, the TCLC has functioned reasonably well in recent years, particularly in dealing with labour market governance issues, despite the gulf that exists in the positions of the parties on the extent of labour market flexibility that should accompany the reforms. The failure of the TCLC to address the core policy issues as intended, has repeatedly drawn the ire of labour leaders, who periodically remind the government that the forum was created for consultation on the broader issues that influence the labour market.

Apart from the lack of a tradition of consultation between government and the social partners on issues of macroeconomic governance, the fear that a laissez-faire approach might derail government plans is not inconceivable. But perhaps the main issue in failing to achieve this broader consultation on the core economic policies may have to do with the structure of the TCLC itself. For a long time, its membership was confined to labour, employers and the labour ministry, even though from time to time representatives of other government departments are invited. More often than not, representation of this kind are irregular and often at junior level. On the workers' and employers' side there is equally the absence of other interest groups outside the organized labour, particularly the informal economy operators and the small and medium enterprises in the social dialogue forum.

What is required is a structural reform of the TCLC that brings on board membership of the key government departments, such as finance, economic development, trade and industry, as regular members of the body.¹⁰ In other words, if the deliberations at the TCLC are to constructively contribute to labour market governance, there is the need to bring these departments into the dialogue over issues of social and economic development that influence the labour market. Equally, it would be useful to ensure that informal economy operators are given space in the consultative process.

¹⁰ The recent classification of the labour ministry as an 'economic' department of government will on its own not achieve this purpose.

Emerging Issues and Challenges in Employment Relations

Policy reforms during the past four decades have had profound impact on the employment relationship in Zambia. Initially, public policy had provided a highly desirable support for labour market governance, particularly the development of trade unions and employers' organizations. It had also supported participatory processes of collective bargaining and voice mechanism. The advent of market-oriented economic reforms that began in the early 1990s provided the basis for reorienting labour market institutions and processes to the evolving dictates of the market economy. At the same time, these processes have willy-nilly tended to obliterate the gains in organizational rights of labour and the voice mechanism. The policies of this period appeared to call to question the very foundation of employment relations in the country. Three notable consequences that appear critical to the developing orientation of the employment relationship have emerged, and are important to each of the tripartite partners.

The first concerns the phenomenon of casualization or contingent employment, which is highly pervasive in the private sector. As is practiced in Zambia, casualization undermines public policy intended to create flexibility in the labour market. It fundamentally alters the processes and goals of employment relations, in consideration of its adverse effects on income and employment security. It encourages unattractive employment conditions and undermines the rights of workers to freedom of association and the right to collective bargaining. No trade union movement can expect to effectively carry out its functions where public policy or operational encumbrances denies it to organize and carry out collective bargaining functions. Tripartite initiatives to close identified gaps in policy have stalled in the dialogue process, seemingly because of the uncertainty in government of the effect any changes might have on the country's investment and industrialization programmes.

The second invariably constitutes perhaps the greatest threat to the employment relationship, and concerns the informalization of the labour market in Zambia. As shown earlier, structural adjustment and liberalization have had the contraction in formal sector employment, and in turn the unprecedented growth of the informal economy (ILO 2002). It is a historical fact that this employment type did not appeal to trade unions, simply because it was not cost-effective to operate in an uncertain terrain where the nature of the employment relationship is blurred. And while there are no concrete empirical details on the nature of informal employment in the Zambian economy, it is evident, as shown earlier in this paper, that about 90% of the labour force operates in the informal economy. In fact, it is hardly an exaggeration to say that, in Zambia, the informal employment has invariably swallowed the formal employment.

As ILO (2002) sources have indicated it is no use denying the reality of the informal economy in the developing countries. The ILO therefore calls for realistic and constructive policy initiatives that recognize the contribution of this source of employment to national development. It goes further to call for compliance with minimum labour standards in this huge source of gainful employment. While the challenge is both to the state and labour, it would appear that definitive policy initiatives in this area are critical to the future of trade unions.

The ZCTU was among the first labour centres in Southern Africa to recognize the challenge and opportunities offered by informal employment in strengthening its membership base which had been eroded as a result of economic liberalization. In 1994 the congress amended its constitution to allow it to organize the informal workers. It also laid out plans to assist informal operators on how to run businesses, provide legal services, and work towards the extension of social protection to such workers (Fashoyin 1998). In recent times, the congress has been helping informal workers – marketers and transport workers for example, to organize and has provided skills and organization training. Informal workers are being encouraged to form an association for the much needed voice, and are being provided with vocational skills and organizing strategies and they have admitted this body as an associate of the congress. The ZCTU effort seems negligible considering the enormous size of the informal activity in the economy and the potentials for membership recruitment and greater voice in the national economy.

The third is that the foregoing have been the cause and effect, or contributed to the noticeable capacity deficits in each of the tripartite partners in dealing with the challenges posed for employment relations in the country. These may have contributed to the increasing capacity deficit, particularly for labour and employers, in dealing with the challenges brought about by public policy. The wavering posture of the public authority in giving unequivocal support for the enforcement of existing labour standards, the lack of employers' support for collective employment relations, coupled with the inherent lack of knowledge on the part of labour to actualize their rights even within the context of the existing labour laws, are issues that are inimical to employment relations in Zambia.

The capacity deficit is particularly deep in the ZFE, and deserves urgent attention if the federation is to improve its service delivery to members. There is also the need to extend its services beyond traditional confines – to cover the strategically important and employment intensive SMEs – as well as call for the recruitment and retention of competent professionals at the federation's secretariat. Such services could include measures to ensure more favourable public policy on market access, productivity improvement and enterprise performance within the ambit of international labour standards. This strategic approach could help persuade employers on the value of membership to the federation.

Conclusion

Employment relations in Zambia have undergone dramatic transformation during the past two decades. The transition from a centrally planned economy to free market created considerable acrimony between the government and labour. The emerging labour market has introduced flexible employment policies among employers whose interest in collective employment relations is generally insignificant. A combination of these developments constitutes challenges to the very foundation of the employment relationship in the country. Thus, while earlier public policy was supportive of the organizational rights of workers to freedom of association and collective bargaining, contemporary policy has been a source of major challenges in a market-oriented economic regime. The role of the state, while contributing to the smooth conduct of employment relations, is also the source of major confrontations in the labour market. Both the conduct of government as the regulator of employment relations, and as an employer may be a disincentive to other employers of labour, in engaging in constructive collective relations with workers.

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