

**LABOR INSTITUTIONS, LABOR-MANAGEMENT
RELATIONS AND SOCIAL DIALOGUE**

by

Philippe Alby^a, Jean-Paul Azam^{a,b} and Sandrine Rospabé^c

a : University of Toulouse and ARQADE;
b: Institut Universitaire de France and IDEI ;
c : University of Rennes, CREM.

October 5, 2005

Executive summary

Whereas labor market institutions and their influence on wages, employment and basic workers rights have been largely studied in developed countries, there has been little systematic analysis in the African context regarding these relationships. A widespread view however is that labor market institutions, including those that ensure labor-management relations and support social dialogue, are generally weak on the African continent. The aim of this paper is both to describe the labor market institutions that prevail in Africa and to analyze to which extent the legal framework is reflected in the actual pattern of behavior. Hence, labor market institutions are in fact a complex blend of formal and informal sets of constraints and incentives that shape the functioning of the market.

The paper first discusses how the official regulatory framework is really enforced in African countries and the way it affects firms functioning. It then focuses on trade union activity and investigates how it may influence labor market outcomes as well as poverty. After describing employers' organizations, the paper ends up with an analysis of the different forms of social dialogue either through bipartite collective bargaining and cooperation or through tripartite dialogue.

The regulatory framework

The examination of the main forms of labor regulation that prevail in African countries puts forward that even though a huge majority of African countries have ratified the International Labor Standard Conventions, a substantial gap remains between the ratification of ILOs conventions and national laws on the one hand and between national laws and their enforcement in practice on the other hand.

As far as collective relations laws are concerned, evidence shows that the right to organize is often limited to a small portion of workers as in some countries labor laws prevent civil servants to organize or limit their bargaining power. In most countries workers in agriculture or in the informal economy, a major part of the labor force, do not benefit from the right to organize. Moreover, the right to strike is often violated in practice in Sub-Sahara African countries. Looking at workers' civil rights, the picture is contrasted when dealing with the elimination of discrimination or the abolition of child labor. Besides, most African governments appear not to enforce strict compliance with minimum wages. When they do, the consequences on employment and poverty largely depend on the level of minimum wage compared with the average wages and on the degree of coverage of the labor market.

On an other hand, the employment laws, which regulate the individual employment relation, seem to be rigid in most African countries, in terms of difficult of hiring as well as in terms of the rigidity of working hours. In countries where these rigidities take place, they are perceived by firms as worrying obstacles that reduce economic opportunities.

When globally looking at labor regulation, labor law appears to be the result of a bargaining between three interest groups, namely trade unions, employers' organizations and regional or local government, with a perceived stronger bargaining power on the employers' organizations side. Furthermore, legal traditions have a substantial impact on the patterns of regulation of labor markets. Common law countries experience more flexible employment laws and higher union density than civil laws countries. Hence, union density seems to be a response by the workers to a more flexible legal framework.

Workers' organizations and patterns of unionization in Africa

African labor markets are far from reaching a level of union membership as high as the one observed in many developed countries. Indeed, African countries experience very low level of wage employment, which constitutes the main base of trade unions. Moreover, given the costs of organizing workers in geographically-dispersed rural areas, the locus of unionism is in urban areas and, within urban areas, in the formal economic sector that comprises "the wage-paying non-agricultural private firms and the public sector". This "modern" sector has been much eroded by the economic reforms and the liberalization process which took place from the 1980s on the African continent. Unionization in the manufacturing sector turns out to be highly heterogeneous across countries as well as positively linked to the firms' size and dependant on their ownership structure.

As a result of this low unionization rate, the influence of trade union on labor market outcomes is weak. The few available estimates of the union wage premium show that union power is highest in the countries experiencing strong level of union membership. Besides, there is some evidence of spillover effects to non-union members in a few countries. In some African countries, unions seem to play a substantial role in reducing wage inequality as well as wage discrimination, by gender and by racial group. Furthermore, some large trade unions have been involved in the Poverty Reduction Strategy Papers process taking place in many African countries.

African workers' organizations are facing two major challenges. First, in order to counter the erosion of their membership, made up mainly of blue-collar workers, they have to unionize senior staff and professional workers. Second, enlarging their sphere of influence also requires organizing the informal sector. Indeed, the urban informal sector tremendously increased during the past few decades but remains largely unorganized, mostly due to its heterogeneity both in terms of activities and employment status and because most informal firms operate on a small-scale and often unstable basis. However, in many countries, informal workers' associations have been established, sometimes with the support of formal trade unions, mainly to overcome business constraints rather than defending workers' rights. In addition, a number of African trade unions are developing policies to enhance the recruitment and organization of informal sector workers.

Employers' organizations in Africa

In most African countries the common wisdom during decades was that only the State could mobilize an "organized total effort" as a compelling development need. This notion of development implied the co-optation of employers' organizations. Under such an arrangement, employers' organizations forgo their legitimate right to protect their interests, and in return, the government grants them certain privileges. Moreover, following the predominant role of the State, the largest employer in most African countries is the government itself, decreasing de facto the weight of private entrepreneurs' organizations in most negotiations and decision-makings. However, the 1990s have brought an emerging consensus that conditions of political liberty are essential for enhancing economic opportunity. Furthermore, the current trend towards privatization and market liberalization is reducing the role of government. Such trends have opened the door for independent, representative and economically influent employers' organizations.

Indeed, the examination of employer's organizations membership in the manufacturing sector of a few African countries shows that, on average, membership rates are quite high and strongly correlated with the firms' size as well as with their ownership structure. Member firms report that the most important service provided by employers' organizations is the supply of information concerning current or new government regulations.

Links between employers' organization and the informal sector remain weak. The majority of employers' organizations see the informal sector as unfair competition. Most employers' organizations see their key role as assisting the migration of informal enterprises into the formal sector, though this is not always seen as a high priority. The employers' organizations use their influence to remove regulatory obstacles to small and medium-sized enterprises development, which seem most pronounced, and most entrenched as bases for bribery and similar corruption in African countries.

Social dialogue, collective bargaining, labor-management relations in Africa

Bi-partite social dialogue takes place first through collective bargaining institutions. In many African countries, public policy designs had tacitly promoted sectoral or industry level bargaining relationship, ostensibly to create some sort of stability in labor relations. Hence bargaining at the industry level has been a major feature of the collective bargaining system. However, despite this support of public policy for centralized bargaining, the dominant level of collective bargaining in some African countries remains the enterprise level. Collective bargaining coverage rates are quite low and largely dispersed across countries. Bi-partite social dialogue also occurs through labor-management cooperation. Workers' involvement in the work life and joint decision making schemes have been observed in only small number of countries. Turning to the dispute resolution process, in many African countries, dispute resolution processes have been dominated by the State via the Ministry of Labor, usually through its conciliation and mediation services. Labor Courts have been established to resolve disputes that could not be settled by the government machinery. During the past decade, strike activity, when figures are available, seems to be significant in only a small number of countries.

Many African countries have introduced tripartite cooperation framework as an essential mechanism for reaching good labor relations, increasing productivity as well as a means of building consensus on socio-economic issues. As a result, institutional structure such as the Labor Advisory Council (or board or committee) have been created in practically all English-speaking African countries in the post-independence period. These labor advisory bodies have been effective in dealing with issues of ratification of international standards, as well as the review of national legislation. However, they share some common limitations. First, their scope is often limited: their advisory nature tends to discourage effective participation among the social partners and there is a tendency to confine consultation to pre-determined labor issues. Second, in some African countries, tripartite consultations have been a kind of state-controlled arrangements where the social partners were co-opted into the socio-economic decision-making process.

Main policy recommendations

Survey data show that firms distinguish clearly between labor market rigidity and regulation. For example, although hiring and above all firing problems are widely perceived as a major obstacle to firm development, they are not necessarily blamed on regulations. The divergence

between the two indicators may reflect both the differential level of enforcement in different countries, and the fact that employment protection is often performed directly by trade unions. Moreover, a trade off between labor market regulation and union density seems to come out of the data. Therefore, de-regulating the labor market is not necessarily the best way to implement the much needed improvements in labor market flexibility in Africa.

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Labor Institutions, Labor-Management Relations And Social Dialogue

“[...] there is usually a gap of 30 percent or more between capitalist wages and subsistence earnings. [...] it may itself represent a difference in conventional standards, workers in the capitalist sector acquiring tastes and a social prestige which have conventionally to be recognized by higher real wages. That this last may be the explanation is suggested by cases where the capitalist workers organize themselves into trade unions and strive to protect and increase their differential.” (Lewis, 1954, p. 410-411).

As illustrated by the excerpt from Lewis’s seminal paper presented above (Lewis, 1954), the importance of trade unions for economic development has been recognized at the outset. In that model, the wage gap secured by unions slows down economic growth by reducing the level of profits that can be reinvested in the expanding capitalist sector. In fact, Lewis’s estimate of the union wage premium (“30 percent or more”), turns out to be a gross underestimate in many cases. Whatever premium there is, the wage gap between the formal and the informal or “subsistence” sector has been widely recognized as a major issue to be addressed by any development program in Africa. Very different attitudes have been adopted by various governments towards the trade union movement, ranging from union bashing to co-optation into the ruling circles.

The present paper describes the labor market institutions that prevail in Africa, and illustrates their diversity. To a large extent, the latter results from the wide gap existing between the legal or regulatory framework supposed to prevail in some countries, and the actual pattern of behavior that can be observed. Hence, labor market institutions are in fact a complex blend of formal and informal sets of constraints and incentives that shape the functioning of this market. The paper first discusses how the official regulatory framework is really enforced in some countries. It then briefly recalls the historical steps that led to the current situation, before describing the institutional framework in which labor-management relations are embedded nowadays. While an exhaustive description of the labor institutions prevailing in all the African countries is impossible, the paper provides a broad picture of the institutional framework that can be found in a large number of them, taking due account of their diversity. Beside examples taken from various parts of Sub-Saharan Africa, the paper deals in greater detail with the cases of Côte d’Ivoire, Ghana, Kenya, and South Africa. With the exception of Ghana, these countries were at times regarded as carrying the main hopes for industrial development south of the Sahara. The case of Ghana is added, in order to provide an example from a lower income level.

1. THE REGULATORY FRAMEWORK

Why do governments intervene in the labor market? The theory underlying most interventions is that free labor markets are imperfect, and that as a consequence there are rents in the employment relationship, and that employers abuse workers to extract these rents, leading to both unfairness and inefficiency. For example, employers discriminate against disadvantaged groups, underpay workers who are immobile or invest in firm-specific capital, fire workers who then need to be supported by the state, force employees to work more than they wish under the threat of dismissal, and so on (Botero et al., 2003). In response to the perceived

unfairness and inefficiency of the free market employment relationship, nearly every state intervenes in this relationship to protect the workers.

Regulation of labor markets aiming to protect workers from employers takes three forms. First, governments forbid discrimination in the labor market and endow the workers with some “basic rights” in the on-going employment relationships, such as protection against forced labor, protection against gender or race discrimination, or protection for working children. Second, in response to the power of employers against workers, governments empower labor unions to represent workers collectively, and protect particular union strategies in negotiations with employers. Finally, governments regulate employment relationships, for example restricting the range of feasible contracts and raising the costs of both laying off workers and increasing hours of work.

In the first part of this section we investigate the first two forms of labor regulation, *i.e.*, basic civil rights and collective relations laws in Africa. Then in a second part we analyze the features of employment laws throughout Africa. Finally, we try to investigate the determination of labor regulation.

1.1. Collective Relations Law and Workers’ Civil Rights

Note from table A.1 (in appendix 1) that a huge majority of African countries have ratified the International Labor Standard Conventions. The ratification rate goes from 80.5% for Convention No 138 involving the effective abolition of child labor to 100% for Convention No 29 that suppresses the use of forced or compulsory labor in all its forms. However, we underline in this section the huge gaps between the ratification of ILO’s conventions and national laws on the one hand, and between national laws and their enforcement in practice on the other hand.

1.1.1. Freedom of Association and Collective Bargaining

Right to Organize:¹ In a large number of countries (like Benin, Botswana, Niger, Rwanda, Senegal, Zambia and so on), even if the Labor Code recognizes the right to organize, it should be kept in mind that the majority of workers are excluded from the Labor Code because they work in Agriculture or the informal economy, where the Labor Code is usually not enforced.

Civil servants do not have the right to organize in several African countries (Gambia, Kenya, Lesotho, Mozambique or Zimbabwe). In Botswana for instance, public servants and teachers cannot form trade unions but only associations with low collective bargaining power. In Cameroon, the Labor Code mandates separate procedures for private and public sector workers to form a union, and it is illegal to form a union that includes both public and private sector workers. The right to organize can also be denied to workers working in so called “essential services” like in Madagascar, Nigeria or Uganda. The problem is that governments often have the power to define sectors in which trade unions can exist (Sudan).

In some countries (like in Eritrea and Ethiopia for example), the freedom of organization applies only if it conforms to national security, public safety, economic well-being, health or morals. Moreover, the labor law prohibits trade unions from acting in an overtly political

¹ Convention No 87 (1948) stipulates that workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organization concerned, to join organizations of their own choosing without previous authorization.

manner. Of course, this gives huge degrees of freedom to governments to deny the right to organize. These kinds of legal requirements can reach some extreme cases, like in Swaziland, where the role of allowed trade unions is restricted to the supply of advices and services.

Trade Unions' Registration: Even if the right to organize is fully recognized by the national law, trade unions' official registration can be an obstacle that considerably shrinks the freedom of organization in practice. In several African countries trade unions have to register with official organs (Minister of Civil Liberties in Burkina Faso, Ministry of Justice in Angola, Minister of Labor in Nigeria or the Ministry of Interior in Senegal), implying possible government pressures to deny some trade unions' existence.²

Sometimes lengthy and complicated procedures can slow down trade unions' registration. In Cameroon for example, unions face onerous procedures and the registration requirement is used in practice by the Government to withhold recognition of trade unions. Moreover, to set up a trade union requires producing job descriptions signed by the employer, as a precondition for the registration of the union. This makes it impossible for informal sector workers and independent or self-employed workers to form a union. This requirement has increasingly become a pretext for refusing registration.

In Ghana, Kenya and Tanzania the law gives extensive powers to the Registrar of trade unions to simply deny them registration. The Ghanaian Registrar of trade unions shall not recognize a trade union for any class of workers, if any trade union already represents any part of that class. The Kenyan trade union Registrar has used its powers to refuse registration to or even to de-register a trade union. However, in the recent past, there has been some increase in the registration of unions. The Tanzanian Registrar of trade union can de-registered the smaller unions if more than one exists in any establishment.

Right to Strike: This right is very often violated in practice in Sub-Sahara African countries. The most widely used tool by authorities to restrict strikes is to define "essential services" where workers are denied the right to strike. The problem is that the definition of these essential services are often much broader than what is recommended by the ILO.³ In practice, a huge part of the civil servants are considered as "essential services" workers. For example labor inspectors and magistrates in Burkina Faso; transport, sanitation, electricity, petrol, pharmacy, post, telecom, banks and water supply in Ethiopia; energy, health, policing and telecom in Mali; teachers in Nigeria; power, sewerage and certain mining operation in Zambia and so on.

The second mean to minimize the number of strikes that can occur in a country is to define long and cumbersome procedures that must be followed to go on strike (Botswana, Central African Republic, Ethiopia, Gambia, Zambia and Zimbabwe). Sometimes these procedures are so complex that there has never been a legal strike in the country since independence (Botswana, Ghana and Lesotho). These procedures often take the form of unduly restrictive and compulsory requirement to mediate and negotiate with employers and a third party before going on strike (Cameroon, Mali, Namibia, Rwanda, Tanzania and Uganda). However, these

² Convention No 87 (1948) stipulates that the public authorities shall refrain from any interference which would restrict the right to organize freely and shall not dissolve or suspend any employers' or employees' organizations.

³ ILO jurisprudence identifies occupations for which a strike could be prohibited, due to their essential nature, as those where there exist a clear and imminent threat to the life, personal safety or health of the whole or part of the population.

negotiations procedures are often designed to give the Minister of Labor broad discretionary power to determine the legality of any strike.

In other countries the process is more direct as the government retains the right to declare illegal any strike deemed to impair the economy (Mauritius), considered to support enemies of the government (Burundi) or supposed to fail to comply with the law, public order or morality (Democratic Republic of Congo). Strikes are even simply prohibited in Equatorial-Guinea and Sudan.

However some changes have occurred on that field. For instance in Benin, the strike law no longer allows the government to prohibit a strike by claiming that it threatens the economy or the national interest. In Togo most workers have the right to strike. In Côte d'Ivoire, strikes in both the public and private sector have become common since the December 1999 military coup, when workers seized upon the change in regimes to settle grievances over working conditions.

Anti-union Discrimination: According to ILO convention No 98,⁴ the law shall prohibit employer retaliation against unionized workers and shall provide for substantial penalties against employers who dismiss workers for union activities (like in Benin or Gambia). However, a non negligible number of African countries still do not include any specific provision in their labor code against anti-union discrimination acts (Chad, Equatorial-Guinea, Gabon, Mali, Nigeria, Sudan, Uganda and Zambia).

Generally, the remaining countries have laws which protect workers engaged in union activities from unfair treatments but these legal provisions are ignored or are not enforced by the government (Democratic Republic of Congo, Madagascar, Mauritius, Namibia, or Rwanda). For example in South Africa, workers prefer not to have trade union support in case of conflicts with employers, because it would cost them their jobs. In Côte d'Ivoire, labor inspectors are responsible for enforcing the law that prohibits anti-union discrimination. However, there have been no known prosecutions or convictions under this law. Neither have there been reports of anti-union discrimination. In fact, it appears that labor inspectors can be easily corrupted by employers to “forget” any workers’ complaints.

In most cases (Cameroon, Ghana, Guinea, Mozambique) the law prohibits anti-union discrimination but it is far from clear whether the penalties against any employers concerned are sufficient to act as a proper disincentive. Employers may also discourage the formation of trade union by supporting fake or ghost unions or unrepresentative workers committees (Benin, Mozambique). Equivalently in Cameroon, managers linked with the ruling party promote the Government trade union and have dismissed union delegates.

In many African countries there is no arrangement that permits union delegates to run there specific activities within their working hours. Hence, they find it difficult to represent unionized workers before the firm’s managers. Indeed, union officials have to work full time in their sector in Botswana, Central African Republic and Kenya.

The worst cases of anti-union discrimination behaviors can be found in the textile sector in Lesotho where workers are threatened with expulsion and loss of employment once they join a

⁴ Convention No 98 (1949) stipulates that workers shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment In particular employment of a worker shall not be subject to the condition that he shall not join a union or shall relinquish trade union membership.

trade union. Moreover unionist are often sacked and put on a blacklist so they cannot be reemployed elsewhere and trade union leaders face the choice between their job and the union. In this particular case the presence of Export Processing Zones can explain such harsh conditions for trade unions, but we will explore this specific problem below.

Collective Bargaining: While almost all African countries have ratified ILO's Convention on the right to bargain freely,⁵ there are large differences across countries in terms of enforcement of the right to collective bargaining. In Burkina Faso, Burundi, Côte d'Ivoire, Namibia, Niger, Senegal and South Africa collective bargaining agreements are in effect in many formal major business enterprises and sectors of the civil service. In several countries there are significant differences between the public and the private sectors. For instance, in Benin, Gambia, Mauritius, Mozambique, Tanzania, Zambia and Zimbabwe, public sector workers are excluded from the right to bargain collectively. On the other hand, in Guinea-Bissau and in Rwanda the right to bargain collectively does not apply to the private sector.

In various countries (Botswana, Ghana, Nigeria, Tanzania and Uganda) the lack of trade union's legal status or representativeness undermines their capacity to represent workers, making it extremely difficult to bargain with employers. While legislation provides for collective bargaining in Uganda, the anti-union practices serve to limit collective bargaining in the private sector. The Ghanaian Registrar of trade unions has wide powers to refuse to recognize a trade union as representative for the purposes of collective bargaining.

However, workers and employers can face legal and direct difficulties to enter into collective agreement. In the Central African Republic and in Equatorial-Guinea, the law does not recognize the right to collective bargaining. In Cape Verde there is a complete failure to promote free collective bargaining in both law and practice. In Cameroon, collective bargaining is almost non-existent at the sectoral and national levels. In fact the government encourages employers not to enter into collective bargaining at the enterprise level and refuses to recognize unions that are too independent for the purpose of collective bargaining. In Lesotho employers set wages through unilateral actions while in Sudan most wages are set by a body controlled and appointed by the regime.

Finally, some governments have grasped the importance of collective bargaining agreements and encouraged social partners to conclude collective labor agreements with a view to avoiding labor disputes (Angola and Mali).

1.1.2. Elimination of Discrimination in Employment and Occupation

We can roughly split Africa into two parts concerning equal remuneration for men and women workers for work of equal value.⁶ On the one hand we have countries where women face serious legal discrimination (Botswana, Cameroon, Gabon, Ghana, Madagascar, Mozambique, Rwanda or Tanzania). On the other hand, in many countries discrimination concerning employment and occupation is strictly prohibited by law (Côte d'Ivoire, Gambia,

⁵ Convention No 98 (1949) stipulates that each country which ratifies this Convention shall encourage and promote the full development and utilization of machinery for voluntary negotiation between employers or employers' organizations and workers' organizations, with a view to the regulation of terms and conditions of employment by means of collective agreements

⁶ Convention No 100 (1951) emphasizes certain proposals with regard to the principle of equal remuneration for men and women workers for work of equal value. The term *equal remuneration for men and women workers for work of equal value* refers to rates of remuneration established without discrimination based on sex.

Guinea, Lesotho, Mauritius Namibia, Niger, Senegal, South Africa Swaziland, Togo or Zambia). However discrimination does occur due to traditional views on the role of women in society, concentration in a few economic sectors and limited access to education. It should be noticed that discrimination against women takes place essentially in rural areas, where they make up the majority of rural farmers.

African countries display other forms of discrimination.⁷ In Botswana or in Gabon illegal immigrants are easily exploited as they would be subject to deportation if they filed grievances against employers.

Ethnic discrimination is also covered in the convention No 111 and seems particularly relevant for the African context. For instance in Burundi, discrimination between the two dominant ethnic groups, the Hutu and the Tutsi, is still persistent and is manifest in terms of employment. In Cameroon, discrimination against workers on ethnic grounds is widely reported as the indigenous Baka face serious discrimination and flagrant violations of their rights. The Constitution in Madagascar simply does not prohibit discrimination on the ground of race. Access to employment, education and promotion are still limited in Rwanda and the labor code still contains discriminatory elements. However, some government measures have been taken. In Namibia, as a result of more than 70 years of South African administration, racial, and ethnic discrimination persists.

New forms of discrimination (in Mozambique and Zambia for example) based on grounds of HIV/AIDS is an increasingly serious issue.

Case Studies:

Discrimination in South Africa⁸

The Employment Equity Act of 1998, is the major law prohibiting unfair discrimination in any employment policy or practice, on the grounds of race, gender, ethnic origin etc. Furthermore, it also implements a policy of affirmative action to redress the effects of previous discrimination against Black employees or women. Since then, this law has been reinforced by The Promotion of Equality and Prevention of Unfair Discrimination Act of 2001, which also includes some employment discrimination provisions.

Discrimination against women remains serious despite legal and constitutional advances and government attention. The Office on the Status of Women reported in 2000 that "although gender discrimination has been removed from labor laws, this has not been sufficient to achieve equality in women's participation in the paid labor force." Low pay is a major problem; with the expressed assumption by many employers that women are supported by a male partner and so do not need to earn the same levels of pay as men. There are few promotions and women are under-represented in senior positions. In general the work women do is underpaid and under-valued, notwithstanding the fact that there are considerable legal prohibitions against this. Under traditional laws applicable in some areas, women are prevented from owning land and inheriting property.

As a legacy of apartheid, the wage gap is characterized by a concentration of low wage, low skill employment amongst African and women workers at one end of the spectrum. At the other end of the spectrum are high paying managerial and executive positions monopolized by white men. The COSATU research institute NALEDI has estimated a manager's salary as being 15-20 times higher than that of a worker, which is huge by international standards. The Government has begun reorganizing and redesigning the educational, housing, and health care systems to benefit all racial and ethnic groups in society more equally. As a result, the law requires large employers to devise an employment equity program; however the practical results have been very limited.

⁷ Convention No 111 (1958) The term *discrimination* includes any distinction, exclusion or preference made on the basis of race, color, sex, religion, political opinion, national extraction or social origin.

⁸ "Internationally-recognised Core Labour Standards in the Five Countries of the Southern African Customs Union", Country Reports: WTO & Labour Standards, 17/4/2003.

The largest South African trade union centre COSATU expressed reservations regarding the legislation mandating the racial equity plans, arguing that the Bill relied too heavily on the goodwill of employers to implement its measures.

Discrimination in Côte d'Ivoire⁹

Although the Constitution and the law prohibit discrimination on the basis of gender, women occupy a subordinate role in society. There is considerable resistance among employers to hiring women, whom they consider less dependable because of potential pregnancy. Nonetheless, women in the formal sector are paid on an equal scale with men. However, women are still over-represented in the informal economy as well as in the subsistence sector, where no legal protection occurs.

Since 1995, various campaigns of xenophobia lead to discrimination against northern ethnic groups. The origins of ivoirité-based ethnic tension are varied and complex. By the government definition, anyone whose parents were not born in Côte d'Ivoire is regarded as foreign. This working definition renders about 30 percent of the 16 million inhabitants foreign, and, thereby, subject to hostility, even though many of these foreigners have never been outside Côte d'Ivoire. This campaign of xenophobia first discriminates northerners from holding civil servant positions. In addition, ethnic tensions come at a high cost, as Côte d'Ivoire, the world's biggest cocoa producer, relied on thousands of foreigners to work in the plantations. The violence inspired by the government has had the effect of dispersing this labor force from the cacao and coffee plantations.

Discrimination in Ghana¹⁰

The Constitution prohibits discrimination on the grounds of gender, race, ethnic origin, creed, color, religion, or social or economic status, and also provides that the Government take measures to ensure reasonable regional and gender balance in public employment. In August 1999, the Cabinet accepted a proposal to ensure that women hold 40 per cent of public office positions.

Women in Ghana suffer broad societal discrimination, and this is evident in the workplace, especially for uneducated and rural women. A study of the impact of trade policy on Ghanaian women reports that the emphasis placed on export crops, notably cocoa production, in the last decade, has made the situation of women noticeably more precarious. Labor legislation from 1969 outlines the way in which jobs held by a male and a female are to be compared for the purposes of ensuring equal remuneration. The ILO has repeatedly notified the Government that the definition of "substantively identical duties" is inadequate to the principle of equal pay for work of equal value, and that alternative methods should be applied for determining the comparative value of primarily male and primarily female employment.

Concerning ethnic discrimination on the labor market, Abigail Barr and Abena Oduro (2000) notice that in Ghana's manufacturing sector, workers tend to be employed by members of their own ethnic group, and different ethnic groups run very different types of enterprises. In fact there is no evidence of discrimination between ethnic groups, although there is evidence of discrimination in favor of inexperienced workers from the same ethnic group, who can be assessed and matched with jobs more easily than similar workers from other ethnic groups.

Discrimination in Kenya¹¹

The Constitution of Kenya prohibits discrimination. However, its provisions are not enforced effectively. While the Government has ratified international conventions on women's rights, it has not, so far, passed domestic enabling legislation. Women experience a wide range of both legal and actual discriminatory practices which limit their rights.

In Kenya, women's educational achievements are significantly lower than those of men due to historical and cultural factors, they are concentrated in lower-paying jobs and they face workplace problems including non-promotion and sexual harassment. Women tend to occupy less well-paying jobs than men and consequently, the average monthly income of women is about 37 percent lower than that of men. Women have difficulty moving into non-traditional fields, are promoted more slowly than men and bear the brunt of lay-offs. Although women

⁹ "Foreign Labor Trends – Côte d'Ivoire" report by U.S. Department of Labor (Bureau of International Labor Affairs) (2002)

¹⁰ "International Recognised Core Labour Standards in Ghana", Country Reports: WTO & Labour Standards, 28/2/2001.

¹¹ "Kenya: WTO Council Review (26 and 28 January 2000)" Country Reports: WTO & Labour Standards, 26/1/2000.

make up more than 50 per cent of the rural labor force, their property rights are insecure and they hold only about 5 percent of land titles.

1.1.3. Elimination of Forced and Compulsory Labor¹²

In Benin, Malawi, Zambia, Botswana, Kenya, Lesotho, Mozambique, South Africa and Tanzania forced labor is not generalized or there has been no report that it is practiced. A widespread type of forced labor in Africa is that certain categories of prisoners are at the disposal of private or public enterprises for work assignment without any compensation (Cameroon, Côte d'Ivoire, Ghana, Madagascar, Mauritius, Nigeria, Rwanda or Uganda). The administrative authorities (in Benin, Mali, Guinea, Madagascar, Swaziland or Uganda) have still legal power to order any work which is required in the public interest. In Burkina Faso, Guinea and Senegal, the national laws and regulations do not permit persons in the service of the state to leave their employment if they wish. More severe forms of forced and compulsory labor such as traditional slavery (in Cameroon, Gabon, Ghana, Mali or Niger), trafficking of women and girls for the purposes of prostitution (in Gambia, Madagascar, Nigeria, Rwanda, Senegal, South Africa or Togo) and forced labor of civilians, including children, by both the army or rebel groups (in countries such as Burundi or Uganda) may occur with various degrees of importance.

Case Studies

Forced Labor in South Africa

Forced labor of either adults or children is illegal under the Constitution and there are no reports that it is practiced, although Ministry of Labor inspectors face problems in accessing the agricultural estates where there could be violations in this area. There are reports of the trafficking of children for the purposes of prostitution, and also of conditions tantamount to bondage, under which some children work.

Forced Labor in Côte d'Ivoire

Ivorian law prohibits forced or compulsory labor. However, the ILO has determined Decree No. 69-189 (issued under the Criminal Procedure Code) to be in nonconformity with ILO Convention 29 on forced labor. The decree places certain categories of prisoners at the disposal of private enterprises for work assignments. Due to a lack of funds to hire warden guards to supervise the inmates, the law often is not invoked. The law does not prohibit the trafficking of persons, and children are regularly trafficked from neighboring countries and sold into forced labor. The Government is taking some steps to address these problems.

Forced Labor in Ghana

The Constitution prohibits both slavery and forced labor, and in the Commission on Human Rights and Administrative Justice (CHRAJ), provides a mechanism whereby occurrences of such practices can be investigated and addressed. Legislation does however permit the use of hard labor as an element of the sentences of prisoners. The ILO has repeatedly requested that the Government inform it of the details regarding such labor. To date, the Government has not responded to these queries.

The ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) has also informed the Government of the potential violation of ILO Convention 105¹³ by various pieces of legislation that

¹² Convention No 29 (1930) stipulates that each country which ratifies this Convention undertakes to suppress the use of forced or compulsory labor in all its forms within the shortest possible period. The term *forced or compulsory labor* shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.

¹³ Convention No 105 (1957) stipulates that each country which ratifies this Convention undertakes to suppress and not to make use of any form of forced or compulsory labor as a mean of political coercion or education or as

provide for forced labor as a punishment. The CEACR considered that many of these provisions permit the imposition of compulsory labor as punishment for a category of offences that exceeds the scope of ILO Convention 105.

The ILO CEACR has expressed concern about a practice traditional to several ethnic groups along the coast of Ghana of the slavery of primarily young girls to a community priest or shaman, known as Trokosi. There are at least 2500 such slaves reliably reported in Ghana, and the true numbers must be much higher. The Government passed a law banning the practice of Trokosi in 1998, and since the passing of this law, NGO's and the CHRAJ has succeeded in freeing 2000 Trokosi slaves and integrating them into society. Resistance is still strong however, and there remains considerable prejudice that has hindered the Government's efforts to eradicate Trokosi slavery.

Forced Labor in Kenya

The Constitution prohibits forced labor. Under the Chiefs' Authority Act, a local authority can require persons to perform community services, although it would appear that the law is not actively employed. The ILO CEACR has found that these and other provisions of the law contravene ILO Conventions 29 and 105.

1.1.4. Abolition of Child Labor

Table A.1 (in appendix 1) shows that almost all African countries have ratified Convention No 138 (1973).¹⁴ A member whose economy and administrative facilities are insufficiently developed may, after consultation with the organizations of employers and workers concerned, where such exist, initially limit the scope of application of this Convention. These exceptions for developing countries consist in permitting employment of children in light work from 12 years of age and also in permitting exclusion from the Convention's application limited categories of employment in which special problems arise, provided that it should be applicable as a minimum to mining, manufacturing, construction, energy, sanitary services, transport, commercial agriculture and hazardous work. As can be seen from figure A.1 (in appendix 1) child labor is a widespread and a severe problem in most African countries. This can be explained by the fact that, from a development perspective, the problem of child labor in Africa is not one of enforcement of international labor standards, but it is one of poverty and household survival.

Table 1.1 below shows that the large majority of child labor takes place in what can be called "informal child labor", that is to say children working in small family subsistence farming, in traditional apprenticeship system, in family owned small businesses or in housework. In fact very few working children appear to be wage employed. Hence, international labor standards do not apply to most working children.

a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system.

¹⁴ Convention No 138 (1973) Each country for which this Convention is in force undertakes to pursue a national policy designed to ensure the effective abolition of child labor and to raise progressively the minimum age for admission to employment or work to a level consistent with the fullest physical and mental development of young persons.

Table 1.1. Working child modality of employment

Country	Years	Percentage of Children aged 6 or 7 to 14 economically active only	Percentage of children aged 6 or 7 to 14, by modality of employment (as share of all economically active children)		
			<i>Wage Employ</i>	<i>Self Employ or Unpaid</i>	<i>Family Employ</i>
Angola	1995	4,3	4,2	47,3	48,5
Cameroon	1996	8,2	1,0	9,8	89,3
Central African Rep	1992	15,6	0,7	18,2	81,1
Côte d'Ivoire	1995	18,7	4,9	6,4	88,7
Gambia	1994	31,4	2,5	6,7	90,9
Ghana	1997	9,2	0,8	2,9	96,3
Guinea	1994	46,3	0,0	6,3	93,6
Guinea Bissau	1993	56,6	1,9	25,6	72,5
Kenya	1998	2,9	11,9	1,8	86,2
Madagascar	1993	17,9	9,2	91,4	7,9
Mali	1994	64,2	0,3	3,7	96,0
Namibia	1999	2,4	4,3	4,2	91,5
Senegal*	1994	27,3	2,9	8,7	88,4

* Children aged 10-14

Source: Country statistics Understanding Children Work

However, even if wage employment of children is easier to identify, it still persists in the formal economy. Children work in formal agricultural sectors like in Benin, Kenya, Malawi, South Africa, Swaziland, Mozambique, Tanzania and Uganda. Child labor takes also place in formal manufacturing sector, like in the textile sector in Lesotho. Very often the national laws prohibit every kinds of child labor but these laws are badly enforced.

Concerning informal subsistence or family child labor, the availability of good schools, the provision of free meals, effort to bolster adult wages, are examples of collaborative interventions that may have stronger impact on child labor than legal interventions. However, many of these actions may not be feasible. There may not be enough money in the government's coffers to run better schools or to improve the infrastructure which would result in higher adult wages. One simple legal intervention that can be implemented is to make schooling compulsory. This is because a child's presence in school is easier to monitor than a child's abstention from work. It is true that schooling is compatible with a certain amount of work, since children can work before and after school; but it is a good way to prevent full-time work. In fact, in very poor countries; it should be recommended to make it possible for children to combine school with work, instead of thinking of these as mutually exclusive activities.

1.1.5. Minimum Wage

In the developing world, policy makers are not only concerned with the impact of the minimum wage on employment, but also with its impact on the level of poverty. Both effects are difficult to estimate in the presence of the uncovered sector and practices of non-compliance.

As can be seen from Table A.2 (in appendix 1), more than 78 percent of African countries have ratified the ILO's minimum wage fixing machinery convention for manufacturing and commercial sectors. However, this percentage decreases to only 33 percent for agriculture and 15 percent for other economic sectors. The setting of the minimum wage provides in principle a floor to earnings for workers. However, the legislation of most countries excludes groups of

workers from the scheme who thus legally earn sub-minimum wages.¹⁵ Estimates of the share of workers covered by a minimum wage system are scarce. Besides legally non-covered workers, some workers earn wages below the minimum because the employer fails to comply with the legislation. In fact, most African governments appear not to enforce strict compliance with minimum wages.

Minimum wage policies can have various effects on the level of employment depending on its level compared with the average wages, on the degree of coverage of the labor market and on which political institutions control the minimum wage fixing machinery. For countries like Ghana in the 1970s the level of the minimum wage was set too high compared to the average wage, leading to a reduction of formal sector jobs where minimum wages applied. There is also some evidence to suggest that a large proportion of displaced workers from the formal sector ended up working in the informal sector (Jones 1997). However, since 1980 (Table 1.2) minimum wage levels have decreased in Africa, even if the minimum wage represents a very different proportion of the average wage across countries.

Table 1.2. Real minimum wages in selected African countries

Country	1970	1975	1980	1985	1990
Benin	.	143	100	91	.
Botswana	.	85	100	113	88
Burkina Faso	79	87	100	87	101
Congo	.	157	100	96	.
Côte d'Ivoire	104	114	100	84	79
Democratic Republic of the Congo	805	599	100	164	.
Gabon	90	107	100	90	84
Ghana	415	509	100	144	114
Kenya	119	121	100	68	53*
Malawi	.	119	100	120	121*
Mauritius	.	.	100	104	110
Niger	.	87	100	70	81
Senegal	99	111	100	78	78
Togo	143	131	100	80	80

Source: Squire and Suthiwart-Narueput (1995). The original table has been updated and completed by Jones (1997). The figures with a * refer to the year 1989.

For countries like Kenya where the minimum wage seems reasonable, its implementation gave rise to a huge incentive to develop human capital through diploma. This leads to a high level of unemployment for young qualified workers as well as the apparition of a new instrument of social stratification.

Yet the consequences of setting a minimum wage are manifold and go beyond the impact on the level of employment and poverty. Raising the minimum wage may have an effect on incentives to provide training and productivity, as well as on working conditions and prices. So far, effects other than on poverty and employment levels have received little attention even within the context of the more industrialized developing countries. The idea that a decent minimum wage may force firms of these countries to use more efficiently their labor force has yet been little explored

¹⁵ In South Africa, for example, about 64 per cent of workers in the manufacturing sector are covered. Amongst the countries represented in our sample, minimum wage regulation only applies to a very small formal sector. This was the case of Botswana in 1995 with 235,000 employees in the formal sector out of a population of 760,000 aged 15-64. Similarly, in Burkina Faso, Mali and Malawi, 80 per cent at least of the labor force is engaged in farming and fishing (Saget 2001).

The deep motivations of the government implementing a minimum wage policy go beyond these theoretical considerations. On the one hand, if the government's real aim is to reduce poverty through insuring basic revenue to low paid workers, then the implementation and the strict enforcement of a reasonably low minimum wage (far from the average wage) in all economic sectors could succeed. On the other hand, if the government sets relatively high minimum wage in only some highly unionized sectors to insure social peace through the attribution of rents to trade unions, then minimum wage policy could hand up in a decrease of formal employment associated with an increase of informal employment and even a poverty worsening.

1.2. The Employment Law

Employment laws regulate the individual employment relation, including the alternatives to the standard employment contract, the flexibility of working conditions, and the termination of employment. To capture all these effects four indices are reported (*Doing Business 2004*): a difficulty of hiring index, the rigidity of hours index, a difficulty of firing index and an overall rigidity of employment index, which is the average of the first three indexes. Each index may take values between 0 and 100, with higher values indicating more rigid regulation. The firing costs are also included. Details about how each index is computed can be found in table A.3 (in appendix 1). The data on hiring and firing workers are based on a detailed study of employment laws and regulations, as well as relevant constitutional provisions. Hence, informal employment is not taken into account when computing these indexes.

Table 1.3 displays these employment laws indexes for 33 different African countries. Africa exhibits the highest scores in terms of difficulty of hiring as well as in terms of the rigidity of working hours. This makes African labor market far more rigid in terms of employment than East Asia. Concerning the legal difficulties faced by firm to fire workers, African countries stand just behind South Asia, which seems to be the most rigid region in terms of firing legislation. Therefore, labor market rigidity concerning layoff procedures ensures relatively high protection to African workers.

These three indices put African countries' labor markets as the most rigid in the world on average. These aspects may not enable firms to adapt to positive or negative market demand shocks in terms of employment. However, firing costs do not seem to be too high and are comparable with what can be found in East Asia.

The legal framework concerning hiring procedures, working hours and dismissals is certainly not widely observed in the informal sector. Therefore, important employment flexibility may be a possible reason for firms to operate in more informal sectors.

Table 1.3. Employment laws indexes in Africa

Country	Difficulty of Hiring Index	Rigidity of Hours Index	Difficulty of Firing Index	Rigidity of Employment Index	Firing Costs (weeks)
East Asia & Pacific	20	30	22	24	52
Europe & Central Asia	31	51	42	41	38
Latin America & Caribbean	44	53	34	44	70
Middle East & North Africa	22	52	40	38	74
OECD: High income	26	50	26	34	40
South Asia	37	36	53	42	84
Sub-Saharan Africa	53	64	50	56	59
Angola	44	80	100	75	116
Benin	72	60	50	61	54
Botswana	0	20	40	20	19
Burkina Faso	100	100	70	90	80
Burundi	50	40	60	50	41
Cameroon	61	80	80	74	46
Central African Republic	89	80	60	76	37
Chad	100	80	60	80	47
Congo	89	80	90	86	42
Congo, Democratic Republic of	72	100	60	77	62
Côte-d'Ivoire	78	100	30	69	92
Ethiopia	50	60	20	43	48
Ghana	11	40	50	34	25
Guinea	67	80	30	59	133
Kenya	22	20	30	24	47
Lesotho	0	60	20	27	47
Madagascar	28	60	60	49	41
Malawi	22	20	20	21	90
Mali	78	60	60	66	81
Mauritania	89	60	60	70	31
Mozambique	72	80	40	64	141
Namibia	0	60	40	33	26
Niger	100	100	70	90	76
Nigeria	22	80	30	44	13
Rwanda	89	80	60	76	54
Senegal	61	60	70	64	38
Sierra Leone	78	80	70	76	188
South Africa	56	40	60	52	38
Tanzania, United Republic of	56	80	60	65	38
Togo	89	80	60	76	84
Uganda	0	20	0	7	12
Zambia	0	40	40	27	47
Zimbabwe	11	40	20	24	29

Source: The World Bank, The original methodology and data come from The Regulation of Labor, by Juan Botero, et al. (2004).

Note: Index components are scored between 0 and 100, with 100 representing the highest level of regulation. The Rigidity of Employment Index is the average of the first three indices, and varies from 0 to 100.

Table 1.4 presents simple correlation analysis between the employment laws indexes of rigidity in Africa. All the three indexes seem to display some homogeneity. In other words, an African country with relatively flexible hiring procedures tends also to have flexible firing procedures with reduced firing costs.

Table 1.4. Correlation between employment laws indexes

	Difficulty of Hiring Index	Rigidity of Hours Index	Difficulty of Firing Index	Firing Costs (weeks)
Difficulty of Hiring Index	1			
Rigidity of Hours Index	0,7240	1		
Difficulty of Firing Index	0,5860	0,5031	1	
Firing Costs (weeks)	0,4049	0,4086	0,2075	1

After having presented the degree of rigidity of the African labor laws, it is worth exploring the perceived impact of employment laws on firms. That is to say the implication of various employment laws with respect to economic and business development. In RPED surveys, firms were asked to evaluate the major problems with labor regulation. Table 1.5 shows the percentage of firms in some selected African countries which perceived “Hiring procedures for local workers” or “Layoff procedures and costs of retrenchment” as significant obstacles in the running of their business.

The first result that can be drawn from table 1.5 is that in all surveyed countries, the percentage of firms pointing out that hiring procedure is a major obstacle appears to be below the percentage of firms which recognize that procedures and costs of dismissals reduce their economic opportunities. This can be explained by the fact that all the selected countries (with the exception of Ethiopia) display much more difficulty of firing than difficulty of hiring (table 1.3). For instance, in Zambia more than one fourth of the surveyed firms report that layoff legislation represents a major obstacle in the functioning of the firm, compared with only one percent of firms concerning hiring procedures. This is in line with the *Doing business* database where Zambia displays no difficulty of hiring with relatively high firing costs and some rigidity in the layoff procedures. Of course, expected firing problems are equivalent to hiring deterrent.

Note from table 1.5 that the percentage of firms facing major problems with the workers’ hiring and the workers’ layoff increases with firms’ size in all surveyed countries. Note also that foreign-owned firms do not have any problems concerning the hiring of new workers. At the same time public-owned firms seem to experience major difficulties with dismissal procedures.

We can conclude from table 1.3 that the employment regulatory framework in Africa is extremely rigid. Table 1.5 shows that in countries where these rigidities take place they are perceived by firms as worrying obstacles that reduce economic opportunities.

1.3. The Determinant of Labor Regulation

The basic question addressed in this sub-section is what determines the level of government intervention in the labor market?

The interest groups theory (Olson 1965, Stigler 1971 and Becker 1983) assumes that labor regulations respond to the pressure from trade unions, employers’ organizations, powerful individual firms or informal groups of firms.

Table 1.5. Hiring and layoff procedures in some selected African countries

		Eritrea (2002)		Ethiopia (2002)		Kenya (2003)		Nigeria (2001)		Uganda (2003)		Zambia (2002)	
% of Firms Quoting the Item as a significant obstacle ¹	Hiring	2.5%	(79) ³	0,5%	(411)	5,2%	(251)	4,8%	(228)	4,1%	(246)	1,0%	(205)
	Layoff	9.1%	(77)	9,8%	(397)	20,9%	(254)	10,6%	(227)	8,3%	(217)	26,7%	(206)
By firm size													
[1-9]	Hiring	0.0%	(7)	0,0%	(167)	0,0%	(10)	0,0%	(2)	2,6%	(39)	0,0%	(1)
	Layoff	0.0%	(6)	0,0%	(166)	12,5%	(8)	0,0%	(2)	0,0%	(29)	100,0%	(1)
[10-49]	Hiring	2.6%	(39)	0,0%	(128)	5,9%	(85)	7,3%	(55)	4,8%	(124)	1,7%	(60)
	Layoff	10.5%	(38)	4,9%	(123)	19,8%	(81)	9,1%	(55)	3,7%	(107)	20,0%	(60)
[50-99]	Hiring	7.7%	(13)	0,0%	(27)	8,7%	(46)	7,0%	(43)	0,0%	(29)	0,0%	(49)
	Layoff	15.4%	(13)	34,6%	(26)	25,6%	(43)	7,1%	(42)	3,6%	(28)	26,5%	(49)
>100	Hiring	0.0%	(20)	2,2%	(89)	3,7%	(109)	3,2%	(124)	5,6%	(54)	1,2%	(86)
	Layoff	5.5%	(20)	29,3%	(82)	20,8%	(101)	12,1%	(124)	24,5%	(53)	31,0%	(87)
By ownership structure ²													
Private domestic	Hiring	3.7%	(54)	0,0%	(327)	5,4%	(167)	4,2%	(144)	4,5%	(176)	0,0%	(146)
	Layoff	9.6%	(52)	5,0%	(317)	19,9%	(156)	9,2%	(142)	4,0%	(150)	27,4%	(146)
Private foreign	Hiring	0.0%	(4)	0,0%	(16)	0,0%	(30)	5,9%	(68)	3,3%	(60)	2,0%	(51)
	Layoff	0.0%	(4)	25,0%	(16)	13,8%	(29)	14,5%	(69)	18,6%	(59)	25,0%	(52)
State	Hiring	0.0%	(14)	3,5%	(57)	25,0%	(12)	11,1%	(9)	0,0%	(6)	0,0%	(6)
	Layoff	14.3%	(14)	33,3%	(54)	33,3%	(9)	0,0%	(9)	20,0%	(5)	16,7%	(6)
Other	Hiring	0.0%	(7)	0,0%	(11)	2,6%	(39)	0,0%	(5)	0,0%	(3)	50,0%	(2)
	Layoff	0.0%	(7)	10,0%	(10)	27,0%	(37)	0,0%	(5)	0,0%	(2)	50,0%	(2)
Total number of firms Surveyed		79		427		284		232		300		207	

Source: Authors' computation from the firm level surveys (World Bank).

Note: ¹ Indicates the percentage of firms which have associated a value of 3 or 4 to each labor regulation problems. Knowing that 0 = no problem; 1 = Very low degree of obstacle; 2 = Low degree of obstacle; 3 = High degree of obstacle; 4 = Very high degree of obstacle.

² Private domestic (more than 50% of the capital is owned by the private domestic sector)

Private foreign (more than 50% of the capital is owned by the private foreign sector)

State (more than 50% of the capital is owned by the state)

Other (when the owner is neither the private sector nor the state)

³ Into parenthesis total number of firms concerned

To investigate this theory we use RPED surveys in some selected African countries. Firms were asked how much influence various groups have on recently enacted national labor laws and regulations that have a substantial impact on firm's business. The surveys concentrate on the potential influence of trade unions, official employers' organizations and regional or local government. Table 1.6 shows the percentage of firms which perceived each group as having a major or a decisive influence on labor regulation.

Table 1.6. Who influences the labor law in some selected African countries

		Kenya (2003)		Tanzania (2003)		Uganda (2003)		Zambia (2002)	
% of Firms Quoting the Group as having a significant influence ¹	Employers' Organizations	47,9%	(165) ²	28,0%	(150)	46,4%	(211)	33,1%	(166)
	Trade Unions	42,4%	(139)	18,8%	(112)	23,6%	(106)	22,4%	(165)
	Regional, Local Government	42,3%	(111)	38,0%	(129)	41,3%	(184)	17,9%	(140)
By firm size									
[1-9]	Employers' Organizations	25,0%	(4)	20,0%	(20)	39,3%	(28)	-	(0)
	Trade Unions	0,0%	(1)	5,3%	(19)	9,1%	(11)	-	(0)
	Regional, Local Government	0,0%	(1)	28,6%	(21)	36,7%	(30)	-	(0)
[10-49]	Employers' Organizations	31,7%	(41)	21,4%	(56)	35,5%	(110)	26,1%	(46)
	Trade Unions	47,5%	(40)	14,6%	(41)	17,3%	(52)	29,8%	(47)
	Regional, Local Government	38,7%	(31)	44,2%	(52)	41,6%	(101)	23,7%	(38)
[50-99]	Employers' Organizations	51,6%	(31)	40,6%	(32)	62,5%	(24)	34,1%	(41)
	Trade Unions	47,6%	(21)	33,3%	(21)	33,3%	(9)	28,2%	(39)
	Regional, Local Government	38,1%	(21)	25,0%	(24)	35,3%	(17)	21,2%	(33)
>100	Employers' Organizations	53,8%	(80)	29,3%	(41)	67,3%	(49)	36,1%	(72)
	Trade Unions	37,7%	(69)	22,6%	(31)	35,3%	(34)	16,9%	(71)
	Regional, Local Government	49,1%	(53)	43,8%	(32)	47,2%	(36)	14,5%	(62)
By ownership structure									
Private domestic	Employers' Organizations	44,4%	(99)	27,6%	(105)	44,9%	(156)	30,3%	(119)
	Trade Unions	34,5%	(87)	19,0%	(79)	15,9%	(69)	22,5%	(120)
	Regional, Local Government	44,4%	(63)	38,0%	(92)	43,0%	(142)	20,6%	(97)
Private foreign	Employers' Organizations	59,1%	(22)	28,6%	(28)	51,1%	(47)	35,0%	(40)
	Trade Unions	35,7%	(14)	29,4%	(17)	40,6%	(32)	23,7%	(38)
	Regional, Local Government	46,2%	(13)	35,0%	(20)	33,3%	(36)	8,3%	(36)
State	Employers' Organizations	50,0%	(8)	42,9%	(7)	60,0%	(5)	60,0%	(5)
	Trade Unions	57,1%	(7)	14,3%	(7)	33,3%	(3)	0,0%	(5)
	Regional, Local Government	14,3%	(7)	50,0%	(6)	33,3%	(3)	20,0%	(5)
Other	Employers' Organizations	48,6%	(35)	0,0%	(6)	0,0%	(2)	100,0%	(2)
	Trade Unions	66,7%	(30)	0,0%	(9)	0,0%	(1)	50,0%	(2)
	Regional, Local Government	42,9%	(28)	40,0%	(10)	50,0%	(2)	50,0%	(2)
Total number of firms Surveyed		284		276		300		207	

Source: Authors' computation from the firm level surveys (World Bank).

Note: ¹ Indicates the percentage of firms which have associated an influence index of 3 or 4 to each group. Knowing that 0 = no influence; 1 = minor influence; 2 = moderate influence; 3 = major influence; 4 = decisive influence.

² Into parenthesis total number of firms concerned

The percentage of firms considering that one of the three groups influences the labor regulation are often quite high (between 18 to 48 percent). In all the surveyed countries (with the exception of Tanzania), the highest percentage of firms report that employers' organizations have major influence on labor regulation. For instance in Zambia, almost one third of firms think that employers' organizations have a huge influence on labor regulation, compared to less than 18 percent perceiving local authorities as the major labor regulation

maker. In Kenya, this gap is much more reduced as 40 to 50 percent of firms quote employers' organizations, trade unions and government as having a significant influence on labor laws.

Hence, labor law appears to be the result of a bargaining between these three main interest groups with a perceived stronger bargaining power on employers' organizations side. This effective bargaining may explain why in Kenya and Zambia (Table 5) more than 20 percent of firms still report layoff procedures as a significant obstacle, while employers' organizations seem to be the most powerful interest group. Note that in Zambia almost 17 percent of firms quote unions' movement as a major obstacle for business running and in Kenya around 14 percent of firms find that labor inspectors' actions hamper their economic activity. Hence, even if employers' organizations constitute the most powerful lobbying group, it has to deal with the presence of trade unions and government which are far from being negligible. This result supports the interest groups theory, in a sense that the labor law is the outcome of negotiations between government, employer's organizations and trade unions which displays different bargaining powers depending on the country.

From table 1.3, Kenya, Uganda, and Zambia tend to have relatively flexible employment laws. As table 1.6 shows, in these countries the lobbying group that influences the most the regulatory authorities is the employers' organizations. On the other hand, if we consider Tanzania, which has much more regulated employment laws, the local and regional governments seem to be the group that influences the most the labor regulation.

The legal theory holds that countries in different legal traditions utilize different institutional technologies for the social control of business (Djankov et al. 2003). Common law countries tend to rely more on markets and contracts, and civil law countries on regulation. The legal theory predicts that patterns of regulation of labor markets should follow the general styles of social control utilized by each legal system. It implies that civil law countries would regulate labor markets more extensively than do common law countries, which preserve the freedom of contracts to a greater extent (Deakin 2001).

Table 1.7. Correlation between legal system, employment law and union density

	Rigidity of Employment Index	Common Law	Civil Law	Union density
Rigidity of Employment Index	1			
Common Law	-0,6283	1		
Civil Law	0,6283	-1,0000	1	
Union density	0,0103	0,1646	-0,1646	1

Table 1.7 reports the correlation between legal system, employment law and union density.¹⁶ This simple correlation analysis corroborates the legal theory predictions, as common law countries have more flexible employment laws than civil law countries. Union density tends to be higher in common law countries than in civil law countries. Hence, union density seems to be a response by the workers to a more flexible legal framework. There thus seems that the origin of a country's laws is an important determinant of its regulatory approach in the labor market.

¹⁶ We control for union density to proxy for the influence of labor interest groups. Table A.4 (in appendix 1) reports the average rigidity of employment index, the exogenous legal structure (common or civil law) and the union density as a percentage of the non agricultural labor force.

1.4. Concluding Remarks

Even if a huge part of African economies stands beside the legal framework through informality and poor compliance, the regulatory framework of the labor market is surely one of the most rigid through out the world.

When running RPED surveys, firms were asked to identify issues that could be problematic for the operation and growth of their business. We report in table 1.8 to what extend does the labor regulation represent an obstacle to firms' development.

The percentage of firm perceiving labor regulation as a major or severe obstacle to their economic development lies between 4,6 percent for Ethiopia and 22,5 percent for Kenya. These percentages do not follow the same pattern as the rigidity of employment index found in table 1.3 across countries. Only 12,1 percent of firm in the most rigid labor market (Tanzania) find labor regulation problematic, compared to almost 11 percent of firm in the most flexible labor market (Uganda).

Table 1.8. Labor regulation as obstacles to development in some selected African countries

	Eritrea (2002)		Ethiopia (2002)		Kenya (2003)		Tanzania (2003)		Uganda (2003)		Zambia (2002)	
% of Firms Quoting the Labor Regulation as a significant obstacle ¹	5,1%	(78) ²	4,6%	(416)	22,5%	(275)	12,1%	(272)	10,8%	(259)	16,9%	(207)
By firm size												
[1-9]	0,0%	(7)	0,6%	(171)	0,0%	(9)	6,3%	(48)	17,5%	(40)	0,0%	(1)
[10-49]	2,6%	(38)	1,5%	(130)	21,3%	(89)	1,3%	(107)	6,9%	(131)	10,0%	(60)
[50-99]	7,7%	(13)	21,4%	(28)	28,3%	(46)	12,5%	(48)	6,5%	(31)	20,0%	(50)
>100	10,0%	(20)	11,5%	(87)	24,3%	(115)	16,7%	(66)	17,5%	(57)	19,5%	(87)
By ownership structure												
Private domestic	1,9%	(53)	3,0%	(333)	23,2%	(181)	10,0%	(200)	9,7%	(186)	17,0%	(147)
Private foreign	0,0%	(4)	13,3%	(15)	14,3%	(35)	25,0%	(44)	13,1%	(61)	17,3%	(52)
State	14,3%	(14)	12,5%	(56)	26,7%	(15)	0,0%	(10)	28,6%	(7)	16,7%	(6)
Other	14,3%	(7)	0,0%	(12)	23,8%	(42)	15,4%	(13)	0,0%	(4)	0,0%	(2)
Total number of firms Surveyed	79		427		284		276		300		207	

Source: Authors' computation from the firm level surveys (World Bank).

Note: ¹ Indicates the percentage of firms which have associated an obstacle index of 3 or 4 to each issue. Knowing that: 0 = no obstacle; 1 = minor obstacle; 2 = moderate obstacle; 3 = major obstacle; 4 = very severe obstacle.

² Into parenthesis total number of firms concerned.

Hence, there is no real adequacy between actual employment labor laws and their perceived impact on firms functioning. This inadequacy first highlights the difficulty to catch all the different facet of labor regulation through synthetic indexes. Doing Business Indexes prove to be very helpful as they constitute the only available source of information about labor legislation in Africa. These indexes only take into account what is actually written in the country law, no matter its implementation or enforcement. On the other hand, firms' perception of the labor regulation as an obstacle to business running may also be biased. In countries where economic infrastructures are very poor and insufficient, firms may have a tendency to underestimate labor regulation's impact on their business. In some countries, the fact that a significant number of firms quote labor regulation as a significant obstacle may simply more highlights that the labor law is actually enforced rather than it is too rigid. Finally, this inadequacy might reflect that labor regulations are seen more dysfunctional than simply rigid or flexible, and this hypothesis seems to fit well with the fact shown in table 1.6. Both trade unions and employers are seen as strongly influencing labor laws by a relatively

large percentage of firms. Both parties might end up being locked in with inefficient compromises.

2. WORKERS' ORGANIZATIONS AND PATTERNS OF UNIONIZATION IN AFRICA

What do unions do? Trade unions can be seen as organizations imposing “monopoly costs” to society, securing favorable pay and work conditions to their members by sharing supernormal profits with firms. By contrast, the “organizational view” (Freeman and Medoff, 1984) focuses on the economic benefits of unions, which facilitate worker participation and worker-manager cooperation at the workplace. Unions can also be seen as political organizations, which wield pressure on government for legislative or political change.

This section first portrays the extent and structure of trade union membership in Africa. Then we investigate the influence of unions on labor market outcomes, mainly through their influence on wages. Finally, we discuss the challenges African trade unions face to strengthen their activity and power.

2.1. Union membership

2.1.1. A broad overview of union density

African labor markets are far from reaching a level of union membership as high as the one observed in many developed countries. Indeed, African countries experience very low level of wage employment, which constitutes the main base of trade unions. Moreover, given the costs of organizing workers in geographically-dispersed rural areas, the locus of unionism is in urban areas and, within urban areas, in the formal economic sector that comprises “the wage-paying non-agricultural private firms and the public sector” (World Bank, 1995). This “modern” sector has been much eroded by the economic reforms and the liberalization process which took place from the 1980s on the African continent.

Table 2.1 portrays, from the 1995 available figures, a classification of African countries according to their level of union density.

Table 2.1. Classification of selected African countries according to union density¹ (1995)

Low (<10%)	Intermediate (10%< <20%)	High (>20%)
Eritrea (7.2%) Ethiopia (4.1%) Gabon (2%) Guinea (2.5%) Mauritania (2.7%) Uganda (3.9%)	Botswana (11.5%) Cape Verde (16.9%) Cameroon (14.7%) Côte d'Ivoire (13%) Kenya (16.9%) Mali (13.7%) Nigeria (17.2%) ² Swaziland (19.1%) Zambia (12.5%) Tanzania (17.4%) Zimbabwe (13.9%)	Ghana (25.9%) ² Mauritius (25.9%) Namibia (22%) Senegal (21.9%) South Africa (21.8%)

Source: Authors' classification from ILO (1997)

The ILO figures on union membership are mostly based on a questionnaire on trade union membership and collective bargaining coverage sent to government, employers and union representatives. The others were provided by the ILO Regional Offices (see table A.5 in appendix 2 for the country source of information).

Notes : ¹ as a percentage of non-agricultural wage employment

² 1990 figures

First, union membership figures should be considered cautiously as they mainly come from self-reporting membership from local unions, which reflects different administrative and political practices (ILO, 1997). In order to make comparisons between countries possible, we consider here unionization as the percentage of union members in non-agricultural wage employment.

According to Fashoyin and Matanmi (1996), there is a general link between the relative level of socio-economic development and the degree of unionization or workers organizations. The simple statistics in table 2.1 do not offer much support to this finding as, for instance among the five African countries which exhibit a much higher level of union density than the average (Ghana, Mauritius, Namibia, Senegal and South Africa), Ghana and Senegal are classified as “low income countries”, with a GDP per capita of \$755 or less. Whereas, richer countries, such as Botswana or Gabon show evidence of much lower level of membership.

Table 2.2 below focuses on the manufacturing sector only and offers another way of considering the extent of unionization in seven selected African countries:

Table 2.2. Unionization in the manufacturing sector in some selected African countries

	Eritrea (2002)	Ethiopia (2002)	Kenya (2003)	Nigeria (2001)	Tanzania (2003)	Uganda (2003)	Zambia (2002)
Percentage of firms with unionized workers¹	58.3% (79)	19.4% (407)	63.6% (253)	50.2% (221)	51.6% (246)	10.1% (298)	56.1% (173)
Percentage of the labor force unionized²	53.2% (79) ³	15.2% (407)	41.4% (253)	42.7% (221)	40.1% (246)	6.1% (298)	41.3% (173)
By firm size							
[1-9]	14% (7)	0.01% (159)	12.5% (10)	0% (1)	6.4% (41)	0% (52)	0% (1)
[10-49]	45.3% (39)	2.7% (127)	32.6% (89)	8.6% (55)	33.5% (95)	8.8% (153)	27.9% (48)
[50-99]	60.9% (13)	18.7% (26)	39.8% (44)	29.6% (43)	59.3% (46)	7.8% (34)	34% (44) ⁵
>100	77.2% (20)	61.5% (86)	51.8% (110)	63.0% (122)	57.7% (64)	23.5% (59)	56.7% (76)
By ownership structure⁴							
Private domestic	43.2% (55)	4.3% (332)	38.6% (167)	27.4% (139)	32.8% (181)	1.8% (223)	36.0% (123)
Private foreign	94.3% (3)	50.2% (12)	50.8% (34)	68.4% (66)	59.8% (41)	16.2% (62)	50.3% (42)
State	81.9% ⁵ (14)	75.8% (55)	48.3% ⁵ (11)	54.6% ⁵ (6)	72.9% ⁵ (8)	43.1% (7)	68.2% ⁵ (5)
Other	49.2% (6)	0% (2)	41.6% (38)	50.5% (4)	48.5% (10)	0% (4)	95.5% (2)
Total number of firms surveyed	79	427	284	232	276	300	207

Source: Authors' computation from the firm level surveys (World Bank).

Note: ¹ Firms report to have at least one unionized worker.

² Firms report the percentage of their labor force which belongs to a trade union

³ In parenthesis: total number of firms concerned

⁴ Private domestic (more than 50% of the capital is owned by the private domestic sector)

Private foreign (more than 50% of the capital is owned by the private foreign sector)

State (more than 50% of the capital is owned by the state)

Other (when the owner is neither the private sector nor the state)

⁵ Percentage not significantly different (at the conventional 5% level) from the percentage computed for the private foreign firms.

- **First**, note that in Ethiopia and Uganda, a very high percentage of manufacturing firms (respectively 80% and 90%) declares having not even one unionized worker. In the other countries, more than half of the firms report the presence of unions, with Kenya exhibiting the highest percentage (64%). The only data we have for French-speaking countries are from the

1990s. Cameroon and Côte d'Ivoire registered the lowest proportion of unionized firms (respectively 31.4% and 23.4%) (Mazumdar and Mazaheri, 2000).

- **Second**, table 2.2 displays the percentage of the manufacturing labor force which is unionized. As expected, unionization is low in Ethiopia and Uganda. In Kenya, Nigeria, Tanzania and Zambia, around 40% of the workers appear to be unionized. Surprisingly, given the observation made in table 2.1 above, the highest unionization rate is found in Eritrea, where 53% of the manufacturing labor force belongs to a union.¹⁷

- **Third**, there is a clear correlation between unionism and firm size in all countries. The highest unionization rates are in large and very large firms.

- **Finally**, unionization appears to be sensitive to the ownership structure of the manufacturing firms. The percentage of workers unionized is always the lowest in the domestic owned firms. Whereas the public firms seem to be the most unionized in four of the seven countries.

2.1.2. The evolution of African union membership since the 1980's

Even though reduction in union membership has been the general trend in the world during the past two decades (ILO, 1997), African countries have experienced a particularly severe downsizing of their "unionized sector". Table 2.3 displays the evolution of union membership in a few African countries in the 1980s and 1990s.

Table 2.3. Trend in union membership for a few selected African countries

Country	First year Available		Last year Available		Evolution of union membership
	Date	Union membership	Date	Union membership	
Ethiopia	1995	152 000	2003 ¹	300 000 ⁴	97.4%
Ghana	1990	700 000	1998 ²	572 598	-18.2%
Kenya	1985	700 000	2000 ³	436 036	-37.7%
Mauritius	1985	98 000	1995	106 000	8.2%
South Africa	1985	1 391 423	2001 ⁴	3 939 075	183%
Tanzania	1995	470 000	2001 ⁵	311 096	-33.8%
Uganda	1989	102 000	1995	63 000	-38.2%
Zambia	1985	320 000	2001 ⁶	242 752	-24.1%
Zimbabwe	1995	250 000	2002 ⁷	162 700	-34.9%

Source: Authors' computation from ILO (1997) (except: ¹ Buckley et al. (2004), ² Anyemedu (2000), ³ Fashoyin (2001), ⁴ Department of Labour Report Reports, ⁵ LO/FTF (2003a), ⁶ Fashoyin (2002), ⁷ LO/FTF (2003b))

Note: ^{*} Figure claimed by the Confederation of Ethiopian Trade Unions. It excludes the membership of the Ethiopian Teachers' Association (130 000) which is not legally recognized as a trade union. However, Buckley et al. (2004) argue that a recent study suggests a substantially lower membership figure of 200 000 for the CETU.

Almost every country in table 2.3 has experienced a decline in union membership during the period considered. This decrease ranges from 18% between 1990 and 1998 in Ghana to 38% between 1989 and 1995 in Uganda. However, unionization in three countries does not follow this trend and experienced an increase during the period studied. It concerns South Africa (where the democratization process has completely changed the pattern of unionization), Ethiopia (where union activity has been restrained during the Derg Junta, 1974-1991) and Mauritius.

The main explanation for this downsizing trend is the economic reforms undertaken by almost all Sub-Saharan African countries since the early 1980s. Indeed, the Structural Adjustment

¹⁷ Note however that the sample is quite small with only 79 firms surveyed.

Programs considerably modified the structure of the labor force. Trade unions were particularly affected by workforce reduction and the informalization of work:

- Indeed, liquidation, privatization and restructuring of state-owned enterprises have led to massive retrenchment of workers in both the public and private sectors. Furthermore, some evidence seems to indicate that, in public establishments, unskilled workers, who are traditionally better candidates to union membership than skilled workers, suffered the most from the contraction of employment (see Lachaud, 1994).

- A related effect which is associated with economic reform policies and liberalization is the increase in the scale of the informal sector, where trade unions are seldom organized. Many retrenched workers ended up in the informal sector, together with many formal workers who had decided to supplement their income by working part time in the informal sector (ILO, 1997).¹⁸

Case studies

Unionization in South Africa

Contrary to most of African countries, South Africa has experienced a huge increase in union membership during the past three decades. At the start of the “Wiehahn era”, in 1979, around 700 000 workers were members of some registered unions (figures issued by the Department of Labour). Mainly as a result of the recognition of black unions, within two decades, membership has been multiplied by almost six and increased to 4 millions of workers at the beginning of the 2000s.

The three main South African Union Federations, namely COSATU, NACTU and FEDSAL represented around 70% of the unionized workers in 1999. They did not benefit equally from this rise in union membership. COSATU highly dominates the union landscape, recording in 1999 almost 50% of the total membership. However, COSATU membership did not evolve much until now (Naidoo, 2003a). The current dilemma facing COSATU is that the traditional “union-strong” sectors are shedding jobs while those sectors that are “hard-to-unionize” are expanding (Naidoo, 2003b). FEDSAL (currently FEDUSA) membership increased substantially from the 1996 largely as a result of its merging with the Federation of Organizations representing Civil Employees (FORCE) and the joining of many African white-collar workers. NACTU stays behind the two others federations.

According to the 2002 Labor Force Survey, union density is high by international standard with 32% of wage employees belonging to unions.¹⁹ The analysis of unionization by economic sector sheds an interesting light on the historical strength of sectoral unions. We observe very high unionization rates in the mining and in the service sector, the latter being essentially public services. 78% of the workers in the mining sector belong to a trade union. Workers’ organization, protected for a long time by closed shop agreements, first mainly concerned white skilled workers before extending to African low-skilled workers since the 1980s. Unions in the public services have gained many members in the past few years from the recognition of the public sector unions (*Public Service Labour Act*, 1994). More generally speaking, the unionization rate in the public sector reaches 70% in 2002, whereas it is 22% in the private sector.

Unionization in Côte d’Ivoire²⁰

Only a small percentage of the workforce is organized, as most laborers work in the informal sector including small farms, small roadside and street side shops, and urban workshops. However, large industrial farms and some trades were organized. There was an agricultural workers union. Nonetheless, Côte d’Ivoire has approximately 1,000 trade unions and 4 major trade union confederations:

- The most representative trade union confederation is the General Union of Workers of Côte d’Ivoire (UGTCI), which was established in 1962. The UGTCI has 231 affiliated trade unions, 9 regional unions, 30 local unions, and 9 trade union federations. It is present in both the private and public sectors, representing workers in education, agriculture, transportation, fishing, and the civil service.

¹⁸ Compounding the problem associated with the informalization of the labor market is the growth of atypical or irregular forms of employment, hard to unionize, such as part-time work, contract labor, homework, casual work, unregistered self-employment, family business and the like. (Fashoyin, 1998).

¹⁹ Own computation from the authors.

²⁰ Mostly based on the “Foreign Labor Trends – Côte d’Ivoire” report by U.S. Department of Labor (Bureau of International Labor Affairs), 2002.

- The second most important confederation, created in 1992, is the Federation of Autonomous Unions of Côte d'Ivoire (FESACI) which currently has 30 affiliated trade unions. Among its affiliates are government employee unions (teachers, customs officers, and civil servants) and private sector employee unions (electricity, transportation, private school teachers, and industrial plantations).
- The *Dignité* Labor Confederation was clandestinely created in 1988, but it was only following the intervention of the ILO in 1994, that *Dignité* was acknowledged by the Ivorian Government and authorized to carry out its activities. *Dignité* has 186 affiliated trade unions and 20 central professional groups. Its unions represent employees in the food industry, transportation, agriculture, teaching, petroleum, textiles, cosmetic and chemical factories, pharmaceutical companies, wood processing and waste management. *Dignité* is primarily present in the private and informal sectors, and a large number of its members are blue-collar workers.
- The fourth confederation of trade unions in Côte d'Ivoire, VIE, was created in 2000, on the initiative of 50 trade unions from the informal sector. VIE has not been very active since its creation and does not have much influence on union activity in Côte d'Ivoire.

There are very few recent data on unionization in Côte d'Ivoire. The latest to our knowledge is the RPED surveys, run in 1995, and which concerns only the formal manufacturing sector. In 1995, 64% of the interviewed firms in the formal manufacturing sector had at least one unionized worker, 95% of them being fully unionized.²¹ 63% of the labor force declared to be unionized, 89% of them being affiliated to the clearly dominant UGTIC union. Unionization depends a lot on firm size: the larger the firm, the larger the presence of unions.

Unionization in Ghana

The Industrial Relations Act 1965 (Act 229) recognizes the TUC as the sole representative of the trade union movement in Ghana. Section 3 of Act 229 requires that any union wishing to apply for a collective bargaining certificate from the Registrar of Trade Unions has to apply through the TUC. However, since 1993, there has been an eighteenth trade union operating under the Industrial Relations Act of 1965, but not affiliated to the TUC. (The new Labour Code is expected to regularize the situation).

The TUC with a membership of about half a million drawn from 17 national unions remains the dominant federation. Overall, union membership is estimated to be around 570 000 in 1998. As in many other African countries, unionization significantly decreased in a decade: in 1990, around 700 000 workers were organized in unions (ILO, 1997). The percentage of workers belonging to unions appeared to be decreasing as more of the workforce entered the informal sector where there is little union activity. At the end of the 1990s, the Ministry of Employment and Manpower Development estimated that 80 percent of the work force was employed in the informal sector, and that number was expected to increase. The TUC has started to organize informal sector workers into its ranks mainly through efforts of the Industrial and Commercial Workers Union (ICU), Ghana's largest union (Egulu, 2004).

Unionization in Kenya²²

The organization of workers into trade unions has historically been based on the principle of one union per industry. On this basis, there were for many years 31 "industry-based" unions in Kenya, but most of the unions are general unions, which operate beyond individual industries. However, during the 1990s decade or so, the union structure has come under strain due to internal divisions. This has resulted in the formation of six new unions. Hence, in 2001, there are 37 unions in the country. All but five of them, including the very large teachers' unions are affiliated to the country's only trade union federation, the Central Organization of Trade Unions (COTU)

Total membership of the COTU affiliated unions is estimated at about 250 000 in 2000, which is less than half the membership before the retrenchments which started in 1994. When the membership of the large teacher union – the Kenya National Union of Teachers (KNUT) – is added, organized labor in the country is still less than half a million workers. Union membership has experienced a huge decline since the mid 1980s as, in 1985, it was estimated to be as high as 700 000. Although contractions in the labor market explain a large part of this trend, the withdrawal of union rights in a large segment of the public sector as well as the inability of the unions to operate outside the formal sector contributed to the decrease in organized labor in the country. Moreover, there is little doubt that the recent spate of splinter unions has been distracting, sapping the energy and resources of the unions affected.

²¹ Own computation from the authors.

²² Mostly based on Fashoyin, 2001.

On the basis of these figures, the organized workforce represents slightly less than a third of the formal wage employment, yielding a union density of about 26% in 2000. Moreover, an exploration of the RPED data set brings in that, in the manufacturing sector, 41% of the labor force belong to a union. The highest unionization rate (51%) is observed in the private foreign firms.²³

2.2. The influence of trade unions on labor market outcomes and poverty

2.2.1 The influence of trade unions on the level of wages

- ***The sources of union power***

The union-nonunion wage differential is the most commonly used measure of union power. The theoretical literature on union power highlights several conditions under which a union can achieve a wage rate higher than the nonunion level (Booth, 1995):

- **First**, there must be some economic rents or surplus in the product market that can be shared. This surplus mostly arises from market imperfections or regulation of a particular industry. Teal (1996) points out that the rent-sharing effect is significant in explaining wage rates using a sample of Ghanaian firms. He emphasizes firm size and private sector as the main determinants of the rent-sharing effect. Azam and Ris (2001) find a similar result for manufacturing firms in Côte d'Ivoire. In addition, they find some evidence of a "hold-up" effect, whereby trade unions are able to grab a share of the incremental profits resulting from irreversible investment. Furthermore, Alby (2004) shows that the rent-sharing effect benefits more the workers, the higher up they are in the hierarchical ladder. In fact, the lower-ranking ones have a negative rent-sharing term. This study shows that an important source of the rent so shared is the monopsony power enjoyed by the firms on their local market for unskilled labor.

- **Second**, the union ability to bargain on wages depends on the monopoly power of the trade unions. According to Salmon (2001), if one excludes the public sector and other protected sectors, the capacity of unions to achieve power by threatening to strike in the private sector is quite small in developing countries as unionization rate and bargaining coverage is generally lower than in industrialized countries and labor regulation more uncertain.

- ***The union wage premium in Africa***

Only a few studies have been done on the extent of the union wage premium in Africa. Table 2.4 below presents the main outcomes of the studies on the union wage effect conducted in selected Sub-Saharan African countries. Several conclusions can be drawn from these results:

- **First**, some studies do not manage to measure any significant effect of unions on wages. The usual explanation for the absence of a positive union-nonunion wage differential is that wage increases secured by unionized workers spill over to raise the wages of certain non-union workers (Pencavel, 1995). In Zimbabwe, where there is an extremely strong positive correlation between unionization and firm size, the size effect is actually picked up by the higher level of unionization in larger firms (Velenchik, 1997). In South Africa, most studies do not find any significant wage advantage for White unionized workers. When bargaining at the firm level, union negotiators often focus on increasing the lowest wages and narrowing the wage gap between skilled and unskilled workers (Bendix, 1996). This bargaining is thus more likely to concern Black workers.

²³ Own computation from the authors.

- **Second**, in Cameroon and Senegal – the only two French-speaking countries for which we have data – union members seem to earn less than similar non-unionized workers.

According to Rama (2000), these negative union premia suggest that union members may get other non-wage benefits that compensate for their lower earnings and that trade unions could have been used by governments in many CFA (*Communauté Financière Africaine*) countries to implement their wage moderation policies. However, Manda et al. (2001) discuss the same issue for the case of the Kenyan manufacturing sector, and show convincingly that the negative union premium is due to a mistaken empirical methodology. They show that the negative effect turns positive once due account is taken of selectivity effects.

- **Finally**, in those countries where the union wage premium is positive (Ghana and South Africa), the value of this premium falls in the higher “developing countries” range.²⁴ Moreover, if one compares the results shown in table 2.4 with those found in developed countries, they are closer to the higher “American” range than to the lower “European” range. Blanchflower and Freeman (1990) demonstrate a contrast between the United States, where the union effect is some 20% and West Germany, Austria and Switzerland, which have small union effects, between 4% and 8%.

- **The spillover effect to non-union members**

Some non-unionized workers can be covered by a collective bargaining agreement. Thus basing union status on membership rather than coverage may lead to non negligible bias in estimating the union-nonunion wage differential (Jones, 1982).

The firm level surveys provide some indirect information about the potential union wage spill-over effect. Table 2.5 below concentrates on Kenya, Tanzania and Uganda.²⁵ In those three countries, around 60% of the firms in the manufacturing sector report that non-unionized workers benefit from the wages unions are negotiating. Furthermore, this extension of union wage agreements to non-unionized workers appears to be higher in large firms (with more than 50 workers) and in the firms predominantly owned by the State.

- Focusing on South Africa, Butcher and Rouse (2001) observe that Black nonunion workers covered by industrial council agreement earn about 10% significantly more than those not covered. In contrast, the difference is not statistically significant for White workers.

- Using a data set from Ghana, Blunch and Verner (2001) find another type of spillover effect on wages of nonunion workers. This effect is estimated by introducing a variable measuring the union density of the sector.²⁶ This variable does not seem to influence wages directly. However, when the worker is trained, the degree of unionization of the sector affects individual wages positively, suggesting that unions’ bargaining power allows them to extract some of the rents from the firm training and share it with workers.

²⁴ together with Malaysia, Mexico and Bangladesh where the union-nonunion wage differential exceeds 10% (Salmon, 2001)

²⁵ Figures for Uganda have to be taken cautiously as only 17 firms answered that question

²⁶ Fraction of the firms in sectors that have at least one organized worker.

Table 2.4. Union wage effect in selected African countries

Country	Union wage effect	Sample	Econometric methodology and comments	Data set	Source
Cameroon	-12.9%	Formal manufacturing Workers	(1) – pooled regression with an individual union membership dummy	2 waves of RPED* (1993)	Thomas and Vallée (1996)
Ghana	15.7%	Formal manufacturing Workers	(1) – with an individual union membership dummy	RPED (1994)	Verner (1999)
	16.9%	Formal manufacturing Workers	(1) – with a dummy for the union status of the firm	RPED (1994)	Blunch and Verner (2001)
	28.4%	Formal manufacturing Workers	(1) – Pooled regression with a dummy for the union status of the firm	3 waves of RPED (1992, 1993, 1994)	Teal (1996)
Senegal	-12.5%		(1) – with an individual union membership dummy	TRSV (1980-1985)	Terrell and Svejnar (1989)
South Africa	Between 10% and 24%	Black male workers (blue-collar workers only)	Depending on the methodology used (1), (3), (4)	Household survey (1985)	Moll (1993)
	Between 26% and 43%	Black male workers	(1) – with an individual union membership dummy. Variation of results depends on the skill level and economic sector	OHS** (1994)	Moll (1995)
	21% Positive but not significant	Black male workers White male workers	(1) – with an individual union membership dummy	PSLSD*** (1993)	Mwabu and Schultz (1998)
	20% 11%	Black male workers White male workers	(1) – with an individual union membership dummy	OHS (1995)	Butcher and Rouse (2001)
	83.8% and 100.5% Positive but not significant	Black male workers White male workers	Depending on the methodology used (2), (4)	OHS (1999)	Azam and Rospabé (2003)
Zimbabwe	Positive but not significant	Formal manufacturing Workers	(1) with a dummy for the union status of the firm.	RPED (1993)	Velenchik (1997)

Notes: (1) OLS regression with an individual union membership dummy variable or a dummy for the union status of the firm.
(2) Treatment effect model (wage regression with a union membership dummy variable, correcting for the selection bias)
(3) separate earnings regime for unionized and non unionized workers
(4) separate earnings regime for unionized and non unionized workers with endogenous switching between the two regimes

* Regional Program on Enterprise development (RPED), World Bank.

** October Household Survey (OHS), Statistics South Africa

*** Project for Statistics on Living Standards and Development (PSLSD), World Bank

Table 2.5. % of firms declaring that non-unionized workers benefit from union-negotiated wages and benefits (2003)

	Kenya	Tanzania	Uganda
Overall	58.5% (124)*	64.2% (104)	58.6% (17)
By firm size			
[1-9]	20% (1)	13.3% (2)	0% (0)
[10-49]	50.7% (34)	53.1% (34)	50% (1)
[50-99]	65.8% (25)	83.3% (30)	50% (2)
>100	62.4% (63)	80.8% (38)	60.9% (14)
By ownership structure**			
Private domestic	58.1% (79)	58.4% (66)	42.9% (3)
Private foreign	47.1% (16)	73.3% (22)	62.5% (10)
State	81.8% (9)	100% (7)	75% (3)
Other	67.8% (19)	87.5% (7)	0% (0)
Total number of firms surveyed	284	276	300

Source: Authors' computation from the firm level surveys (World Bank).

Note: * Into parenthesis: corresponding number of firms

** Private domestic (more than 50% of the capital is owned by the private domestic sector)

Private foreign (more than 50% of the capital is owned by the private foreign sector)

State (more than 50% of the capital is owned by the state)

Other (when the owner is neither the private sector nor the state)

2.2.2 The influence of trade unions on wage inequality and discrimination

• *On wage inequality*

- In Ghana, Blunch and Verner (2001) test for the presence of asymmetry in the union relative wage effect in the manufacturing industries. They find that unions mainly benefit the lower end of the wage distribution.

- Mwabu and Schultz (1998) study the impact of unions on the distribution of wages in South Africa. They estimate that union membership among Black workers increases their wages by 41.2% at the bottom tenth percentile of the wage distribution and has no significant impact at the top of the 90th decile. Hence, these results suggest that South African trade unions narrow income inequality among Black union members only.

• *On wage discrimination*

- In Ghana, Blunch and Verner (2001) show that discrimination favoring male workers, while being present in the non-unionized sector, is virtually absent in the unionized sector. Indeed, they find that there is a positive premium to women from being employed in the unionized sector (around 5%).

- In South Africa, Azam and Rospabé (2003) demonstrate that the impact of unionization on wages seems to be higher for Black workers than for White workers, who get on average roughly the same wage when they are unionized than when they are not. This result is in accordance with Rospabé (2001).

2.2.3 The participation of trade unions in Poverty Reduction Strategy Papers (PRSPs)

Since 1999, African trade unions have been participating in Poverty Reduction Strategy Papers (PRSP) together with their government, other civil society organizations and in collaboration with the World Bank and the International Monetary Fund. Trade unions have been identified as stakeholders involved in policy making and program implementation. Egulu (2004) reports their perception on the PRSP process. Almost no union has reported being engaged in the drafting, implementation or monitoring and evaluation. This is the case, for instance, in Kenya, where trade union participation in the PRSP process has been minimal. However, in Ghana, where unions have traditionally been politically and economically active, the TUC has been largely involved in the PRSP process.

2.3. The challenges of workers' organizations

2.3.1. Enlarging the sphere of union influence

One of the major challenges facing trade unions has to do with the twin issue of broadening their representativeness in the formal labor market and extending union organization to the informal sector workers.

- *Unionizing senior staff*

The traditional organizational base of African trade unions is dominated by blue-collar workers, mainly from relatively large establishments in the formal sector. Globalization and technological developments are reducing the demand for unskilled labor while increasing the demand for highly skilled and professional personnel. To counter the erosion of membership, efforts have to be made to unionize senior staff and professional workers. On the other hand, there are also some incentives for senior and professional personnel to unionize as a legally-binding collective bargaining agreements puts them on a firmer basis for negotiating for improved service conditions than the informal arrangements that their staff associations have had with employers. Moreover, they can also be subject to possible redundancy and erosion of income (Anyemedu, 2000).

In Ghana many unions have mounted aggressive membership drives with respect to senior staff and professional employees (Anyemedu, 2000). In 2000, the two largest unions – the Industrial and Commercial Workers Union (ICU) and the Public Services Workers Union (PSWU) – had strong senior staff representation in their unions.²⁷

However, in many cases, management – represented in the Ghana Employers Association (GEA) – strongly resisted the unionization of senior officers, putting forward first, the problem of deciding which employee are representative of employers and shareholders, and therefore may be excluded from union membership. And second, the possible divided loyalty and misuse of confidential information for unionized senior staff / management personnel. In 1997, the government recognized fact that “every Ghanaian is guaranteed freedom of association including the freedom to form or join a trade union of his choice”.

²⁷ The ICU claimed 4 000 senior and management staff from 29 companies among its members and the companies include most of the major private sector establishments in the country (Anyemedu, 2000)

- ***Organizing the informal sector***²⁸

The annual rate of expansion of employment in the urban informal sector²⁹ was reported to be 6.7% between 1980 and 1985. Despite the shortage of reliable statistical data, it was estimated in the middle of the 1990s that the informal sector in Africa employed about 61% of the urban labor force and will generate some 93% of all additional jobs in this region during the 1990s (ILO, 1997).

So far, the African informal sector has remained relatively unorganized. However, there are many examples of trade union support to informal workers' associations in terms of advocacy for policy changes, capacity-building, access to credit and financial support, access to inputs etc. There also had been some circumstances for integrating informal economy workers into the mainstream trade union movements, through special units (Mwamadzingo, 2002).

- Constraints in organizing

- **First**, the informal sector is heterogeneous both in terms of activities and employment status. Activities range from petty trading and service repairs to transport, construction and manufacturing. Informal sector units may encompass the self-employed working alone or with unpaid family members, as well as "micro-enterprises" employing a few hired workers and apprentices. Organizing such a diversified population is a real challenge for trade unions. Furthermore, all dependent informal sector workers are in a precarious situation and their relationship with the employer is heavily influenced by neighborhood, family or ethnic ties. These factors hamper any effort aimed at mobilizing and organizing to obtain better conditions of work because family or ethnic loyalties count more than working-class solidarity.

- **Second**, most informal sector firms operate on a small-scale and often unstable basis. The limited scale of operation and instability of unit or enterprise make it difficult to set up workers' associations and sustain them.

- **Finally**, informal sector units operate on the fringe of the legal and administrative framework. Failure to comply with existing rules and regulations obviously run counter to the inherent objectives of any organization claiming to be representative.

- Informal workers' associations

As underlined by the ILO (ILO, 1997), the distinction between informal sector associations, representing wage-earners or other types of dependent workers in an attempt to improve their wages and working conditions, and those grouping micro-entrepreneurs or own-account workers who are concerned primarily with productivity goals is blurred. Sometimes, the same informal sector organization may pursue both sets of goals. This is often due to the fact that their members may change their employment status throughout the year or combine self-employment with wage-earning types of activities.

Most informal workers' organizations usually comprise own account workers or micro-entrepreneurs whereas associations of homeworkers or other de facto dependent workers are

²⁸ Many arguments given in the following development are based on the chapter 8 of the World Labor Report 1997-98 "Industrial relations and the informal sector".

²⁹ The informal sector is defined as a "range of economic units in urban areas which are largely owned and operated by single individuals with little capital and labor and which produce and distribute goods and services with a view to generating income and employment" (ILO, 1997). Other characteristics include labor-intensive technologies, easy entry, high levels of competition, production of low-quality goods and services, undeclared and unprotected labor as well as unstable relationships of production.

much less developed. Indeed, workers in the informal sector usually organize to overcome business constraints, such as high prices for inputs, low prices for the goods produced, difficulties in gaining access to credit and service, threat of eviction by city authorities and the risk of income losses deriving from unexpected events, such as death or illness. However, there is much less evidence of the existence of specific workers' organizations aimed at defending workers' rights.

In Kenya, for instance, the Federation of Juma Kali Entrepreneurs was established, with government support, in order to improve the productivity and conditions of work of informal sector operators. Fora were subsequently created, involving both the Federation and the government, to discuss and look into problems and possible solutions. They did not reach their goals: the Federation's inherent weaknesses in running affairs, coupled with the inadequacy of the consultation process and procedures, severely limited the impact of government's initiative. (ILO, 1997)

- The role of trade unions

- **First**, a number of African trade unions are providing capacity building and other types of support to organizations in the informal sector.

For instance, in Burkina-Faso, in 1985, the National Organization of Free Trade Unions helped the formation of the Cissin-Natanga Women's association which provides training in various trades to its members (Mwamadzingo, 2002). In Ghana as well, the Industrial and Commercial Workers' Union of the Trade Unions Congress has created a sale opportunity for batik producers in the Hall of Trade Unions in Accra (Ghartey and Dorkenoo, 2002).

- **Second**, in a number of African countries, trade union organizations are developing policies to enhance the recruitment and organization of informal sector workers. In Ghana and in Zambia for instance, union constitutions have been revised to allow the membership of informal sector workers.

In Ghana

Adu-Amankwah (1999) provides a few examples of the full integration of informal workers into the mainstream trade union movement, ranging from help to access credit and financial support, through training, to awareness of rights and social protection standards. For instance, the most organized informal sector group of workers in the Industrial and Commercial Workers Union (ICU) is the Ghana Hairdressers and Beauticians' Associations (GHABA). GHABA registers 4000 members spread all over Ghana and has its own structure from district through regional to national levels. Each member of the association pays an affiliation fee which in turn is given to the ICU. In return, the latter provides legal services for members, organizes training and leads negotiations with the Accra Metropolitan Assembly on tax rates and rates to be paid for shops.

In Zambia

Fashoyin (1998) presents another illustrative example where the Zambia Congress of Trade Unions (ZCTU) has a policy to protect the informal sector, including the self-employed and workers in small enterprises. The Congress amended its constitution in 1994. It now covers the informal sector as part of its organizing and representational constituency. Thus, it has implemented a two-sided approach as a prelude to organizing these workers into trade unions. For the self-employed workers, the Congress seeks to help them by providing training, legal advice and sources of funds. As regards workers in micro and small scale enterprises, the

Congress seeks to extend traditional trade union protection to the workers, such as social security and create in them the awareness of occupational safety and health issues.

In Kenya

Kenya provides the case of a relative failure of the trade union movement to address the issue of workers in the informal sector (Chune and Egulu, 1999). The main obstacle that COTU had to face was legal. Despite the explicit nature of COTU's constitution defining its obligations to workers of all categories, it could not overcome legal barriers: membership of a union is based on the existence of an employer-employee relationship which is not always guaranteed in the informal sector. Besides, informal workers are not covered by the Labor Act nor by the Employment Act. Besides this legal framework constraint, the main obstacles to union organizations have to do with first, the low financial returns from the sector. Indeed, when informal sector workers join a trade union, their membership fees are either symbolic or much lower than those paid by regular wage-earners, and they are often irregular due to their unstable income (ILO, 1997). Second, unions point out the absence of ready packages of benefits to attract informal sector operating units coupled with their absence of previous experience of union organization (Adu-Amankwah, 1999).

2.3.2. Strengthening internal organizational cohesion³⁰

Another challenge for African trade union organizations is to reinforce their internal cohesion weakened mainly by divisions in the union movement and/or a high rate of leadership depletion. When unions are divided, they can hardly use tripartite means to advance the interest of protecting workers or contribute meaningfully to socio-economic development. Fashoyin (2001) states that in Kenya, the split of some unions in the 1990s, which challenged the historical principle of one union per industry, sapped energy and resources of unions. The same occurred in Zambia where, in 1991, five major unions left the main trade union federation, the Zambian Congress of Trade Unions (ZCTU) (Fashoyin, 2002).³¹

The second organizational challenge, regarding the management capacity of the unions, concerns the high rate of leadership depletion in trade unions over the years, as a result of a number of factors, such as retrenchment, promotion and retirement. For some trade union movements in Southern Africa, particularly in Malawi, Namibia and South Africa, political liberalization has induced trade union leaders to seek better fortunes in public administration, politics and industry.³²

3. EMPLOYERS' ORGANIZATIONS IN AFRICA³³

In most African countries the common wisdom during decades was that only the State could mobilize an "organized total effort" as a compelling development need. This notion of development implied the cooptation of employers' organizations. Under such an arrangement, employers' organizations forgo their legitimate right to protect their interests, and in return government grants them certain privileges. Moreover, following the predominant role of the State, the largest employer in most African countries is the government itself, decreasing de

³⁰ This section is mostly based on Fashoyin (1998).

³¹ However, by 1998, all but one of the five breakaway unions had returned to the ZCTU.

³² As stated in one report of NALEDI (NALEDI, 1994), 80 experienced South African Trade Unionists left for other employment in 1994 alone. Furthermore, it has been reported that in the country's public sector, 70% of the SADTU (principally a teachers' union) leadership moved to government by 1996.

³³ See appendix 3 for the case studies on South Africa, Ghana, Kenya and Côte d'Ivoire.

facto the weight of private entrepreneurs' organizations in most negotiations and decision-makings. The 1990s have brought an emerging consensus that conditions of political liberty are essential for enhancing economic opportunity. As a consequence, some African governments are signaling their intent to deepen tripartite consultation and improve its efficiency for building better understanding between the social partners.

Furthermore, the current trend towards privatization and market liberalization is reducing the role of government. Such trends have opened the door for independent, representative and economically influent employers' organizations.

Under the ILO's Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), and Right to Organize and Collective Bargaining Convention, 1949 (No.98), ratified by the majority of African countries (see Section 1), employers have the right to "gather together" to protect their interests and advance their capability to conduct their business in any appropriate manner consonant with national laws.³⁴

3.1. The Employers' Organizations Membership

Table 3.1. Producer or trade association membership in some selected African countries

	Ethiopia (2002)	Kenya (2003)	Tanzania (2003)	Uganda (2003)	Zambia (2002)
Percentage of firms members of an Employers' Association¹	63,0% (427) ²	78,6% (281)	65,4% (269)	60,0% (300)	69,1% (207)
By firm size					
[1-9]	43,8% (176)	60,0% (10)	17,0% (47)	22,2% (54)	100,0% (1)
[10-49]	69,4% (134)	60,4% (91)	56,6% (106)	57,5% (153)	56,7% (60)
[50-99]	89,3% (28)	91,3% (46)	93,8% (48)	67,6% (34)	68,0% (50)
>100	83,2% (89)	88,8% (116)	95,4% (65)	96,6% (59)	80,5% (87)
By ownership structure					
Private domestic	59,1% (342)	74,9% (187)	62,1% (198)	54,3% (223)	68,0% (147)
Private foreign	93,8% (16)	94,3% (35)	88,4% (43)	81,3% (64)	73,1% (52)
State	77,2% (57)	86,7% (15)	70,0% (10)	71,4% (7)	66,7% (6)
Other	66,7% (12)	78,6% (42)	23,1% (13)	20,0% (5)	50,0% (2)
Total number of firms Surveyed	427	284	276	300	207

Source: Authors' computation from the firm level surveys (World Bank).

Note: ¹ Firms report to be member of a producer or a trade association.

² Into parenthesis total number of firms concerned

Table 3.1 focuses on the manufacturing sector only and considers employers' organizations membership in five selected African countries.³⁵ Membership rates are not only quite high compared to union membership, but also much more homogeneous across countries, between 60% (for Uganda) and 78.6% (for Kenya). These five countries display the same ranking order for employers' organizations membership rate as for the unionization rate (see table

³⁴ Etukudo (1995)

³⁵ The question about employers' organization membership was not asked during RPED surveys in Eritrea and Nigeria.

2.2).³⁶ The heterogeneous composition of employers' organizations can result in conflicts of interests: small businesses versus large ones, indigenous businesses versus branches of multinationals, etc. There is a strong positive correlation between membership and firms' size in all countries. The membership rate is always the highest in the private foreign owned firms.

Hence, the membership of most of the employers' organizations is composed mainly of large and foreign owned companies. These kinds of firm are not the most numerous, but since they display the highest membership rate and probably the most effective economic power, they could manage to have much more bargaining power inside the organizations. However, there does not seem to be any evidence that these associations work against the interests of small and medium-size firms. Large and powerful firms often try to adjust the organizations' services toward small firm specific needs, even if they are never easy to implement. Useful services for small firms are more costly than those given to larger firms. Often the employers' organizations can be reluctant to make up some of the deficit of management resources existing in small firms.

3.2. Employers' Organizations Services

Table 3.2 below focuses on the manufacturing sector only and displays the value of employers' organizations services in five African countries. In the RPED surveys, firms were asked how important each employers' organization service is to the firm. Hence, this "value" is not the effective performance of employers' organizations but rather the perceived importance and effectiveness of each service provided to the firm.³⁷

Table 3.2 highlights that the most important service provided by employers' organizations to member firms is the supply of information concerning current or new government regulations. Furthermore, even firms with more than fifty percent of their capital owned by the state need information about current or new government regulations.

A significant number of firms considers that the lobbying role of their association is of major or crucial importance for their business. The percentage of firms which value the lobbying actions as a major service increases with firms' size. Small and large member firms may not have the same priority in terms of economic policies that should be undertaken. However, as seen above (table 3.1), the composition of the coalition does not favor small firms as they are less represented in employers' organizations than the large ones. The composition effect and their limited bargaining power may both prevent small firms to impose their specific economic point of view. As a result, the lobbying organization does not seem to put pressure on the government to implement small firms' favorable reforms, even if about a quarter of very small firms quote this service as a crucial one.

³⁶ For detailed profiles of national employers' organizations in Africa in 1997 see table A.7 in appendix 3.

³⁷ The survey identifies three main services which are usually provided to the firm by its employers' organization. The first one is its capacity to lobby the government and hence to influence regulatory, economic or judicial decisions. Then, employers' organization main role is to defend its members during resolution of disputes which can be either with officials, workers or other firms. Finally, the organization may be useful to provide information to its members about current or new government regulations.

Table 3.2. Producer or trade association services

		Ethiopia (2002)		Kenya (2003)		Tanzania (2003)		Uganda (2003)		Zambia (2002)	
% of Firms Quoting the Item as an Important Service ¹	Lobbying Government	32,2%	(214) ²	49,1%	(212)	32,9%	(164)	43,0%	(165)	30,8%	(130)
	Resolution of Disputes	17,4%	(184)	37,7%	(207)	28,5%	(123)	25,0%	(140)	23,5%	(51)
	Information on Regulations	40,4%	(223)	55,2%	(210)	50,3%	(159)	48,5%	(165)	39,8%	(118)
By firm size											
[1-9]	Lobbying Government	29,0%	(62)	25,0%	(4)	0,0%	(7)	22,2%	(9)	0,0%	(1)
	Resolution of Disputes	25,0%	(56)	75,0%	(4)	0,0%	(6)	27,9%	(10)	0,0%	(1)
	Information on Regulations	32,8%	(58)	75,0%	(4)	25,0%	(8)	27,3%	(11)	0,0%	(1)
[10-49]	Lobbying Government	30,7%	(75)	40,7%	(54)	25,5%	(55)	32,1%	(81)	20,7%	(29)
	Resolution of Disputes	7,7%	(65)	42,6%	(54)	23,1%	(39)	23,5%	(70)	37,5%	(8)
	Information on Regulations	40,0%	(80)	52,8%	(53)	50,0%	(48)	40,7%	(81)	43,5%	(23)
[50-99]	Lobbying Government	50,0%	(20)	38,1%	(42)	29,3%	(41)	47,6%	(21)	20,0%	(30)
	Resolution of Disputes	26,7%	(15)	29,3%	(41)	35,3%	(34)	27,5%	(17)	36,4%	(11)
	Information on Regulations	56,5%	(23)	52,4%	(42)	65,1%	(43)	57,9%	(19)	28,6%	(28)
>100	Lobbying Government	31,6%	(57)	61,2%	(98)	40,0%	(60)	61,1%	(54)	39,4%	(66)
	Resolution of Disputes	18,8%	(48)	38,9%	(95)	30,2%	(43)	10,0%	(43)	16,7%	(30)
	Information on Regulations	41,9%	(62)	60,2%	(98)	42,4%	(59)	61,1%	(54)	41,9%	(62)
By ownership structure											
Private domestic	Lobbying Government	33,1%	(163)	46,6%	(133)	32,7%	(113)	40,0%	(110)	29,2%	(89)
	Resolution of Disputes	18,1%	(138)	33,3%	(132)	24,1%	(87)	24,8%	(101)	28,2%	(39)
	Information on Regulations	39,1%	(169)	51,5%	(130)	50,9%	(110)	44,9%	(107)	35,0%	(80)
Private foreign	Lobbying Government	50,0%	(14)	57,6%	(33)	27,8%	(36)	50,0%	(48)	33,3%	(36)
	Resolution of Disputes	14,3%	(14)	45,2%	(31)	39,1%	(23)	26,5%	(34)	8,3%	(12)
	Information on Regulations	50,0%	(14)	57,6%	(33)	47,1%	(34)	52,9%	(51)	52,9%	(34)
State	Lobbying Government	22,6%	(31)	33,3%	(12)	42,9%	(7)	40,0%	(5)	50,0%	(4)
	Resolution of Disputes	19,2%	(26)	27,3%	(11)	33,3%	(6)	0,0%	(4)	-	(0)
	Information on Regulations	38,2%	(34)	30,8%	(13)	57,1%	(7)	60,0%	(5)	33,3%	(3)
Other	Lobbying Government	16,7%	(6)	53,1%	(32)	33,3%	(3)	0,0%	(1)	0,0%	(1)
	Resolution of Disputes	0,0%	(6)	48,4%	(31)	50,0%	(2)	-	(0)	-	(0)
	Information on Regulations	66,7%	(6)	75,0%	(32)	66,7%	(3)	100,0%	(1)	0,0%	(1)
Total number of firms Surveyed		427		284		276		300		207	

Source: Authors' computation from the firm level surveys (World Bank).

Note: ¹ Indicates the percentage of firms which have associated a value of 3 or 4 to each employers' organization service. Knowing that: 0 = no value; 1 = minor value; 2 = moderate value; 3 = major value; 4 = critical value to the firm.

² Into parenthesis total number of firms concerned

Organizations' assistance to their members during disputes with officials, workers or other firms appears to be the least valuable service for firms.

There is no significant difference when looking at firms' size or ownership structure. In fact, disputes against officials, workers or other firms seem to be much more related to firms' level problems that do not require any coalition to be formed to get solved.

Kenya, which displays the highest membership ratio, exhibits also the highest proportion of firms assigning a major value to organizations' services. This suggests that the employers' organizations membership and the perceived quality of their services seem to be related.

3.3. The role of Employers' Organizations in the Informal Sector

The majority of employers' organizations see the informal sector as unfair competition. Most employers' organizations see their key role as assisting the migration of informal enterprises into the formal sector, though this is not always seen as a high priority. The employers' organizations use their influence to remove regulatory obstacles to small and medium-sized enterprises development, which seem most pronounced, and most entrenched as bases for bribery and similar corruption in African countries.³⁸

Developing the link between the formal and the informal sectors

Formal-informal firms' cooperation can develop on the basis of subcontracting relationship.³⁹ This is the reason why some employers' organizations have begun encouraging the establishment of associations of micro and small entrepreneurs and businesses. In fact, these employers' organizations have established, often in cooperation with the ILO, programs such as "Improve Your Business" and "Start Your Business"⁴⁰ for this category of members.

Evidence suggests that including micro-entrepreneurs into formal employers' associations is not necessarily the most effective type of organization to overcome constraints in access to credit and training resulting in low productivity. Informal workers' organizations, home workers' associations and informal sector cooperatives often mobilize to obtain credit, inputs and training at more advantageous conditions.

Another strategy adopted by cooperative-type informal sector associations has been to pool resources and assets with other trade associations. For example, in Benin approximately 1,600 micro-enterprises, employing about 6,500 people, are organized in some 60 mutual savings and loan associations.

These associations combine traditional solidarity-based saving and credit practices with economic effectiveness. Apart from their high rate of recovery and observance of repayment schedules, these associations have shown a growing propensity to lend out the savings collected, thus increasing their contribution to capital formation. They have been vested with a legal personality recognized by the Ministry of Internal Affairs, and are governed by by-

³⁸ ILO (2004)

³⁹ ILO (1997)

⁴⁰ Start and Improve Your Business (SIYB) program is part of the ILO's International Small Enterprise Program. The SIYB program has been designed to provide a sustainable and cost-effective method of reaching substantial numbers of small-scale entrepreneurs and provide them with the management skills needed for profitability in a competitive environment. Aimed at a variety of target groups, it deals with various topics related to small-enterprise development such as training, business counseling, monitoring and evaluation, and networking. Small-enterprise development institutions in more than 70 countries worldwide have used the SIYB program.

laws drawn up by their members. Legal recognition by the Ministry has acted as a deterrent against abusive practices by local government agencies. Local proximity and social control have proved the key to their success.

In many countries, the government has become more active in developing targeted interventions to overcome various constraints faced by the informal sector. But well-intentioned government measures do not always yield the desired result. For instance, in Côte d'Ivoire (Gaufryau and Maldonado, 1997), a government policy to create a truly representative and functional national craft association failed to produce the expected results because the organizational structure proposed was too bureaucratic and complex.

The role of the International Finance Corporation (IFC)

To reach the African private sector and respond to its needs, the International Finance Corporation (IFC) is establishing a different product mix, involving both investment and non-investment services. IFC is working with the International Development Association to launch comprehensive programs targeted at micro, small, and medium enterprises (MSME) in 10 African countries. The proposed MSME Program aims at reducing constraints to growth and competitiveness by increasing access to finance, helping firms to find new markets by building their technical capacity, and reducing regulation to enable more private sector participation.⁴¹

A key resource for capacity building is IFC's Africa Project Development Facility (APDF). To make it more effective in meeting demand, IFC is increasing the scale of APDF's operations under a new and more flexible funding model. In addition, IFC is piloting a new model for delivering its services to smaller businesses through SME Solutions Centers. Each center will be an integrated "storefront" of services and financing for SMEs, including short- and long-term finance, capacity building, access to information, and approaches to improving the business-enabling environment. The first SME Solutions Center opened last year in Madagascar.

4. SOCIAL DIALOGUE, COLLECTIVE BARGAINING, LABOR-MANAGEMENT RELATIONS IN AFRICA

In this section, we review the different forms of social dialogue prevailing in Africa, either through bipartite collective bargaining or cooperation – between workers' and employers' organization –, or through tripartite dialogue – between the state, the workers' and employers' organization – in ad hoc bodies or formal advisory or negotiating institutions.

4.1. Bipartite social dialogue

4.1.1. Collective bargaining institutions

The literature on collective bargaining usually focuses on two measurable aspects of collective bargaining: the level of bargaining and the bargaining coverage.

⁴¹ International Finance Corporation, Small and Medium-Size Enterprises Group, African Project Development Facility (2003 Annual Report).

- ***The level of collective bargaining***⁴²

Knowing that in most African countries, sectoral and company level bargaining systems prevail, table 4.1 below presents a picture of the **dominant** level of collective bargaining for some selected African countries.

As underlined by Fashoyin (1998), “in many African countries, public policy designs had tacitly promoted sectoral or industry level bargaining relationship, ostensibly to create some sort of stability in labor relations”. Hence, as shown in table 4.1, in many African countries, such as South Africa, Zambia, Zimbabwe for instance, bargaining at the industry level has been a major feature of the collective bargaining system. However, despite this support of public policy for centralized bargaining, enterprise bargaining exists. This is the structure of bargaining prevalent in such countries as Botswana, Lesotho, Mozambique, Namibia, Swaziland, Kenya and Ethiopia.

Table 4.1. The dominant level of Collective Bargaining in selected African countries

Kenya [*]	Company
Ethiopia ^{**}	Company
Namibia ^{***}	Company
Cameroon ^{****}	Company
Côte d'Ivoire ^{****}	Company
Ghana ^{****}	Company
South Africa ^{***}	Sectoral
Zambia ^{***}	Sectoral
Zimbabwe ^{***}	Sectoral
Nigeria ^{****}	Sectoral

Source: ^{*} Fashoyin (2001)

^{**} Buckley et al. (2004)

^{***} Fashoyin (1998)

^{****} Institutional Profiles, 2003 (French Department of Economics, Finances and Industry),
(Wage Collective bargaining exclusively)

In Southern Africa, following the liberalization process, the trend towards enterprise-level bargaining has intensified in the 1990s with the employers (workers) recognizing the need to have more flexibility in the design of pay for productivity and competitiveness (Fashoyin, 1998). This is the case for instance in Zambia, where bargaining system in the banking industry shifted from industry-wide bargaining arrangements (through a Joint Industrial Council Agreements) to firm-level negotiation. A similar development occurred in Botswana. Finally, in Zimbabwe, although the sectoral level is still the most prevalent level (under the National Employment Councils), bargaining at the works councils in enterprise has recently increased.

Case studies

The South African bargaining system

Centralized bipartite bargaining structures

The Labour Relation Act (LRA) of 1995 promotes the use of centralized bargaining structures. It retains the previous Industrial Councils, now renamed Bargaining Councils and extends these also to the public service. At the end of 2002, according to the department of Labour, there were 62 Bargaining Councils compared to 81 in

⁴² Some authors (for a review, see Aidt and Tzannatos, 2001) prefer using the larger notion of bargaining coordination which may encompass one or more of the following aspects: the degree of unions centralization, union concentration, the extent of employer centralization, the level of bargaining, the degree of informal coordination and corporatism.

1994, indicating a substantial de-registration of Bargaining Councils since 1995. These Councils can cover a specific industry, occupation and area (either the whole country, province or cities). Bargaining Council agreements can deal with items such as wages and conditions of service, retrenchment procedures, grading systems etc.

The “Compulsory centralization” whereby the Bargaining Councils agreements can be extended to non-parties still prevails under the LRA 1995. According to Moll (1996), the abolition of these “ergo omnes” rules, involving the enforcement of too high minimum wages for the small firms, would probably generate an increase in employment. However, as Bezuidenhout (2000) argues, only a third of the private sector employees are covered by such agreements. Also, as indicated above, firms can apply for exemption from Bargaining Council agreements. In 80 per cent of cases, these exemptions are granted (ILO, 1999)

In a number of sectors, national bargaining forums have been established by mutual agreement between employers and unions. For instance, this the case in the gold and coal mining sector between the NUM and the Chamber of Mines.

Decentralized bargaining structures

In term of the organizational rights now accorded to unions by the LRA 1995, if a union proves sufficient or majority representation in the firm, the employer can not easily refuse to recognize the union as the bargaining unit at the firm level. Negotiation can be conducted “on all matters of mutual interest”, such as wages, working conditions, training, discipline, grievances, retrenchment, job grading etc.

If the thrust of the LRA of 1995 towards a more centralized bargaining system is reflected in practice, then the institution of plant-level bargaining may gradually disappear. This might be supported by the fact that the workplace forums introduced in the LRA – representing all the employees in the workplace – might, in the future perform many of the functions of plant-level unions (Bendix, 1996).

The Ivorian bargaining system⁴³

The Constitution provides for collective bargaining, and the Labor Code grants all citizens, except the police and military, the right to bargain collectively. Collective bargaining agreements are in effect in many major business enterprises and sectors of civil service. Wages are either established in direct negotiations between unions and employers or are determined by the political authorities.

In most cases in which wages were not established in direct negotiations between unions and employers, the Ministry of Employment and Civil Service established salaries by job categories. The Government administratively determined monthly minimum wage rates, which last were adjusted in 1996. In 2002, President Gbagbo promised a comprehensive pay rise; however, only the police received an increase. The Government enforces the minimum wage rates only for workers employed by the Government or registered with the social security office. The majority of the labor force works in agriculture or in the informal sector where the minimum wage does not apply.

The Ghanaian bargaining system

The new legislation repealed a law restricting the right to bargain collectively to only those groups that apply for a Collective Bargaining Certificate through the TUC, essentially giving the TUC a monopoly. The new law allows any trade union to apply for a Collective Bargaining Certificate. The law also provides a framework for collective bargaining, and trade unions engaged in collective bargaining for wages and benefits for both private and state-owned enterprises without government interference.

The right to bargain collectively is covered by the Industrial Relations Act (IRA) of 1965, but there are serious restrictions of the free exercise of the right to collective bargaining.⁴⁴ The IRA grants the Registrar of trade unions wide powers to refuse to recognize a trade union as representative for the purposes of collective bargaining. The National Advisory Committee on Labour (NACL) has recommended that the relevant provisions be amended to ensure that unions can be granted collective bargaining certificates with the support of two thirds membership of the class of employees represented. The ILO however, has informed the Government that this would still not provide for adequate protection of unions’ rights to bargain collectively, and has recommended

⁴³ Mostly based on the “Foreign Labor Trends – Côte d’Ivoire” report by U.S. Department of Labor (Bureau of International Labor Affairs) (2002)

⁴⁴ “International Recognised Core Labour Standards in Ghana”, Country Reports: WTO & Labour Standards, 28/2/2001

that the IRA provisions be amended to permit the award of a collective bargaining certificate with the support of a simple majority of the relevant bargaining unit.

The Kenyan bargaining system

Collective bargaining has a long tradition in Kenya. Today, an average of over 300 collective agreements, mostly made on an individual employer basis, are signed annually in Kenya (Fashoyin 2001). However, the number of collective agreements registered has fallen due to growing economic difficulties, which have caused business closures, or have induced the parties to continue with existing conditions or even to abandon the bargaining process altogether.

Both the Trade Disputes Act and the 1962 Industrial Relations Charter authorize collective bargaining between unions and employers to establish wages and conditions of employment. The Government permits wage increases of up to 100 percent and renegotiation of collective agreements; however, the law allows employers in ailing industries to dismiss workers regardless of the provisions of their collective bargaining agreements. Collective bargaining agreements must be registered with the Industrial Court to ensure adherence to these guidelines.

Collective bargaining can take place at the industry or sectoral level and the company level. Due to the economic difficulties of the late 1990s, bargaining at the industry-level has become increasingly unpopular in recent years and there has been a growing shift towards individual bargaining at the company-level. Indeed, company-level bargaining leaves room for both sides to adjust employment conditions to their particular situation.

• **Collective bargaining coverage**

In some countries, the collective bargaining agreements negotiated by unions also prevail for non-unionized workers. In that case, collective bargaining coverage rate is higher than the unionization rate. Difference between these two rates comes from legal constraints and institutional background.

Only a few statistics of collective bargaining coverage are available for Africa, reported in table 4.2.

**Table 4.2. Collective Bargaining Coverage rate and union density
in selected African countries (mid 1990s)**

Country	% of employees in the formal sector covered by collective agreements	Union density (as a % of wage formal employment)
Ghana	25%	n.a
Kenya	35%	33.3%
Mauritius	40%	36.6%
Nigeria	40%	n.a
Swaziland	25%	n.a
South Africa	37%*	40%**
Uganda	25%	6.8%
Zambia	30%	54.5%
Zimbabwe	25%	21.7%

Source: ILO (1997) (except for South Africa). The ILO figures are based on a questionnaire on trade union membership and collective bargaining coverage sent to government, employers and union representatives (except for Zimbabwe).

* ILO (1999). This 1996 figure only reports bargaining coverage for the private sector (including Bargaining Council agreement as well as Chamber of Mines agreements). It is reported to total private employment.

** Naidoo (1999). Computed from : membership (3 016 933) and total employment excluding agriculture (5 238 572).

Collective bargaining coverage ranges from 25% to 40%. When appropriate figures are available,⁴⁵ union density generally appears to be lower than collective bargaining coverage,

⁴⁵ In order to be compared, the collective bargaining coverage and union density must refer to the same population, here the formal wage sector.

Zambia aside. A survey conducted in the South African manufacturing sector (the South African Labor Flexibility Survey – SALFS) presents a different picture of the Bargaining Councils coverage (Macun, 1997). It shows that in 1996, 65 % of the firms that were surveyed are subject to Bargaining Councils agreements, be they party to such agreements or non-parties to whom agreement had been extended. The distribution of those firms by employment size was found fairly even, with a smaller proportion of larger firm subject to Bargaining Councils agreement.

4.1.2. Resolution of disputes and strikes

- ***Dispute resolution process in Africa***

An important element of a sound labor relations systems is the provision of an effective and practical dispute settlement machinery. Betcherman et al. (2001) bring out for developed countries a move away from court-based procedures and adversarialism towards alternative non-court approaches that focus on conciliation and arbitration. The dominant innovation over the past half-century has been the introduction of administrative labor tribunals as an alternative to litigation. When considering the introduction of these alternative dispute resolution approaches in developing countries, the authors raise some reserves related to the support of cultural and institutional norms, the availability of trained and trainable mediators, sustainable financing and adequate legal foundation. They further highlight that this policy can be a good complement to court procedures that are long and costly but should not be a substitute to an effective judicial system aimed at enforcing labor legal standards.

In many African countries, dispute resolution processes have been dominated by the State via the Ministry of Labor, usually through its conciliation and mediation services (Fashoyin, 1998). Labor Courts have been established to resolve disputes that could not be settled by the government machinery. One exception is South Africa where an independent conciliation and arbitration system (the Commission for Conciliation, Mediation and Arbitration – CCMA) has been created. In Southern Africa, these government conciliation services have generally become deficient mostly due to the reduction in resources of labor administration as well as a lack of definition of the procedures for settling disputes (Fashoyin, 1998). As a consequence, the labor court which should be the ultimate final authority in the dispute settlement system is over-burdened by too many premature referrals.

- ***Strike activity in Africa***

Strikes constitute the most obvious form of industrial action, beside go-slows, boycott, overtime bans etc. Statistics on strikes in Africa are sparse and highly dependant on the data source.⁴⁶ The Laborsta from the ILO provides some figures of the strike activity for a few selected African countries. Table 4.3 below presents the evolution of the number of strikes between 1990 and 2003.⁴⁷ Two main remarks can be drawn from the analysis of this table:

- **First**, strike activity seems to be significant during the 1990s in only a small number of countries, namely Kenya, South Africa and Zambia. In other countries, the number of strikes rarely exceeds 20 a year.

⁴⁶ The case of Kenya provides an illustration of this variability. The laborsta data source of the ILO reported 44 strikes, involving 16 029 workers in 1997. Whereas, according to Fashoyin (2001), the 1997 annual report of the Kenyan Ministry of Labor registered 97 strikes, involving 270 660 workers.

⁴⁷ See appendix 2, table A.6, for similar table with the number of workers involved

- **Second**, among these three countries, only Zambia has experienced a steady decrease in the number of strikes in the 1990s. According to Fashoyin (2002), this might be attributed to the effectiveness of the dispute settlement machinery but it is mostly the threat of job losses that contributed to this change. In South Africa and Kenya, strike activity is much more volatile but seems to have greatly declined since 1998.

The main reason for strike action is related to wage, other motives such as grievance and disciplinary issues remaining secondary. For instance, in 1999 in South Africa, around 97% of strikes were due to wage disputes.⁴⁸ French-speaking countries have been particularly affected by unpaid salaries problems during the last decade (Mayaki, 2002 and Linard, 2002).

Table 4.3. Evolution of the number of strikes in selected African countries

Country	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002
Botswana					7	6	6	19	30	10	14		
Burkina Faso		3											
Burundi						4	1	2	2	2	3	4	
Cape Verde		1						17					
Central African Rep.		4	13	2									
Gabon											14		
Ghana	24	24											
Guinea	2	8	5	0	2	0	3						
Kenya*	92	90	97	69	55	42	58	97	105	38	41		
Mauritius	8	6	9	4	9	7	18	23	21	19	25	25	29
Niger	28	10											
Rwanda									41	49			
Reunion	29	44	35	23									
Senegal	26	55	19										
South Africa	948	613	833	790	804	315	901	1324	527***	107***	80***	83***	
Swaziland			16	7	16		1						
Zambia	103	102	91	31	35	24	36	60	20**				

Source: Laborsta, ILO

* From 1990 to 1994: Ikiara and Ndung'u, 1999, (Republic of Kenya, Statistical Abstract)

From 1995 to 2000: Fashoyin, 2001, (annual report of the Ministry of Labor and Federation of Kenyan Employers)

** Fashoyin (2002), (unpublished data from the Ministry of Labor and Social Security, Lusaka)

*** Department of Labor Annual Reports, Pretoria.

Table 4.4. Days of production lost to strikes and labor unrest

	Ethiopia (2002)	Kenya (2003)	Nigeria (2001)	Uganda (2003)	Zambia (2002)
% of firms declaring 0	81.7% (343)*	93.6% (233)	64.7% (143)	93.6% (278)	97% (194)
Total number of days lost	26 065** (77)	360 (16)	530 (78)	156.5 (19)	23 (6)
Total number of firms surveyed	427	284	232	300	207

Source: Authors' computation from the firm level surveys (World Bank).

Note: * Into parenthesis: corresponding number of firms

** number of workers-days lost.

⁴⁸ Department of Labor, Annual Report 1999, Pretoria.

Firm level surveys conducted in a few African countries also supply some information on strike activity (table 4.4). Note that in every country, a high percentage of the manufacturing firms surveyed does not report any days of production lost to strikes and labor unrest. In Zambia, for instance, only 3% of firms have been declaring some kind of damages. However, prevalence of strikes and labor unrest appears to be higher in Ethiopia and Nigeria.

Case studies

Dispute settlement and labor action in South Africa⁴⁹

The dispute settlement machinery

South Africa, has, since the passage of the Industrial Conciliation Act in 1924 had an official dispute settlement machinery. It was only after the unfair labor practice concept and the Industrial Court were introduced in the 1979 and subsequent amendments to the Labour Relations Act that the settlement of individual disputes received increased attention.

The Labour Relation Act of 1995 has maintained the essential voluntarism of the dispute settlement machinery by providing the freedom to submit disputes to conciliation or mediation and arbitration, or in certain instances, to the Labour Court (which replaces the Industrial Court). A new body, the Commission for Conciliation, Mediation and Arbitration (CCMA) has been established to take much of the load previously carried by the Industrial Court. The legislation provided that the CCMA be independent of the State, any political party, union and employers' organization. Furthermore, Bargaining Councils and independent agencies may now be accredited as mediators and arbitrators by the CCMA.

Disputes of rights may be submitted first to conciliation or mediation by either the CCMA, a Bargaining Council or its accredited agent and thereafter to arbitration by one of the above or, in certain instances, to adjudication by the Labour Court. Disputes of interest may also be submitted first to conciliation or mediation. If this fails, parties may choose voluntary arbitration or engage in industrial action, except in essential services. The Act interprets conciliation to include fact finding, mediation and even advisory arbitration.⁵⁰

Strike action

Since 1980 and until the mid 1990s, the incidence of strikes has increased at a steady rate, owing mainly to the rise of unions representing black employees and the plant-related activities of these unions. Initially most of the strikes were illegal but there has been in the 1990s a growing tendency to use the official procedures. In the early 1980s, the strikes occurred most frequently in the manufacturing sector but industrial action later spread to the mining industry and to the public and service sectors. Massive strikes of long duration in these sectors during the 1980 decade account for the rise in man-days lost and for the lengthier average duration of strike action. The reason most commonly furnished for strike action is a demand for higher wages, yet dismissals and conditions of service also feature as reasons for strike action.

A very important change, brought by the LRA of 1995, is the granting of the right to strike, without fear of dismissal, to employees who have followed statutory procedures. As seen in table 4.3 and in table A.6 (in appendix 2), strike activity increases much from 1995 to 1998, though before declining from 1998 onwards.

Dispute settlement and labor action in Côte d'Ivoire

In 2001, following the so called "social peace" philosophy, the government asked labor organizations and other "social partners" to abide by a "social truce" to limit strikes or other actions that would slow economic activity while the government reformed and strengthened institutions. The Labor Ministry arbitrated more than 120 labor conflicts during the year, in spite of the "social truce." Employees could appeal decisions made by labor inspectors to labor courts.

The new Labor Code still requires a protracted series of negotiations and a 6-day notification period before a strike may take place, making legal strikes difficult to organize. Workers in the private and government sectors continued to strike over working conditions and terms of employment; however, the Government generally tolerated the strikes, which rarely resulted in violence.

⁴⁹ Mostly based on Bendix (1996)

⁵⁰ The CCMA improved its settlement rate for conciliation to 73% of cases heard between April and September 2001. The daily average number of referrals was 477. A total of 67% of cases conciliated within the statutory framework were finalized and there are on average 212 arbitration per day (Department of Labor, 2001-2002 Report, Pretoria).

Dispute settlement and labor action in Ghana

The law provides for an independent National Labor Commission, made up of government, employers and organized labor representatives, responsible for settling disputes, first through mediation, then through arbitration. However, the Industrial Relations Act (IRA) provides for compulsory arbitration by the Minister to resolve a dispute if one party to the dispute advocates compulsory arbitration. This procedure would allow employers to renege on their commitment to bargain in good faith and instead call for arbitration, violating the right to collective bargaining. The ILO has informed the Government that compulsory arbitration is acceptable only when called for by both parties.

Strike action

A union may call a legal strike if parties fail to agree to refer the dispute to voluntary arbitration or the dispute remains unresolved at the end of arbitration proceedings. No union has ever gone through the complete dispute resolution process. In fact, there were no legal strikes since independence. However, there are nominally illegal strikes on a regular basis, which were resolved by negotiated settlement between labor and employers. The law prohibits retribution against strikers, and this provision was enforced.

In June 2003, the Deputy Minister of Manpower Development and Employment stated that there were 25 industrial actions involving 22,091 workers in the first 6 months of the year, costing the country 40,000 man-days of labor. Most actions involved demands for higher wages and better benefits.⁵¹

Dispute settlement and labor action in Kenya

The dispute settlement machinery

The dispute settlement machinery in Kenya is designed to ensure that collective bargaining is adequately used in settling disputes and to ensure that disputes are appropriately and promptly settled (Fashoyin 2001). The law requires that all disputes be reviewed by the Tripartite Committee, which then decides on one of three courses of action. It may first decide that the parties have not exhausted the collective bargaining machinery and return the dispute to the parties. Then, if it decides that the internal machinery has been exhausted, it can decide to send the dispute for investigation (generally rights disputes) or conciliation (generally for disputes concerning interests relating to one of the many items that are usually covered in collective bargaining agreements).

In 2000, over 946 reported disputes, 500 were settled at the investigation level, 136 at the conciliation level and 124 went through the Industrial Court. The dispute resolution settlement machinery has thus been supportive of the collective bargaining process in the country.

Strike action

The law permits workers to strike with some restrictions. The workers must submit a letter to the Minister of Labor and then wait 21 days before a strike can occur. Members of the military services, police, prison guards, and the National Youth Service are prohibited from striking. Other civil servants, like their private sector counterparts, can strike following the 21-day notice period (28 days for essential service workers, such as water, health, education, or air traffic control). During this 21-day period, the Minister may mediate the dispute, nominate an arbitrator, or refer the matter to the Industrial Court, a body of up to five judges appointed by the President, for binding arbitration. Once a dispute is referred to mediation, fact-finding, or arbitration, any subsequent strike is illegal. Moreover, the act gives the Minister of Labor broad discretionary power to determine the legality of any strike.⁵²

During the first 5 months of the year 2003, there were 111 strikes, primarily in the EPZs; some of the strikers used violence to keep other workers off the job. Police sometimes used force to disperse strikes. Unlike in the previous year, there were no reports that the Government fired or replaced striking workers

⁵¹ U.S. Department of State, the Bureau of Democracy, Human Rights and Labor (February 25, 2004).

⁵² U.S. Department of State, the Bureau of Democracy, Human Rights and Labor (February 25, 2004).

4.1.3. Labor-management cooperation

The institution of free collective bargaining emphasizes the conflict of interests in the labor relationship and allows each party to pursue their self-interest. The concepts of industrial democracy and workers' participation, on the other hand, emphasizes the need for cooperation between employer and employee and for an employee share in the decision making processes (Bendix, 1996). Participation entails the involvement of the workers in many facets of his work life, from simple information sharing to co-determination.

Management and unions have their own particular reasons for supporting participative programs. Whereas management may see participation as a means of obtaining greater commitment and cooperation from the workforce, unions view it as a means of extending employee influence and control at the workplace. However, both parties may also have certain reservations regarding participation. Management may object to participation because it delays decision making, takes control out of the hands of the employer and may prioritize employee goals against the goals of the organization. Unions, on their part, encounter practical problems in demarcating areas for participation from those subjected to collective bargaining (Bendix, 1996). These worker participation and joint decision making schemes are entrenched in law in a few countries, for instance in Swaziland, Zimbabwe and more recently in South Africa.

According to Fashoyin (1998), in countries such as Swaziland and Zimbabwe, national labor policies have promoted works councils as a mechanism for giving worker a voice, particularly where the union is either weak or non-existent. In practice, however, some employers have seen the works council as a substitute for the union. However, Fashoyin also underlines that in Zimbabwe, works councils increasingly deal with issues which were previously exclusive of the sectoral level bargaining (in the so-called National Employment Councils).

Case Studies⁵³

Workers' participation in South Africa

Historically, the concept of workers' participation was introduced by the Black Labor Relation Regulation Act of 1953 with the creation of workers' committees for Black workers only to grant them some form of representation as an alternative to unionism and not to bring about improved consultation or a greater share by employees in the decision making process. Ironically, White, Colored and Asian employees, whose unions bargained at industrial council level and who would have needed involvement and consultation at the workplace were not until 1981 granted the statutory right to establish plant-level works councils. The newer multiracial unions who thenceforward dominated the labor scene, had little need for committee participation as they were already involved at the workplace by the system of recognition agreements (Bendix, 1996).

Of late, the concept of participation has received much attention in government, management and union circles, notably in the National Economic, Development and Labor Council (NEDLAC) established in 1994. The Labor Relations Act (LRA) of 1995 stipulates that in the future, employers who employ 100 or more persons, if so requested by a majority union, will have to establish forums and engage in consultation and joint decision making on certain matters. The LRA limits consultation to matters such as restructuring organizational changes, retrenchments, job grading, education criteria and merit bonuses while co-decision making will be undertaken only as regards to disciplinary codes and procedures, codes of conduct, affirmative action and changes to benefit schemes (Bendix, 1996). Workplace forums are specifically intended to supplement and not replace existing collective bargaining structures, as no forum can be established in the absence of a representative union.

⁵³ We will focus on the South African scheme of workers' participation as it can be perceived as an example for other African countries where the democracy at the workplace is hardly developed.

In 2001, Wood and Mahabir recorded only six operational workplace forum, none in core areas of the manufacturing sector. These two authors conducted a study on two forums in existence in 1998 and underlined the main issues which prevent their development. First, it seems that managers prefer to experiment with non-statutory forms of participation that are more specifically geared to promoting flexibility. Second, unions are often reluctant to promote the forums as they fear that they might actually erode an existing role played by a union. Furthermore, there remains a deeply entrenched culture of non-collaborationalism within the union movement.

Other initiatives in more participative systems have been taken in some major South African enterprises. Created in 1997 by the NEDLAC, the Workplace Challenge program creates tripartite structures, at sector level and bipartite structures, at plant level, that design and implement processes to improve productivity among the group participating companies (Gostner, 2000). Other participative strategies vary from quality circles, green areas, “shared value” and “relationship by objective” programs to extensive direct and indirect representation, such as that practiced at Volkswagen South Africa (Bendix, 1996). Certain companies also established some share ownership schemes, believing that common ownership would promote participation, result in higher productivity and lead to greater responsibility.

4.2. Tripartite social dialogue in Africa: a review

Many African countries have introduced tripartite cooperation framework as an essential mechanism for reaching good labor relations, increasing productivity as well as a means of building consensus on socio-economic issues. As a result, institutional structure such as the Labor Advisory Council (or board or committee) have been created in practically all English-speaking African countries in the post-independence period. These labor advisory bodies have been effective in dealing with issues of ratification of international standards, as well as the review of national legislation (Fashoyin, 1998).

Two main distinguishable types of tripartite consultation currently exist in Africa: the formal consultative and advisory institutions and the formal negotiating bodies. A third type can be added, which includes institutions providing opportunities for the social partners to discuss issues of broad national development that have no direct connection with the operation of the labor market (Fashoyin, 1997).

4.2.1. The formal consultative and advisory institutions

The formal consultative and advisory institutions are generally dealing with all labor issues. Table 4.5 portrays some examples of the various Labor Advisory Councils or their equivalent currently in use in Africa.

It is often just after independence that these kind of tripartite cooperation institutions have been established in Africa. In Senegal, for instance, the National Advisory Council on Labor and Social Security, created in the Labor Code Act of 1961, is still in use today. However, according to Dieng (1999) its operating methods and efficacy appear to be substandard.

In English-speaking countries, many of the labor advisory bodies, created in post-independence periods have been replaced by more recent structures in the 1990s. For example, in Malawi, the Labor Relations Act of 1996 created a Tripartite Labor Consultative Council which replaced the National Labor Policy Committee settled in 1969 but lapsed into oblivion by 1971. In Ethiopia, arguably tripartism started in the 1960s with the creation of the Labor Advisory Board in 1963, which until the 1990s was unable to meet regularly mostly

because of resource shortage and organizational inadequacies of the Ministry of Labor (Buckley et al., 2004). However, the recently adopted labor law (Labor Proclamation 2003) sets up a new Labor Advisory Board.

Table 4.5. National Tripartite Labor Institutions in selected African countries.

Country	Institution	Date of creation	Discussed issues	Source
Ethiopia	Advisory Board	2003	Issues concerning employment service, working conditions, labor laws	Buckley et al. (2004)
Kenya	Joint Industrial and Commercial Consultative Committee	1997	Extensive issues: regional tariffs, imports, labor law reform, justice system etc.	Fashoyin (2001)
	Labor Advisory Board	1976	Labor and employment policy	
Lesotho	National Advisory Committee on Labour	1992	Labor and employment policy	Fashoyin (1998)
Malawi	Tripartite Consultative Labor Council	1996	Labor, employment and human resource development issues	Fashoyin (1998)
Namibia	Labor Advisory Council	1992	Basic conditions of employment, promotion of collective bargaining, enactment and amendment to labor acts	Fashoyin (1998)
Senegal	National Committee for Dialogue	1975	Wage, price and employment policies	Dieng (1999)
	National Advisory Council on Labor and Social Security	1961	Labor and social security issues	
South Africa	NEDLAC (Labour Market Chamber)	1994	Labor laws issues, ILO conventions, codes of good practice	http://www.nedlac.org.za
Zambia	Tripartite Consultative Labor Council	1993	Issues relating to labor matters, manpower development	Fashoyin (2002)

In other countries, formal national consultative tripartite institutions have only been officially set up in the 1990s. This is the case in Zambia where until the establishment of the Tripartite Consultative Labor Council in 1993, tripartite meetings were held periodically on an *ad hoc* basis (Fashoyin, 2002).

These bodies, whatever their name – Labor Advisory Board (Kenya, Nigeria, Swaziland, Tanzania), Consultative Labor Commission (Côte d’Ivoire, Mozambique), Tripartite Consultative Labor Council (Zambia, Malawi) – all share the same features : they mostly have an advisory role to the government, represented mainly by the Minister of Labor. Their role is limited to the area of labor relations policy (i.e formulation and review of legislation and matters pertaining to international labor standards).

A variant of this type of institutions have been set up in many countries to deal with specific labor subjects. Institutions in this group include those which have been established to deal with safety and health, such as the National Advisory Committee on Occupational Health and Safety set up in 1990 in Kenya or training, such as the Technical Education, Vocational and Entrepreneurship Training Authority in Zambia.

4.2.2. The formal negotiating bodies

The second type of tripartite dialogue institutions includes formal negotiating bodies. The main distinguishing characteristics of this type of tripartite machinery is that, unlike the first type, it has the capability to negotiate and arrive at binding conclusion or agreement. The outstanding example is the National Economic Development and Labour Council (NEDLAC) of South Africa. In Africa, institutions of this type are decidedly few. The closest resemblance to this type of institutions is the Botswana’s National Employment Manpower and Income

Commission. Although the latter is not a negotiating body, its conclusions are sent to Cabinet for further determination (Fashoyin, 1997)

By and large, Zimbabwe abandoned its effort to set up a body similar to NEDLAC and created the National Economic Consultative Forum (NECF) in 1997, as a multi-party forum for discussion of national socio-economic issues. Unlike NEDLAC, the NECF is a consultative group without decision-making power, however, given its high profile, it has a potential of getting its conclusions translated into policy (Fashoyin, 1997).

A variant of this type are the *ad hoc* tripartite forums which are typically established outside the existing framework. Their mandate is usually to find immediate solutions to the particular problem that might have warranted their establishment. When *ad hoc* bodies of this type are set up, they invariably serve as negotiating forum. In Nigeria, this approach has turned to be the de facto method of resolving labor disputes of national significance. Thus, in 1988 and again in 1991, *ad hoc* arrangements were used to negotiate palliatives means to reduce the impact of the SAPs on workers. Although Kenya's permanent consultative machinery has operated mainly as a consultative organ, effort at negotiation has always arisen outside the tripartite framework (Fashoyin, 1997).

4.2.3. The limits of tripartite social dialogue

- ***A limited scope***

As highlighted by Fashoyin (1998), generally, most of the tripartite machinery in African countries share common albeit disabling characteristics. Their advisory nature tends to discourage effective participation among the social partners. It also has the tendency to confine consultation to pre-determined labor issues. In the majority of tripartite consultative machinery in Africa the government representation is limited to the Ministry of Labor. A meaningful tripartite cooperation should require the participation of all arms of government which are directly concerned with policies that have direct or indirect effect on labor issues. The NEDLAC experiment (see below) seems to be a successful attempt in implementing this multi-parties involvement.

- ***Co-optation of the social partners***

In some African countries, tripartite consultations have been a kind of state-controlled arrangements where the social partners were co-opted into the socio-economic decision-making process. Etukudo (1995) uses the concept of corporatism to define this kind of arrangements whereby the interests of social partners are integrated in state structures. Tripartism thus became a charade in many African countries as the social partners were mostly manipulated.

Case studies

Tripartite Social dialogue in South Africa

South Africa's national institutions of social dialogue came about as a result of worker struggles. The late 1980s saw the development of two tripartite forums: the National Manpower Commission (NMC) and the National Economic Forum (NEF). In one of the first acts of the new democracy, both the NMC and the NEF were replaced in 1994 by the National Economic Development and Labour Council (NEDLAC).

The three major union federations – COSATU, NACTU and FEDUSA – are represented in NEDLAC on a proportional basis while business is represented by two peak organizations – Business South Africa and the

National African Federated Chamber of Commerce which mainly represents black business. Government is represented at NEDLAC according to the nature of the Chamber.

NEDLAC is a representative body whose parties seek agreements primarily through negotiation and discussion based on mandates. While NEDLAC has the power to consider and agree on draft policies, parliament is still sovereign. NEDLAC's role include information sharing, research, workshops and seminars and dispute resolution, thereby to strengthen dialogue and create the basis for future agreements (Naidoo, 2003b).

The Labour Market Chamber strongly participated in the elaboration of the main labor laws in South Africa. The negotiations of these legislative proposals were often highly conflictual. In case of deadlocks in the negotiation process, the trade unions, especially COSATU, used mass mobilization of its constituency marked by protest actions to pressure the other social partners. Business was also engaged in lobbying government and members of parliament. This shows that constituencies at NEDLAC used other mechanisms to pursue their goals (Edigheji and Gostner, 2000).

Tripartite Social dialogue in Côte d'Ivoire

Mr Kablan Duncan, the former Ivoirian prime minister has declared in 1999, during the Ninth African Regional Meeting of ILO, that "in terms of social dialogue and tripartite cooperation, Côte d'Ivoire has a long tradition which has led it to develop a number of institutional mechanisms for both the promotion and the consolidation of dialogue between the social partners". It is true that past experiences of numerous consultations and negotiations under the single trade union affiliated to the single ruling party regime to avoid at any price social conflicts have given birth to a "long tradition" of tripartite "successful" dialogue. But the the outcomes of consultations were not negotiable at that time.

In fact in Côte d'Ivoire, neither employers nor labor unions have any influence on the political scene. However, trade unions and employers' organizations take part in the Permanent and Independent Dialogue Commission and the Labor Advisory Commission. The former is a bipartite structure created in 1995, to allow employers and confederations to meet and negotiate on labor issues, and the agreements reached within this commission are submitted to the tripartite Labor Advisory Commission. The two structures are represented across Côte d'Ivoire and are active in negotiating labor policy.

Tripartite Social dialogue in Ghana

The Government, labor, and employers' organizations negotiate together to set the daily minimum wage through a National Tripartite Committee. However, wages restraint has been a constant element of public policy as a means of attracting foreign investment. This has produced an alliance between government and private business in opposition to demands for wage increases by organized labor.

The government considers it part of its responsibilities to ensure that the division of the national value-added between wages and profits is biased in favor of profits as an incentive to private investment. The government and employers have succeeded in installing the capacity to pay of employers as virtually the only factor to be taken into account in wage determination (Anyemedu 2000).

Tripartite Social dialogue in Kenya

The institutions of social dialogue are entrenched in the labor legislation and supported by an Industrial Relations Charter, which the Government and the social partners agreed to in 1962 (Fashoyin 2001). Tripartite institutions have been confined to labor law and industrial relations issues and even in these areas, they have not been consistently used. However, the period of adverse economic conditions in the 1990s rekindled interests in extending social dialogue beyond the limits of the labor market, to include macroeconomic, social welfare and other development issues.

For quite some time, the national forum for tripartite social dialogue on labor market has been the National Tripartite Consultative Committee (NTCC). Today, the Committee provides a forum for the Ministry of Labor to inform the social partners about its work in the field of industrial relations, labor law, trade disputes and the overall state of industrial relations in the country. On the basis of this exchange of information and views, the social partners are able to brief their respective constituencies on the measures being taken by the Government. This exchange of information through social dialogue is critical to ensuring good labor management relations.

The second major national tripartite institution is the Joint Industrial and Commercial Consultative Committee (JICCC) established in 1997 to provide a forum for key stakeholders in the economy. Although it is too early to

assess the performance and contribution of the JICCC, it has so far served as an influential national body used by the major stakeholders to discuss key social and economic issues. However, the Committee has no legal status at present.

4. CONCLUSION

After nearly a quarter of century of structural adjustment and liberalization, a discussion of labor institutions in Africa seems unrealistic. The latter only concerns the formal sector, which employs less than five percent of the workforce in most African countries. Organized labor is mainly active in highly protected sectors, like the civil service and public utilities, and in the local branches of foreign firms. Most of the African labor works in the rural sector and in the urban informal sector.

However, with a few exceptions, the labor institutions created during the controlled economy period have little impact on the functioning of the labor market. Nevertheless, the comparison of Francophone and Anglophone countries suggests that there exists a trade off between labor market regulation and union density.

The more extensive involvement of the government in the labor market seems to have undercut organized labor. Casual observation suggests that this makes labor market outcomes more predictable in the former countries, with a positive impact on productivity. Further research is needed to check this point, and to determine its impact on the development of the formal economy.

There seems to be a trade off between labor market regulation and union density. This suggests that there is no quick fix through labor market liberalization. All the benefits of labor market flexibility could thus be undone by increasing union density, and higher insider power. Further research should aim at identifying the other determinants of this trade off, in order to identify better the scope for an institutional policy aimed at improving labor market outcomes. The attempts by several African unions to get involved in the informal sector have been largely unsuccessful. This suggests that unions do not provide the adequate response either the complete institutional vacuum, as far as formal regulation is concerned. They seem instead to thrive in an intermediate stage, where the institutional framework is providing both some leverage for their action and enough room for maneuver to allow them to offer some gains to the workers. One can probably think of union power as being related to labor market regulation by a bell-shaped relationship.

In the informal sector, the rules of the game are imposed neither by the government, nor by the unions, but by the traditional institutional framework of kinship and ethnicity. The recent economic history of African countries does not suggest that the latter provides the most favorable framework for attracting large investors, and in particular foreign direct investment. Hence, the challenge of African growth in the coming decades is certainly pointing to the formalization of the labor market as a desirable path to follow. The optimum point on the trade off between regulation and union density will probably have to be country-specific. It will depend on each country's legal history, formal and traditional institutions, and political aspirations.

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APPENDIX 1

Table A.1. Ratifications of ILO's labor standard conventions in Africa

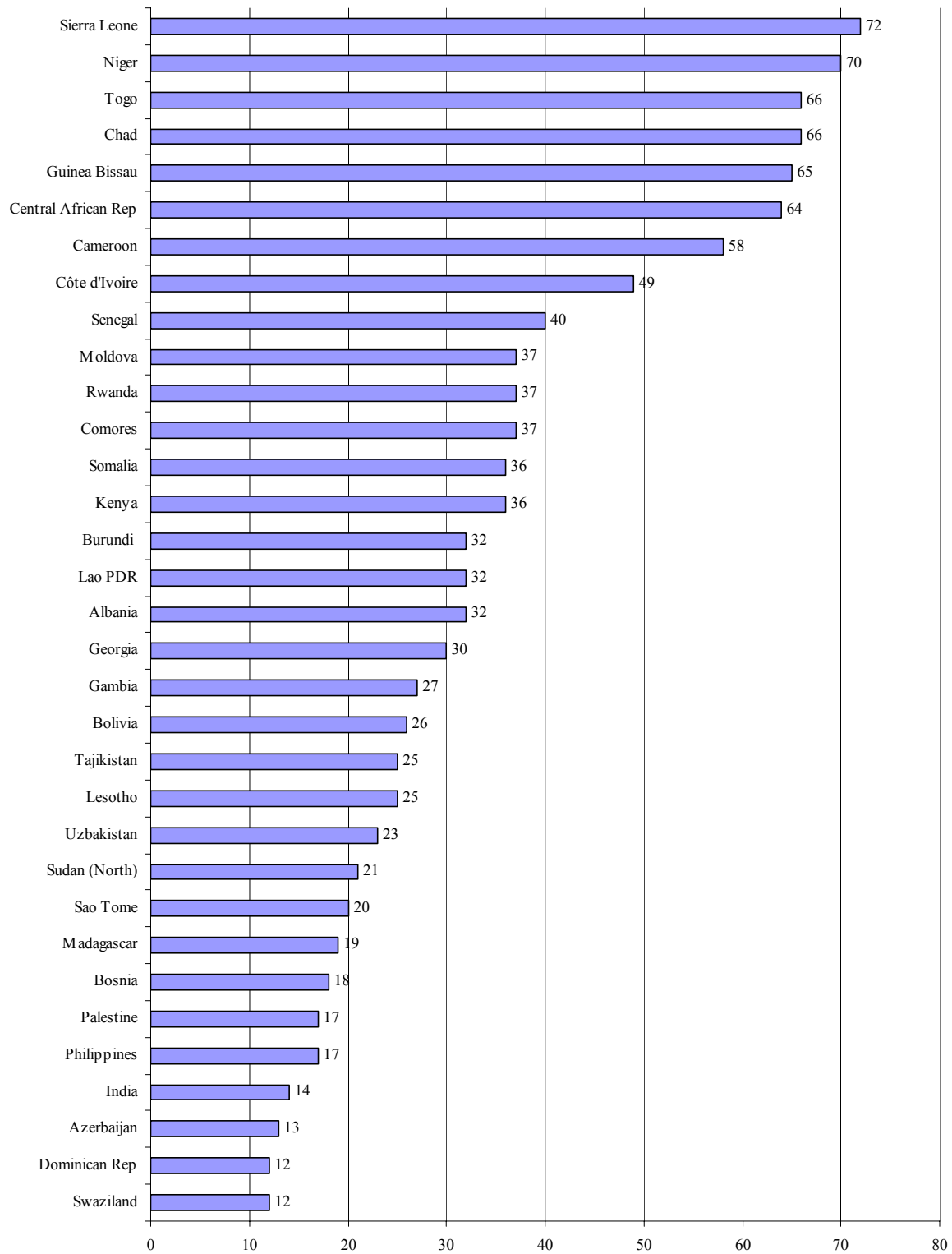
	Freedom of association and collective bargaining		Elimination of forced and compulsory labour		Elimination of discrimination in respect of employment and occupation		Abolition of child labour	
Country	Conv. 87	Conv. 98	Conv. 29	Conv. 105	Conv. 100	Conv. 111	Conv. 138	Conv. 182
Angola	2001	1976	1976	1976	1976	1976	14 years - 2001	2001
Benin	1960	1968	1960	1961	1968	1961	14 years - 2001	2001
Botswana	1997	1997	1997	1997	1997	1997	15 years - 1997	2000
Burkina Faso	1960	1962	1960	1997	1969	1962	14 years - 1999	2001
Burundi	1993	1997	1963	1963	1993	1993	16 years - 2000	2002
Cameroon	1960	1962	1960	1962	1970	1988	14 years - 2001	2002
Cape Verde	1999	1979	1979	1979	1979	1979	Not Ratified	2001
Central African Republic	1960	1964	1960	1964	1964	1964	14 years - 2000	2000
Chad	1960	1961	1960	1961	1966	1966	Not Ratified	2000
Comoros	1978	1978	1978	1978	1978	2004	15 years - 2004	2004
Congo	1960	1999	1960	1999	1999	1999	14 years - 1999	2002
Democratic Republic of the Congo	2001	1983	1960	2001	1969	2001	14 years - 2001	2001
Côte d'Ivoire	1960	1961	1960	1961	1961	1961	14 years - 2003	2003
Djibouti	1978	1978	1978	1978	1978	Not Ratified	Not Ratified	Not Ratified
Equatorial Guinea	2001	2001	2001	2001	1985	2001	14 years - 1985	2001
Eritrea	2000	2000	2000	2000	2000	2000	14 years - 2000	Not Ratified
Ethiopia	1963	1963	2003	1999	1999	1966	14 years - 1999	2003
Gabon	1960	1961	1960	1961	1961	1961	Not Ratified	2001
Gambia	2000	2000	2000	2000	2000	2000	14 years - 2000	2001
Ghana	1965	1959	1957	1958	1968	1961	Not Ratified	2000
Guinea-Bissau	Not ratified	1977	1977	1977	1977	1977	Not Ratified	Not Ratified
Guinea	1959	1959	1959	1961	1967	1960	16 years - 2003	2003
Kenya	Not ratified	1964	1964	1964	2001	2001	16 years - 1979	2001
Lesotho	1966	1966	1966	2001	1998	1998	15 years - 2001	2001
Liberia	1962	1962	1931	1962	Not Ratified	1959	Not Ratified	2003
Madagascar	1960	1998	1960	Not Ratified	1962	1961	14 years - 2000	2001
Malawi	1999	1965	1999	1999	1965	1965	14 years - 1999	1999
Mali	1960	1964	1960	1962	1968	1964	15 years - 2002	2000
Mauritania	1961	2001	1961	1997	2001	1963	14 years - 2001	2001
Mauritius	Not Ratified	1969	1969	1969	2002	2002	15 years - 1990	2000
Mozambique	1996	1996	2003	1977	1977	1977	15 years - 2003	2003
Namibia	1995	1995	2000	2000	Not Ratified	2001	14 years - 2000	2000
Niger	1961	1962	1961	1962	1966	1962	14 years - 1978	2000
Nigeria	1960	1960	1960	1960	1974	2002	15 years - 2002	2002
Rwanda	1988	1988	2001	1962	1980	1981	14 years - 1981	2000
Senegal	1960	1961	1960	1961	1962	1967	15 years - 1999	2000
Sierra Leone	1961	1961	1961	1961	1968	1966	Not Ratified	Not Ratified
Somalia	Not ratified	Not ratified	1960	1961	Not Ratified	1961	Not Ratified	Not Ratified
South Africa	1996	1996	1997	1997	2000	1997	15 years - 2000	2000
Sudan	Not Ratified	1957	1957	1970	1970	1970	14 years - 2003	2002
Swaziland	1978	1978	1978	1979	1981	1981	15 years - 2002	2002
Tanzania (United Republic of)	2000	1962	1962	1962	2002	2002	14 years - 1998	2001
Togo	1960	1983	1960	1999	1983	1983	14 years - 1984	2000
Uganda	Not Ratified	1963	1963	1963	Not Ratified	Not Ratified	14 years - 2003	2001
Zambia	1996	1996	1964	1965	1972	1979	15 years - 1976	2001
Zimbabwe	2003	1998	1998	1998	1989	1999	14 years - 2000	2000
Total of 46	40	45	46	45	42	44	37	41

Source: ILO ILOLEX Database of International Labour Standards

Table A.2. Ratifications of ILO's minimum wage conventions in Africa

	Minimum Wage Fixing Machinery (Manufacturing & Commerce)	Minimum Wage Fixing Machinery (Agriculture)	Minimum Wage Fixing Convention (other sectors)
Country	Conv. 26	Conv. 99	Conv. 131
Angola	1976	Not Ratified	Not Ratified
Benin	1960	Not Ratified	Not Ratified
Botswana	Not Ratified	Not Ratified	Not Ratified
Burkina Faso	1960	Not Ratified	1974
Burundi	1963	Not Ratified	Not Ratified
Cameroon	1960	1970	1973
Cape Verde	Not Ratified	Not Ratified	Not Ratified
Central African Republic	1960	1964	Not Ratified
Chad	1960	Not Ratified	Not Ratified
Comoros	1978	1978	Not Ratified
Congo	1960	Not Ratified	Not Ratified
Democratic Republic of the Congo	1960	Not Ratified	Not Ratified
Côte d'Ivoire	1960	1961	Not Ratified
Djibouti	1978	1978	Not Ratified
Equatorial Guinea	Not Ratified	Not Ratified	Not Ratified
Eritrea	Not Ratified	Not Ratified	Not Ratified
Ethiopia	Not Ratified	Not Ratified	Not Ratified
Gabon	1960	1961	Not Ratified
Gambia	Not Ratified	Not Ratified	Not Ratified
Ghana	1959	Not Ratified	Not Ratified
Guinea-Bissau	1977	Not Ratified	Not Ratified
Guinea	1959	1966	Not Ratified
Kenya	1964	1971	1979
Lesotho	1966	Not Ratified	Not Ratified
Liberia	Not Ratified	Not Ratified	Not Ratified
Madagascar	1960	Not Ratified	Not Ratified
Malawi	1965	1965	Not Ratified
Mali	1960	Not Ratified	Not Ratified
Mauritania	1961	Not Ratified	Not Ratified
Mauritius	1969	1969	Not Ratified
Mozambique	Not Ratified	Not Ratified	Not Ratified
Namibia	Not Ratified	Not Ratified	Not Ratified
Niger	1961	Not Ratified	1980
Nigeria	1961	Not Ratified	Not Ratified
Rwanda	1962	Not Ratified	Not Ratified
Senegal	1960	1962	Not Ratified
Sierra Leone	1961	1961	Not Ratified
Somalia	Not Ratified	Not Ratified	Not Ratified
South Africa	1932	Not Ratified	Not Ratified
Sudan	1957	Not Ratified	Not Ratified
Swaziland	1978	1981	1981
Tanzania (United Republic of)	1962	Not Ratified	1983
Togo	1960	Not Ratified	Not Ratified
Uganda	1963	Not Ratified	Not Ratified
Zambia	1964	1972	1972
Zimbabwe	1993	1993	Not Ratified
Total of 46	36	15	7

Source: ILO ILOLEX Database of International Labour Standards

Figure A.1. Proportion of Children 5-14 years of age working* by country, 2000

Source: Country statistics Understanding Children Work

* including children that carry out household chores more than 4 hours a day

Table A.3. Hiring and Firing indexes

<u>Difficulty of Hiring Index:</u>	index measures (i) whether term contracts can only be used for temporary tasks; (ii) the maximum duration of term contracts; and (iii) the ratio of the mandated minimum wage (or apprentice wage, if available) to the average value-added per working population.
<u>Rigidity of Hours Index:</u>	has five components: (i) whether night work is restricted; (ii) whether weekend work is allowed; (iii) whether the workweek consists of five-and-a-half days or more; (iv) whether the workday can extend to 12 hours or more (including overtime); and (v) whether the annual paid vacation days are 21 days or less.
<u>Difficulty of Firing Index:</u>	index has eight components: (i) whether redundancy is not grounds for dismissal; (ii) whether the employer needs to notify the labor union or the labor ministry for firing one redundant worker; (iii) whether the employer needs to notify the labor union or the labor ministry for group dismissals; (iv) whether the employer needs approval from the labor union or the labor ministry for firing one redundant worker; (v) whether the employer needs approval from the labor union or the labor ministry for group dismissals; (vi) whether the law mandates training or replacement prior to dismissal; (vii) whether priority rules apply for dismissals; and (viii) whether priority rules apply for re-employment.
<u>Cost of Firing:</u>	measures the cost of advance notice requirements, and severance payments and penalties due when firing a worker, expressed in terms of weekly wages.

Source: "The Regulation of Labor," Juan Botero, Simeon Djankov, Rafael La Porta, Florencio Lopez-de-Silanes, and Andrei Shleifer (November 2004).

Table A.4. Legal systems in African countries

Country	Rigidity of Employment Index	Common Law	Civil Law	Union density (% of Non Agricultural labor force) 1995
Angola	75	0	1	
Benin	61	0	1	
Botswana	20	0	1	11,5%
Burkina Faso	90	0	1	
Burundi	50	0	1	
Cameroon	74	0	1	14,7%
Cape Verde		0	1	16,9%
Central African Republic	76	0	1	
Chad	80	0	1	
Comores		0	1	
Congo	86	0	1	
Congo, Democratic Republic of	77	0	1	
Côte-d'Ivoire	69	0	1	13,0%
Djibouti		0	1	
Equatorial Guinea		0	1	
Eritrea		1	0	7,2%
Ethiopia	43	1	0	4,1%
Gabon		0	1	2,0%
Gambia		1	0	
Ghana	34	1	0	25,9%
Guinea-Bissau		0	1	
Guinea	59	0	1	2,5%
Kenya	24	1	0	16,9%
Lesotho	27	1	0	
Liberia		1	0	
Madagascar	49	0	1	
Malawi	21	1	0	
Mali	66	0	1	13,7%
Mauritania	70	0	1	2,7%
Mauritius		1	0	25,9%
Mozambique	64	0	1	
Namibia	33	0	1	22,0%
Niger	90	0	1	
Nigeria	44	1	0	17,2%
Rwanda	76	0	1	
Senegal	64	0	1	21,9%
Sierra Leone	76	1	0	
Somalia				
South Africa	52	1	0	21,8%
Sudan		1	0	
Swaziland		0	1	19,1%
Tanzania, United Republic of	65	1	0	17,4%
Togo	76	0	1	
Uganda	7	1	0	3,9%
Zambia	27	1	0	12,5%
Zimbabwe	24	1	0	13,9%

Average Rigidity of Employment Index: The World Bank Group, The original methodology and data come from The Regulation of Labor, by Juan Botero, Simeon Djankov, Rafael La Porta, Florencio Lopez-de-Silanes, and Andrei Shleifer (2004).

Legal System Source: CIA World FactBook, December 2003

Union Density Source: ILO World Labour Report (1997-98)

APPENDIX 2

Short history of trade union movements in Africa

- **The relationship between the African States and the Unions**

Unions as a pressure group on African governments

This is common for unions to act in concert and act as a pressure group on government as many of the factors that affect their members' welfare are determined by the legislative, executive and judicial acts of government (Pencavel, 1995). The form that this pressure takes depends upon the nature of the existing government. The most radical pressure is the one which ends up in a change of political regime. Indeed, many early African trade unions have gained importance through their association with political action alongside with the nationalist and pro-independence movements in a nationalist struggle for independence from colonial hegemony (Fashoyin and Matanmi, 1996). More recently, in South Africa, the trade union movement, led by the Congress of South African Trade Unions (COSATU), contributed to the end of the apartheid regime and was included in the tripartite alliance which assumed power from 1994 onwards. In less extreme situations, trade unions are often among the most active organizations pressing their interest upon governments.⁵⁴ In most of Francophone Africa in the early 1990s, trade unions played a leading role in the movement of political protest that resulted in several democratic experiments, often involving the organization of national conferences (Bratton and van de Walle, 1997).

Partnership vs co-optation

Fashoyin and Matanmi (1996) discern two broad operational approaches to the relationship between the state and trade unions in Africa. The first type of relationship characterizes countries in which a partnership relationship between unions and the government is emphasized. The former is then called upon to pursue the sectoral interests of their members in so far as these do not create obstacles to the development programs of the state. Note that the countries in this category are strikingly few in Africa.⁵⁵ Whereas, the second type of union-state relationship, definitely the common type of African states today is one that co-opts labor into the state framework. Then, trade unions operate within narrow limits set by the state.⁵⁶

- **The development of trade unions in the public sector**

Since independence, the public sector has been the mainstay of development policy in many African economies. The colonial heritage, the desire to control the creation of wealth to ensure a better redistribution amongst the governing elite and the need to construct an institutional infrastructure led most African states to develop a large public sector, both productive and non productive (Lachaud, 1994). Up until the end of the 1970s, this growth process encouraged the development of a trade union movement mostly based on the membership of the civil servants.

⁵⁴ For instance, trade unions can influence the government in the adoption of rent-creating tariff policies (Rama and Tabellini, 1998).

⁵⁵ The authors quoted post-independence Nigeria (mainly in the 1960s and 1970s), Sierra Leone, Zambia and to a lesser extent Kenya and post-independence Ghana under Busia, but excluding Rawlings's military regime.

⁵⁶ Fall in this category, Tanzania, Botswana, Ghana under Nkrumah (1955-66), Nigeria (1985-to-date) and practically all the French-speaking African countries.

- **The impact of Structural Adjustment and liberalization**

As we will see below, the implementation of Structural Adjustment Plans (SAPs) by almost every African country from the 1980s, which led to a major decline in formal wage employment, considerably weakened trade union activity. The attitudes of unions towards the SAPs have been very diversified. Some unions have collaborated with the government, as for instance, the UGTCI in Côte d'Ivoire which justified the adoption of restricting budgetary policies (Hugon and Pagès, 1998). Others kept a rather neutral attitude, such as the USTN (*Union des Syndicats des Travailleurs du Niger*) in Niger which considers the SAP as inevitable and did not offer much resistance to the economic reforms (Adji, 2000). Finally, some opposing trade unions adopted an offensive policy, as for instance, the Trade Unions Congress in Ghana, which sought, through memoranda, conference resolutions etc., to influence the policies adopted (Anyemedu, 2000).

To sum up, it seems difficult to explain the differences in the strengths of the national African union movements. It varies with the nature of the state and is influenced by political experience, colonialism, wars, social divisions, civil strife, militarism, dictatorship, foreign intervention etc. (Beckman, 2002). It also changes with economic liberalization, the degree of bargaining centralization and political democratization (Salmon, 2001).

Case studies.

Brief history of the South African trade unions⁵⁷

Until the end of the 1970s, the apartheid regime deprived Black trade unions from participating in the official industrial relations system, through the bargaining councils. Hence, the Black union movements developed independently from the White union movement, representing those persons who were entitled to use legally established structures and procedures.

In 1979, following the Wiehahn Commission recommendations, the freedom of association was granted to all employees and black trade unions were permitted to register. It was believed that black trade unions could be better controlled if they were part of the system and that they might be absorbed into the established labor movement. By 1980, the trade union movement included bodies, which between them, represented the entire political spectrum and ranged from exclusively White organizations to multiracial, nonracial and finally, exclusively black bodies. In 1985, in an attempt to create unity among the members of the new movement, a new federation – the Congress of South African Trade Unions (COSATU) – was formed. The legalization of various political parties in 1990 and the numerous subsequent reforms had a large impact on the trade union movement. Despite its previous commitment to non-affiliation, COSATU formed a broad alliance with the African National Congress (ANC) and the South African Communist Party (SACP), which came in power in 1994. Hence, COSATU soon had to face heightened expectations and militancy at the grassroots level and, on the other hand, a government which expected it to curb this militancy in the interest of the country as a whole.

Since 1995, COSATU, together with the National Council of Trade Unions (NACTU) and the Federation of Salaried Staff Associations of South Africa (FEDSAL) form the union delegation to the National Economic development and Labour Council (NEDLAC), the tripartite national negotiating body.

Brief history of the Ivorian trade unions⁵⁸

In 1944 Félix Houphouët-Boigny created the country's first agricultural trade union for African cocoa farmers like himself. Just after independence, in 1962, a unique Ivorian trade union (UGTCI – *Union des Travailleurs de Côte d'Ivoire*) was formed. At the very beginning, the action of unionism was supposed to strengthen the national independence, to accelerate economic and social development and to reinforce national unity.

The Ivorian trade union movement was then defined as participative and supervisory. This approach to unionism found its roots in 1970 during the fifth congress of the PDCI (*Parti Démocratique de Côte d'Ivoire*). Indeed, one of the main important results of this single party was to conduct a general policy of massive integration of union

⁵⁷ Mostly based on Bendix (1996)

⁵⁸ Mainly based on the work of Touré (1986)

leaders into the essential organs of the party. As a consequence, UGTCI was directly involved in the general orientation of the Ivorian development strategy. A logical consequence of the constructive and supervisory nature of unionism was the tacit support and acceptance of some labor legislation acts that constitute real hindrance to the right to strike. Until the late 1980s', because the single trade union had representatives in every organs of the party and in every social and economic institutions, and because it was made accountable for the social and economic management of the country, UGTCI had made every effort to maintain the established order in firms and preserve the social peace.

Prior to 1990, SYNARES and SYNESCI (the secondary school teachers union) were the only independent unions in Côte d'Ivoire. As such, they represented the only legal opposition in the country and actively participated in the political debate. Their active participation in the protest movement, international pressures, and the death of Houphouët-Boigny, have led to the reestablishment of a multi-party system, as well as more freedom of association, even if labor unions are expected to remain apolitical. Since those major changes occurred, the country's pace of political change had been slow, prior to the period of turmoil ushered in by the December 1999 coup.

The right to organize freely is now recognized in practice. Two new trade union confederations (*Dignité* and the Federation of Autonomous Trade Unions of Cote d'Ivoire (FESACI)) appear beside the ex-single trade union. Since the beginning of the democratization process, trade unions have succeeded in imposing several important improvements in terms of labor rights and labor conditions have been achieved.

Brief history of the Ghanaian trade unions

Organized labor has been politically active in Ghana very early on, before independence, with actions going largely beyond the realm of industrial relations, shaping the future course of the path to independence (Pellow and Chazan, 1986). In the early sixties, the first president of independent Ghana, Kwame Nkrumah, founded the TUC (Trade Union Congress), as a means to mobilize the urban working class in support of his development strategy. After the overthrow of Nkrumah's CPP government in 1966 by the army, and the restoration of civilian rule under Busia (1969-72), the Trade Union movement adopted a strong opposition attitude against the liberal reforms adopted (Boahen, 1997). Fearing a general strike, the Busia government rushed through parliament the Industrial Relations Act, which banned the TUC, and tried to force the other unions to register again.

The trade unions resumed support to the government, once the civilian regime had been ousted by the military. Colonel Acheampong's coup was greeted by the TUC in 1972. The NRC (National Redemption Council) launched a caricature of populist policies. The number of strikes went down drastically, at least for a couple of years. It resumed increasing after that, on the ground that the NRC was unable to control inflation, but never reached the record established during the Busia years. When civilian rule returned, as Limann won the elections following the first coup by Jerry Rawlings (1979), the government was unable to restore economic stability. The trade unions obtained a series of wage increases by going several times on strike, culminating with a general strike that brought the country to a standstill in the spring of 1981. Rawlings put an end to the chaos by staging a second coup in December 1981. An outright Marxist line was adopted, and supported by the TUC. Chaos deepened, and the country ended 1982 on the verge of economic collapse and social disintegration (Boahen, 1997). An attempted coup in November 1982 gave Rawlings the opportunity to eradicate his radical supporters, both in the army and in various leftist organizations, and to effect a complete U-turn in economic and social policy. The Neo-Marxist line was abandoned, and a standard IMF package was adopted under the name of the ERP (Economic Recovery Program). At first, the leadership of the TUC followed Rawlings, but soon moved back to a more critical stance, for fear of losing control of the base. The government defused some of the tension by granting some moderate wage increases, while the wide-ranging retrenchment in the formal sector resulting from the Structural Adjustment Program reduced union power significantly.

Voice resumed with the unexpected return to formal democracy, as the constitution of the fourth republic was adopted in 1992. Jerry Rawlings was elected as its first president, but the donors immediately put pressure on him in favor of political liberalization and good governance. Moreover, the TUC put Rawlings democratic attitude to the test with "paralyzing strikes and violent protests", in the mid-1990s (Gyimah-Boadi, 1999). The incumbent was reelected in December 1996, in a presidential election which was widely accepted as "free and fair", with the local civil society controlling tightly the proceedings.

Brief history of the Kenyan trade unions

After independence, the Kenyan government pursued a fairly delicate blend of policies toward the trade union movement. On the one hand, Kenyatta made several gestures of good will, as a tribute to the important part played by the unions in the struggle for independence. On the other hand, in order to placate investors, the

Kenyatta government sought to restrict the unions' freedom of action (Azam and Daubrée, 1997). A good opportunity was offered to the government when the Kenyan Federation of Labour (KFL) broke up, with violence, into rival fractions in 1964. The government intervened to restore order, banning the two rival unions, and setting up in their place the COTU (Central Organisation of Trade Unions) which was granted the exclusive right to represent the unions at the industry-wide level. COTU had also a veto right on going on strikes. The government's control over the union movement was then exerted through the appointment of COTU leaders, the grant of subsidies and the tight control of union elections.

Kenya's labor movement has changed from a fairly strong body in the 1960s and 1970s to an ineffective one, especially after 1985 and the implementation of the Structural Adjustment Program (Ikiara and Ndung'u, 1999). The government then tried to bring the affairs of the trade union movement under its control through wage guidelines, disallowing strikes and continued indirect control over the trade unions' electoral process. This culminated in the affiliation of COTU to the country's ruling party, KANU, in the second half of the 1980s.

Table A.5. National source for union membership data

Country	Source (national institution)
Botswana	Botswana Federation of Trade Unions
Cameroon	Confédération Syndicale des Travailleurs du Cameroun
Cape Verde	Uniao Nacional dos Trabalhadores de Cabo Verde Central Sindical
Côte d'Ivoire	Union Générale des Travailleurs de Côte d'Ivoire
Eritrea	Government
Ethiopia	Confederation of Ethiopian Trade Unions
Gabon	Coordination des syndicats du Gabon
Ghana	Trade Union Congress
Guinea	Union syndicale des travailleurs de Guinée
Kenya	Government
Lesotho	n.a
Malawi	n.a
Mali	Union Nationale des Travailleurs du Mali
Mauritania	Confédération Générale des Travailleurs de Mauritanie
Mauritius	Mauritius Confederation of Workers
Mozambique	n.a
Namibia	National Union of Namibian Workers
Nigeria	Nigerian Labor Congress
Senegal	Estimate
South Africa	Department of Labor
Swaziland	Government
Tanzania	Trade Union Congress of Tanzania
Uganda	National Organization of Trade Unions
Zambia	Government
Zimbabwe	Zimbabwe Congress of Trade Unions

Source: ILO (1997)

Table A.6. Evolution of the number of workers involved in selected African countries

Country	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002
Botswana					1 135	2 326	334	3 506	3 580	2 221	1 443		
Burkina Faso		321											
Burundi						1 416	120	600	330	6 500	3 460	5 420	
Cape Verde		14						17					
Gabon											3 221		
Ghana	6 942	5 557											
Guinea	45 008	4 032	20 989	0	665	0	1 622						
Kenya*	7 839	19 620	19 684	20 349	20 749	9 437	29 348	270 660	214 867	9 094	17 798		
Mauritius	1 700	426	1 823	262	1 138	296	1 631	1 889	908	881	3 905	1 796	4 034
Niger	1 288	2 272											
Rwanda									1 644	2 545			
Reunion	1 894	2 825	3 898	938									
Senegal	4 173	3 553	3 954										
South Africa	350 938	175 683	149 556	155 927	326 549	152 956	247 202	212 094	323 093				
Swaziland			7 218	3 245	7 218		59						
Zambia	51 606	31 788	25 658	9 581	13 165	8 228	10 606	20 513					

Source: Laborsta, ILO

* From 1990 to 1994: Ikiara and Ndung'u, 1999, (Republic of Kenya, Statistical Abstract)

From 1995 to 2000: Fashoyin, 2001, (annual report of the Ministry of Labor and Federation of Kenyan Employers)

APPENDIX 3

Table A.7. Profile of national employers' organizations (as of May 1997)

Country	National employers' organisations which are members of the International Organisation of Employers	Founding and Registration	Number of enterprises covered	Type of enterprise	Sectors	Workforce employed by associated enterprises	Direct/indirect membership of enterprises*
Benin	National Organisation of Benin Employers (ONEB)	1984	.	.	Industrial, commercial and	.	.
Botswana	Botswana Confederation of Commerce, Industry and Manpower (BOCCIM).	.	.	.	.	.	.
Burkina Faso	Conseil national du patronat Burkinabé (CNPB).	.	.	.	.	.	.
Burundi	Association des employeurs du Burundi (AEB).	1964	10% of formal private and parastatal sector.	Private or parastatal.	.	52% of private and parastatal sector.	Direct.
Cameroon	Groupement inter-patronal du Cameroun (GICAM).	1957	113 compagnies + 13 employers' orgs.	Private.	agro-processing, industrial, commercial and service providers	.	Both.
Cape Verde	Association commerciale, industrielle et agricole de Barlavento (ACIAB).	1918	150	Private.	commerce, industry and agriculture	.	.
Chad	Conseil national du patronat tchadien (CNPT).	1989	67	Private, mixed or public.	all sectors	8000	Direct.
Congo	Union patronale et interprofessionnelle du Congo (UNICONGO).	1958	400	Private or mixed.	.	25	Indirect.
Côte d'Ivoire	Conseil national du patronat ivoirien (CNPI).	1993	> 500	Private or mixed.	Industrial, commercial, services, Agriculture	> 100,000	Indirect.
Democratic Republic of Congo	Fédération des Entreprises du Congo (FEC)	1972	1500	.	all sectors	.	.
Eritrea	Eritrea Federation of Employers (EFE)	.	.	.	.	.	.
Gabon	Confédération patronale gabonaise (CPG).	1959	174 compagnies + 12 empl orgs	.	.	30 000 (65% of formal workforce)	Both.
Ghana	The Ghana Employers' Association (GEA).	1959	300	Private and public	industry, trade, business, education or cultural activity	.	Both.
Guinea	Conseil du patronat guinéen (CPG).	1992	.	.	.	.	.
Kenya	Federation of Kenya Employers (FKE).	1959	3000 comp + 18 empl orgs	private and public	all sectors except the civil service and Teachers	500 000	Both.
Lesotho	Association of Lesotho Employers (ALE).	1961	100	Private or mixed.	all sectors	70% of the labor force.	Both.
Madagascar	Groupement des entreprises de Madagascar (GEM).	1976	45 comp + 12 Empl orgs	.	.	.	Both.
Malawi	The Employers' Consultative Association of Malawi (ECAM).	1963	250 comp + 6 empl orgs	Private and parastatal	.	80 000	Both.
Mali	Fédération nationale des employeurs du Mali (FNEM).	1980	500 comp + 19 empl orgs	.	Commercial, Building and Public Works	10 000	Indirect.
Mauritania	Confédération générale des employeurs de Mauritanie (CGEM).	1961	800 formal + 60 000 micro-enterprise	Private.	all sectors	60 000	Indirect.
Mauritius	Mauritius Employers' Federation (MEF).	1962	600	Private.	all sectors	150 000	Both.
Mozambique	Associação de Empresas Privadas de Moçambique (AEPRIMO).	.	.	.	.	.	.
Namibia	Namibian Employers' Federation (NEF)	.	.	.	.	.	.
Niger	Syndicat patronal des entreprises et industries du Niger (SPEIN).	1944	45	Private or mixed.	all sectors except agriculture, building and public works	>5,000 / 25% of the private sector.	Direct.
Nigeria	Nigerian Employers' Consultative Association (NECA).	.	.	.	.	450,000-500,000	Both.
Senegal	Conseil national du patronat du Sénégal (CNP).	.	.	.	.	.	.
South Africa	Business South Africa (BSA)	1994	80-85%	Private	Formal	About 5,000,000/90% of	Indirect.
Swaziland	Federation of Swaziland Employers (FSE)	.	.	.	.	.	.
Tanzania., United Rep. of	The Association of Tanzanian Employers (ATE).	1960	750	private(90%) and parastatal	Except civil service	.	.
Togo	Conseil national du patronat (CNP).	1989	.	.	.	.	Indirect.
Uganda	Federation of Ugandan Employers (FUE).	1961	180 comp +4 empl orgs	.	.	150 000	Both.
Zambia	The Zambia Federation of Employers (ZFE).	1955	.	.	.	250 000	Both.
Zimbabwe	Employers' Confederation of Zimbabwe (EMCOZ).	1980	.	Private.	all Sectors	>2,000,000	Both.

* In many countries enterprises are not able to become members of the national umbrella employers' organization and, therefore, they are represented by sectoral or industry-wide employers' organizations.

Source: International Organisation of Employers, *IOE Members Worldwide*

Employers' Organizations Case Studies

National Confederation of Employer Organizations in South Africa⁵⁹

Business South Africa (BSA) was launched on 15 April 1994 as a national confederation of business/employer organizations. The underlying spirit in establishing BSA was to provide an avenue for co-operation where such coordinated action served the interests of all its members. It should be noted that BSA is not registered in terms of any law.

BSA operates on a not-for-profit basis and represents the collective interests of business in South Africa with respect to national economic and social policy. BSA pursues this objective by:

- acting for and on behalf of its members;
- promoting the development of an economic and social system based on the principles of justice, the market economy, individual entrepreneurship and equal opportunities;
- initiating and influencing legislation in the interests of members;
- acting as a caucus for its membership in appropriate forums and bodies;
- arranging representation on behalf of member organizations;
- affiliating with relevant international organizations and bodies and representing member organizations in international bodies;
- acting for its members at national and international levels;
- communicating and consulting with members on important international affairs which may impact on South African business interests;
- giving attention to the role of small and medium business enterprises in all sectors and to the development of linkages between large, medium and small businesses to the benefit of the economy as a whole.

Since its formation in 1994, BSA has established itself as the representative of business on national issues. Of particular importance is BSA's involvement in the tripartite NEDLAC structures. NEDLAC is a statutory body created to negotiate and debate important economic, social and development policy issues and BSA plays a key role in managing the business inputs. BSA also represents employers on a number of other multi-and tripartite structures such as the National Training Board and the South African Qualifications Authority.

Estimates indicate that BSA, through its member organizations, represents some 80%-85% of employers who employ more than 90% of employees in the private sector in the formal economy. The aggregate workforce is about 5 million.

National Confederation of Employer Organizations in Côte d'Ivoire

The National Council of Ivoirian Employers (CNPI) was formed on 4 December 1993 and it was officially registered on 30 June 1994.

The Council proved its credibility at the national level in 1994 by negotiating with the government the post-devaluation support measures and wage increases with the central trade union in 1995.

The Council's objectives consist in:

- promoting free enterprise and the market economy;
- elaborating legislations that promote development and progress of industrial and commercial enterprises and services.
- representing and defending members' interests before the relevant national or international authorities;
- providing support to members with a view to increase global efficiency.

The Council is a permanent member of the Labor Consultative Commission (tripartite organ) and a founding member of the Permanent and Independent Dialogue Commission (bipartite organ). These two national bodies take an active part in every negotiations. Nowadays, the Council exerts a certain lobbying activity close to the

⁵⁹ Information concerning South African, Ivoirian, Ghanaian and Kenyan Nation confederation of employer organizations can be found on the International Organization of Employers website (http://www.ioe-emp.org/ioe_emp/worldwide/worldwide_africa.htm).

Administration which often takes into account the Council's propositions in governmental project in favor of the private sector.

On the whole the Council represents more than 500 private or parastatal enterprises with an aggregate workforce above 100,000 workers.

National Confederation of Employer Organizations in Ghana

The Ghana Employers' Association (GEA) was formed in 1959 and later incorporated as a non-profit making company.

In general, the Association's activities in pursuit of its functions include:

- keeping members informed of the operation of existing laws and practices and legislative proposals which may affect, or tend to affect, the interests of employers;
- provision of a forum for employers to meet, discuss, consult and exchange views, information, and experiences;
- representative and spokesman of employers' interests in Government circles;
- consultancy services, education, training and human resource development;
- provision of advice to members on management-employee relations;
- assisting members in collective agreement negotiations by providing advice, information on current trends, etc. and/or actually taking part in the negotiations;
- representation of employers on tripartite and other bodies, national and international;
- enterprise development, especially of small and medium scale enterprises;
- promoting free enterprise.

Membership is open to individual employers both in the private and public sectors who employ five or more persons in a permanent establishment engaged in or connected with an industry, trade, business, education or cultural activity in Ghana.

National Confederation of Employer Organizations in Kenya

The Federation of Kenya Employers (FKE), which was first established in 1956 under the name of Association of Commercial and Industrial Employers, was registered in January 1959 under the Trade Unions Act, Cap 233, as an Association representing the collective interests of Kenya employers.

Since its foundation, the FKE has developed as the industrial relations system in Kenya has progressed. Now, the Federation has become an essential partner in the country's tripartite labor relations machinery, which includes the Central Organization of Trade Unions, the Industrial Court and the Ministry of Labor. The FKE bargains directly on behalf of its members and, if necessary, appears for them at the Industrial Court.

The bulk of the Federation's activities is in the field of employment, general representation of employers' interests and industrial relations. These activities, which are free of charge to members, involve in particular:

- representation of employers' interests to relevant authorities on any policy matter;
- promotion of the spirit of tripartism, involving the Government, employers and workers in formulating and implementing social and employment policies as enunciated in the Tripartite Industrial Relations Charter;
- provision of a forum for exchange of views by employers;
- conducting of collective agreement negotiations between employers and trade unions;
- representation of employers before both the Ministry of Labor and Manpower Development and the Industrial Court;

Membership of the Federation is open to trade associations and to individual enterprises, large or small, engaging any number of employees both in the private and public sectors, including local authorities but excluding the civil service and Teachers Service Commission. The total membership, including members of the 18 affiliated associations is about 3,000, with an aggregate workforce of approximately 500,000.