



International  
Labour  
Office  
Geneva

Working Paper No. 18

**Tripartite institutions,  
collective bargaining  
and employment relations  
in the Mauritian  
labour market**

**Tayo Fashoyin**

December 2010

Industrial  
and Employment  
Relations  
Department  
(DIALOGUE)

DIALOGUE

**Tripartite institutions, collective bargaining and  
employment relations in the Mauritian labour market**

**Tayo Fashoyin**

**Industrial and Employment  
Relations Department  
International Labour Office • Geneva  
December 2010**

Copyright © International Labour Organization 2010  
First published 2010

Publications of the International Labour Office enjoy copyright under Protocol 2 of the Universal Copyright Convention. Nevertheless, short excerpts from them may be reproduced without authorization, on condition that the source is indicated. For rights of reproduction or translation, application should be made to ILO Publications (Rights and Permissions), International Labour Office, CH-1211 Geneva 22, Switzerland, or by email: [pubdroit@ilo.org](mailto:pubdroit@ilo.org). The International Labour Office welcomes such applications.

Libraries, institutions and other users registered with reproduction rights organizations may make copies in accordance with the licences issued to them for this purpose. Visit [www.ifro.org](http://www.ifro.org) to find the reproduction rights organization in your country.

---

## ILO Cataloguing in Publication Data

Fashoyin, Tayo

Tripartite institutions, collective bargaining and employment relations in the Mauritian labour market / Tayo Fashoyin ; International Labour Office, Industrial and Employment Relations Department. - Geneva: ILO, 2010  
1 v. (Working paper ; No.18)

ISBN: 9789221243700;9789221243717 (web pdf)

International Labour Office; Industrial and Employment Relations Dept

labour relations / tripartism / trade union / labour productivity / occupational health / occupational safety / wage determination / collective bargaining / dispute settlement / Mauritius

13.06.1

---

The designations employed in ILO publications, which are in conformity with United Nations practice, and the presentation of material therein do not imply the expression of any opinion whatsoever on the part of the International Labour Office concerning the legal status of any country, area or territory or of its authorities, or concerning the delimitation of its frontiers.

The responsibility for opinions expressed in signed articles, studies and other contributions rests solely with their authors, and publication does not constitute an endorsement by the International Labour Office of the opinions expressed in them.

Reference to names of firms and commercial products and processes does not imply their endorsement by the International Labour Office, and any failure to mention a particular firm, commercial product or process is not a sign of disapproval.

ILO publications and electronic products can be obtained through major booksellers or ILO local offices in many countries, or direct from ILO Publications, International Labour Office, CH-1211 Geneva 22, Switzerland.

Catalogues or lists of new publications are available free of charge from the above address, or by email: [pubvente@ilo.org](mailto:pubvente@ilo.org)

Visit our web site: [www.ilo.org/publns](http://www.ilo.org/publns)

---

---

## Acknowledgements

In the course of the research for this paper I spoke with many people who provided critical information that helped my understanding of the functioning of the labour market institutions and dynamics in Mauritius. I received the unequivocal support for the study from the Hon. J.E. Chaumère and Mrs. V.L. Ramsamy, respectively former Minister and Permanent Secretary in the Ministry of Labour, Industrial Relations and Employment. In the Ministry and its parastatals, I received the kind attention of Mr. Saccaram and Professor Prakash Torul, Chairman of the Commission for Conciliation and Mediation, Mr. Rajpalsingh Allgoo and Mr. T. Ramsamy, respectively Vice chairman and Head of the National Remuneration Board, where Ms Amrita Sawmy was particularly helpful on data and documents on the work of the body. At the National Pay Council, I received the kind assistance of Mr. Krish Ponnusamy, its Chairman. Mr. Mohamad Vayid and Mr. Jayaraj Ramjada, respectively Chairman and Secretary General of the National Economic and Social Council found time to talk to me, while Mr. Ram Nookadee, Secretary of the Mauritius Council of Social Service elaborated the working relationship between his organization and the labour movement.

I am immensely indebted to Dr. Azad Jeetun, Executive Director of the Mauritius Employers Federation, whose assistance during my mission and collaboration of more than a decade I have enjoyed and Dr. K. Coonjan, Executive Director of the National Productivity and Competitiveness Council, who provided details on the work of the council. In the labour movement, I met Mr. Toolsyraj Benydin, President of the NTUC, Mr. Dayen Gojadhur, Assistant Secretary of the MTUC, Mr. Ashok Subron, Animator of the CSG-Solidarité, and Mr. Krishna Sadien, General President of the Government Services Employees Association. I thank all of them for sharing their views with me. My friend of many years, Professor Daniel Fokkan, formerly of the School of Management at the University of Mauritius, helped in providing a perspective on several of the internal dynamics in the labour market in the country, and I appreciate his professional assistance of more than a decade. Several of those whom I met subsequently commented on an earlier draft of this paper, and I thank them for the additional effort. In the ILO I thank my colleagues, Youcef Ghellab, Susan Hayter and Kostas Papadakis for their time and useful comments.

In thanking all for their time and support, I need to stress, nevertheless, that the views expressed in this paper are mine, and do not represent those of the people I spoke with in the course of my research, and neither do they represent the position of the ILO.

Tayo Fashoyin  
Director,  
Industrial and Employment  
Relations Department



---

## Contents

Acknowledgements .....	iii
1. Introduction.....	1
2. The Mauritian economy and labour market.....	4
Employment and labour market characteristics.....	6
Employment relations and the global economic crisis .....	8
3. Legal and institutional framework for tripartism and workplace relations .....	11
Trade unions: organization and structure .....	13
The employers: The Mauritius Employers Federation .....	16
4. Tripartite cooperation for socio-economic development.....	19
The Labour Advisory Council .....	19
National Economic and Social Council.....	20
5. Productivity and health and safety in the workplace .....	24
National Productivity and Competitiveness Council.....	24
Advisory Council for Occupational Safety and Health .....	27
6. Wage determination and collective bargaining .....	30
Collective bargaining.....	30
National Remuneration Board .....	32
National Pay Council .....	35
The challenge for collective bargaining and wage determination .....	39
7. Dispute resolution and labour-management cooperation .....	41
Commission for conciliation and mediation.....	41
8. Concluding discussion .....	45
Bibliography .....	49



---

## 1. Introduction

The research on why institutions matter and why their mediating role in the labour market is essential is quite extensive.<sup>1</sup> This body of knowledge emerged in response to the neoclassical position that markets are perfect enough to ensure the efficient allocation and distribution of resources. This being the case, regulation is thought to interfere with and distorts the efficiency of markets. This conception sees the labour market as any other market, where regulation or the power of any group is assumed to be irrelevant because the efficiency of the market is what matters. The counter to this reasoning is that contrary to the professed supremacy and efficiency of unregulated markets, power relations are far from equal or unimportant. This view stresses that there exist interest groups whose institutional configuration in markets produce widely different economic and social outcomes.<sup>2</sup>

In the labour market, the supposition is that free markets are imperfect, and an influential group may exploit the weaker group to its advantage. As institutional analysis suggests, power relations between business and labour is never equal, particularly when they are not organized. On the contrary the role and influence of business far outpace that of the workers in the workplace. However, when the latter present themselves as a group their aim is to provide some match to business influence in the labour market. In such cases, the regulatory role of government such as providing the legal and institutional framework for a level playing ground is critically important.<sup>3</sup> The organization of workers and employers into trade unions and associations is an amplification of this counter to the neoclassical construction of a perfect market.<sup>4</sup> Undoubtedly the foremost effect of public policy on bipartite relations at the enterprise or sectoral level is the collective bargaining process, by which employers and workers jointly determine the terms and conditions of employment.

At the same time, a growing number of workers are for one reason or another excluded from the collective bargaining process. The explanation for this include employers' personnel policies which reduce the proportion of workers in formal employment, corresponding growth of atypical and other forms of employment that render organization difficult if not impossible, declining use of collective bargaining, its decentralization to the enterprise level, difficulty with union organization, and so forth. All of these have created insecurity and inequality in wage incomes and protection in the workplace. Across countries, tripartite institutions for social dialogue, through which the parties define basic employment conditions irrespective of collective representation provides succour to workers who lack effective representation. Institutions such as this have helped to reduce inequality and insecurity, particularly in crisis periods such as the current global economic crisis.

But social dialogue goes far beyond the workplace or the determination of wages and employment conditions. A growing body of research explores the

---

<sup>1</sup> On the debate and analyses of these concepts, see G. Rodgers, "Institutional economics, development economics and labour economics", in G. Rodgers (ed.): *Workers, institutions and economic growth in Asia*.

<sup>2</sup> See J. Berg and D. Kucera, Ch. 2.

<sup>3</sup> *ibid.*, pp. 11-12.

<sup>4</sup> G. Rodgers and Z. Tzannatos, "The impact of trade unions: What do economists say?" in Berg and Kucera, pp. 150-178.

---

modalities of tripartite social dialogue beyond the enterprise or at sector level and how tripartite social dialogue contributes directly to participatory policy-making at the national level.<sup>5</sup> In the developing and transitioning economies, this trend aligns with the discourse, beginning in the 1980s on sustainable development and the emphasis on the use of participatory processes and dialogue in the formulation and implementation of policies on a broad range of issues, from economic and social policies to a fair and equitable distribution of rewards of industrial success among the cooperating partners.<sup>6</sup>

In specific reference to the labour market, there exist tripartite institutions for social dialogue in building consensus on labour and social and economic policies that impact on the wellbeing of workers and the society at large.<sup>7</sup> As used here, social dialogue refers to “negotiations, consultation and information sharing, either among the bipartite parties in the workplace or industrial sector, or the tripartite partners at the national level, on the broad issues of common interest that pertain to economic and social policy.”<sup>8</sup> The goal of social dialogue is to reach broad consensus among the tripartite parties on the particular issues before them. Particularly, tripartite institutions for social dialogue afford the labour market actors to play a key role in shaping enterprise effectiveness, and by so doing contribute to the country’s social and economic development. From time to time, however, consensus is not achieved. In such cases, nevertheless, social dialogue serves the useful purpose of creating an understanding of the respective positions in the eventual policy for the good of the society at large.

Tripartite dialogue and enterprise or sectoral level relations are interrelated or mutually reinforcing. Thus tripartite dialogue may help in defining the specific terms and conditions that are decided at the enterprise or sectoral level. Vice versa, labour and management cooperation may reinforce tripartite dialogue and consultation at the national level. This interface is shown as a critical attribute of employment relations in Mauritius. Through these processes in dealing with issues such as the determination of the conditions of employment and enterprise performance, social dialogue helps to promote labour-management cooperation and understanding and the wellbeing of workers, productive enterprise and national social and economic development. Issues such as these have been the preoccupation of several of the tripartite institutions that are discussed in this paper. But Mauritius is not alone.

Across countries and irrespective of the level of development, the role of social dialogue in contributing to economic and social development is acknowledged.<sup>9</sup> Where social dialogue exist and functions well, it can help in shaping enterprise level relations that reinforce labour-management cooperation in the interest of workers, employers, and the national economy. Indeed, the current global economic

---

<sup>5</sup> See for example, “Social dialogue and industrial relations in the oil industry”, Sectoral Activities Programme TMOGE/2009 (Geneva, ILO), 2009.

<sup>6</sup> See UNDP: *Governance for Sustainable Human Development. A UNDP Policy Document*, <http://mirror.undp.org/magnet/policy/chapter1.htm>, and World Bank: *Managing development – The governance dimension* (Washington DC, 1994). See also the contributions in D. Olowu and S. Sako (eds.): *Better governance and public policy* (Bloomfield, Kumarian Press, 2002). The ILO Decent Work Agenda at the country level is a practical realization of this line of discourse.

<sup>7</sup> *Industrial relations, democracy and social stability. World Labour Report 1997-98*. ILO, Geneva 1997. World Labour Report, ILO, Geneva 1998.

<sup>8</sup> See Proceedings of the 276th Session of the ILO Governing Body, Nov. 1999.

<sup>9</sup> See *Industrial relations, democracy and social stability*, loc. cit.

---

crisis has echoed this role of social dialogue for joint action and policy design in stemming the tide of job losses and for maintaining livelihood as part of the broader macroeconomic and social policies to overcome the crisis.<sup>10</sup>

This tripartite approach to labour market governance in Mauritius is the main focus of this paper. In it I elaborate on the functions and work of a number of tripartite institutions whose work impacts on employment relations in the country. Tripartite institutions grew out of public policy that recognizes the segmentation of the labour market and the need for social inclusion and protection of all workers, whether or not they are organized or represented by trade unions. The paper provides a review of the role and contribution of each of the tripartite partners in collective bargaining and tripartite institutions that advance workers' welfare and social and economic development. The paper concludes that despite obvious weaknesses in the structure and work of some of the institutions, tripartism has advanced the employment relationship and the contribution of the social partners to labour market governance and social and economic development in Mauritius. In particular, tripartite cooperation has offered a critical boost to collective bargaining at the enterprise level.

The paper begins with a profile of the economy and the labour market, showing how developments in the former impacts on institutions and employment relations. Chapter 3 examines the recent fundamental reforms of the labour code and shows how key improvements are bound to enhance the rights and role of workers in labour market governance. In Chapters 4 and 5, thematic issues on the role of tripartite social dialogue and the institutions for advancing tripartite contribution to labour market and social and economic development are discussed, successively in relation to labour and socioeconomic development, productivity and health and safety in the workplace. The analysis continues in Chapters 6 and 7, in showing how tripartite cooperation contribute, first to the determination of minimum wage and safety nets to the large pool of unorganized and vulnerable workers, and second its strategic support to collective bargaining at the enterprise level. This mutually supportive role of the two mechanisms is one of the key findings reported in the paper. In Chapter 8, the paper concludes by drawing attention to the strengths and challenges of employment relations in the country, particularly the critical need to strengthen collective bargaining, and to take tripartite and bipartite cooperation beyond narrow confines and move to broader issues that impact on the quality of work life of workers.

---

<sup>10</sup> One notable international resolve on this contemporary issue is the formulation of the Global Jobs Pact, GJP, at the 98th Session of the International Labour Conference in Geneva in June 2009. Available at: [http://www.ilo.org/public/libdoc/ilo/2009/109B09\\_192\\_engl.pdf](http://www.ilo.org/public/libdoc/ilo/2009/109B09_192_engl.pdf)

---

## 2. The Mauritian economy and labour market

Generally Mauritius has been an economic success story in Africa. The country witnessed rapid economic growth in the 1980s, such that by the beginning of the 1990s, it had reached full employment. During the period, the base of the economy was labour intensive export of textiles and sugar, in addition to tourism. The introduction of export processing zones in 1970 was followed by the removal of restrictions on the import substitution industrialization of the earlier period.<sup>11</sup> During 1983-87, the economy grew by an average of 14 per cent; EPZ manufacturing peaked at 34.9 per cent in 1986.

This growth placed Mauritius in the lower-middle income category, ascending to the upper-middle income group by 1995. EPZs accounted for 39 per cent of employment and 25 per cent of GDP in 1989.<sup>12</sup> During 1996-98, for example, real GDP expanded by 5.5 per cent a year, largely attributed to three factors, namely the EPZ manufactures, sugar export and tourism. Inflation decelerated from around 8 per cent in 1996 to about 5.3 per cent in 1998. Unemployment oscillated between 10 and 20 per cent, but fell to about 3 per cent in 1989 and declined by nearly a half, at 1.7 per cent by 1995. The dominant challenge for the country has been the sustainability of economic growth and development.

The industrial development landscape represented a gradual structural change in the economy. Beginning in the late 1990s the focus of economic growth shifted from the EPZs, as reflected in the decline in the number of operating enterprises, and accompanied by net losses in employment and reduced share of foreign direct investment.<sup>13</sup> Between 2002 and 2006, employment in the EPZs fell substantially.<sup>14</sup> To a large extent, however, structural changes were the outcome of the end of the Multi-fibre Arrangement (MFA) in 2005. Also, beginning in the late 1990s the base of the economy shifted from agriculture to services. Thus, the share of agriculture and related sectors, such as forestry, which was 9.4 per cent in 1997, fell to 4.7 per cent in 2007.<sup>15</sup> In contrast, employment in tourism rose from 5.6 per cent to 9.4 per cent in tourism, and in the financial intermediaries, banks, insurance and offshore banking, employment rose from 6.7 per cent to 10.5 per cent during 1997-2007.<sup>16</sup>

Table 1 below presents the overall performance of the economy during the present decade. The gross domestic product, GDP, which grew by 2.3 per cent in 2005, picked up substantially during 2005-2008. The performance of the economy before and during the crisis period has also reflected the structural shift and the relative importance of the economic sectors. Thus, as available information suggests, while the transformation or decline of the sugar industry continues, construction, tourism and finance have acquired prominence over the years. Manufacturing, which accounted for 22.3 per cent of the GDP in 1998, fell to 18.8

---

<sup>11</sup> S. Lall and G. Wignaraja. See also L. Kinunda-Rutashobya, pp. 226-233.

<sup>12</sup> L. Kinunda-Rutashobya, loc.cit.

<sup>13</sup> Lall and Wignaraja, loc.cit.

<sup>14</sup> N. Otobe.

<sup>15</sup> *Digest of Productivity and Competitiveness Statistics 2007*. Central Statistics Office, Mauritius. Table III, p. 21.

<sup>16</sup> *ibid.*

per cent a decade later.<sup>17</sup> GDP per capita actually rose by about 12 per cent, or by 22 per cent when expressed in US dollar during the period.

**Table 1.**  
**Economic review of Mauritius, 2004–2009**

	Unit	2004	2005	2006	2007	2008	2009
Gross domestic product (GDP) at basic price	%	+4.8	+2.3	+5.1	+5.5	+5.1	+3.1
Exclusive of sugar		+4.6	+2.8	+5.4	+6.3	+5.2	+2.8
Per capita GDP (Source: MCB Economic Indicators)	USD	5,182	5,101	5,285	5,958	7,360	6,737
Private investment growth rate	%	16.3	-0.3	15.1	24	9.7	-2
Public investment growth rate	%	-19.8	-5.4	28.3	-24.7	-18.1	62.9
Total imports (c.i.f.)*1	(Rs million)	76,387	93,282	115,502	121,037	132,165	118,303
Total exports (f.o.b.)* 1	(Rs million)	54,905	63,219	74,037	69,708	67,970	61,784

\*31.5Rs=1\$

Sources: Government of Mauritius, Central Statistical Office, and Annual Report 2008, and Mauritius Commercial Bank Economic Indicators, Port Louis.

Investments in the economy present a different scenario. As the table shows, while private investment grew during 2006-2007, it dropped to 9.7 per cent in 2008 and 2009. Private sector investment was significantly low, ostensibly a result of the global financial crisis. On the other hand, public investment registered a high growth rate of 62.9 per cent, as a result of investments on road infrastructure, airport extension, education, housing and health sectors. As regards external trade, exports steadily rose during 2004-2007, but declined significantly by 9.1 per cent during the period 2008-2009. In contrast, imports rose throughout 2004-2009, by an annual average increase of 14.08 per cent during this period. This performance demonstrates the dependence of the economy on the import of capital and consumer goods, and the consequent trade deficits. The foregoing trends appeared to have continued through to 2010.

Nevertheless, despite the shifts in the economic sectors, the Mauritian economy has remained healthy, primarily as a result of the strategic shifts to other sectors, notably tourism and export-oriented industries, such as banking and finance, and technology. However, as a new report indicates, despite the relatively sustained economic growth of the past decades, the level of poverty among the

<sup>17</sup> The Mauritius Chamber of Commerce and Industry, *Annual Report 2008*, p. 49

---

country's population has increased. The report shows that the proportion of poor people has steadily risen, from 7.8 per cent of the population in 2001/2 to 8.7 per cent in 2006/7.<sup>18</sup> The report shows that, the average monthly income of the 20 per cent of the richest citizens moved up at the rate of Rs.2,005 per year, compared to the income of the poorest 20 per cent, which moved by Rs.284 per year during the same period.<sup>19</sup> The report emphasizes the critical challenge of reversing this trend, particularly through focussed poverty alleviation programmes, targeting in particular the large and expanding informal economy.<sup>20</sup>

## **Employment and labour market characteristics**

The performance of the economy naturally impacts on employment and labour market adjustments, as shown in Table 2 below. According to official sources the Mauritian labour force in 2008 was 559,400, representing 43 per cent of the country's total population of 1.3 million in the same year. This reflects a relatively high participation rate, and a male-female distribution of about 60-40 per cent.

Total employment, officially defined as 'work for pay, profit or family gain' stood at 545,800 in 2008, representing 92.9 per cent of a labour force of 587,300. Employment marginally increased by a mere 1.1 per cent over the previous year, but in 2009, the rate of increase was a mere 1.1 per cent. However, the decrease was more of a seasonal adjustment rather than the impact of the global economic crisis on the country's economy.<sup>21</sup>

---

<sup>18</sup> "Integration into the global economy. Socio-economic challenges and policy implications for Mauritius". National Economic and Social Council, Report No. 14, May 2010, pp. 11-25.

<sup>19</sup> *ibid.*, p. 13.

<sup>20</sup> *ibid.*, pp. 36-37.

<sup>21</sup> *Economic and Social Indicators*, Issue No. 771 (Port Louis, Central Statistics Office), 29 June 2009.

**Table 2.**  
**Employment and labour force, 2007-2009**

	2007	%	2008	%	2009	%
<b>Labour force</b>						
Male	353,600	64.41	355,600	60	358,100	63.23
Female	195,300	35.58	203,800	40	208,200	36.76
Total	570,500	100	583,400	100	587,300	100
<b>Employment</b>						
Male	347,100	66.71	355,700	65.7	355,300	65.22
Female	176,600	33.28	187,300	34.29	190,500	34.77
Total	523,700	100	543,000	100	545,800	100
<b>Unemployment</b>						
Male	18,600	5.3	14,600	4.1	15,800	4.4
Female	28,200	14.4	25,800	12.7	25,700	12.3
Total	46,800	8.5	40,400	7.2	41,500	7.3

Source: Digest of Labour Statistics 2009. Central Statistics Office. Mauritius, June 2010.

The rate of unemployment, which was 8.5 per cent in 2007, fell in the succeeding years, although there was a slight increase in 2009. Both male and female unemployment had decreased over the period, although the records showed that women were 3 times more likely to be unemployed than men. The employment of women reflected the gender structure of the labour force of a male-female ratio of around 60-40 during 2008-2009. However, more women tended to take up employment, during this period, which might be a response to either a decline in the employment opportunities among male or reduced family income.

Notwithstanding the relatively high participation rate among women, Table 2 does confirm the findings of a recent study which showed that women were 3 times more likely to be unemployed than men.<sup>22</sup> The study showed that more women than male (90.9 percent to 79.1 per cent) were in wage employment in 2000, while more men than women were in unpaid labour in the same year.<sup>23</sup> The study also showed that 20.2 per cent of men were in self employment as compared to 7.2 per cent women in the same year.

More women than men tended to work in the public service. Thus, while women accounted for only 39 per cent of employment in the public sector (central and local governments) in 2000, they accounted for 33.6 per cent in the private enterprises. On the other hand, in the large EPZ sector, women accounted for 66.2

<sup>22</sup> N. Richard (ed.), p. 27.

<sup>23</sup> *ibid.*, p. 46.

---

per cent of employment in the same year.<sup>24</sup> Most managerial jobs went to men, even though there was no shortage of female management talent.<sup>25</sup> The study revealed that various features of discrimination existed in the Mauritian labour market, on the basis of gender, ethnicity/community, religion and language.

Corresponding to the structural shift in the economy are shifts in employment. According to official records, manufacturing remains the largest source of employment, accounting for 22.7 per cent of total employment in 2008.<sup>26</sup> Textiles accounted for 11.8 per cent while sugar accounted for 3 per cent. Agriculture accounted for 8.5 per cent, of which sugarcane was 34.6 per cent, while nonsugar accounted for 65.4 per cent. Construction accounted for 9.5 per cent. Hotels and restaurants accounted for 6.7 per cent of total employment.

When the labour market became tight in the early 1990s, the government began a formal importation of foreign labour. As at 2000, foreign workers in Mauritius accounted for 3 per cent of the labour force and rose to 3.9 per cent in 2008.<sup>27</sup> According to a government report, foreign labour was concentrated in manufacturing, 16 percent, and 22 per cent in EPZs in 2006. There were also a sizeable number of foreign workers in construction (5.5 percent), tourism (1.1 percent) and various units of public administration (1.5 per cent) in the same year.<sup>28</sup>

According to one account, the employment of foreign labour in the EPZs had created difficulty for women in finding employment in the EPZ sector where they are were more likely to be employed.<sup>29</sup> Although employment in this sector has decreased, there is the explanation that employers' preference for foreign workers to nationals was hardly unconnected with the claim that the former have comparatively higher level of output than nationals. If this view were true, it was probably also because foreign workers tended to work longer hours than nationals.<sup>30</sup> But, notwithstanding the preference of some employers for foreign labour, the latter enjoy relatively inferior wages and conditions than Mauritian nationals.<sup>31</sup>

## **Employment relations and the global economic crisis**

The Mauritian economy is highly exposed to the performance of the global economy, as a result of its relative dependence on imported goods and service, as well as export of textiles. Yet, because of a dogged pursuit of focussed and timely policies, the impact of the global crisis on the economy was generally minimal. Within the context of the government's fiscal stimulus package of about 5 per cent of the GDP in 2008, budgetary measures were taken in consideration of the partnership with the private sector. According to one report, public policy to

---

<sup>24</sup> *ibid.*, p. 47.

<sup>25</sup> N. Richard, *loc.cit.*

<sup>26</sup> *Digest of Labour Statistics*, Central Statistics Office, Mauritius, June 2009, Table 1.4.

<sup>27</sup> *The employment of foreign workers in Mauritius* (National Economic and Social Council, Mauritius), Report No. 9, Jan. 2008, and *Digest of Labour Statistics 2009* (Central Statistics Office), June 2010.

<sup>28</sup> *Digest of labour statistics* (Mauritius, Central Statistics Office), 2007, p. 14.

<sup>29</sup> See Otobe, *op. cit.*, pp. 11-13.

<sup>30</sup> *The employment of foreign workers in Mauritius*, p. 13.

<sup>31</sup> *ibid.*

---

mitigate the crisis had been proactive, particularly in forging partnership with the private sector.<sup>32</sup>

Within the partnership, macro and microeconomic policy interventions commenced as early as December 2008<sup>33</sup> (see box). In the related ‘social contract’ between the government and the private sector, the former became an equity partner to distressed but promising firms, while the business community committed themselves to employment preservation. A mix of work and training schemes was set up to address redundancies during the crisis period. The overall goals were to maintain enterprise sustainability, avoid large-scale dismissal of workers and cushion the impact of inevitable temporary layoffs of workers.<sup>34</sup>

#### Measures to mitigate the impact of the crisis

- Hotels to pay the Environment Protection Fee only if they show a profit and on an annual rather than monthly basis.
- Budget for the Mauritius Tourism Promotion Authority increased significantly.
- All airlines exempted from tax contribution to the Mauritius Ile Durable (MID).
- Halt in the lowering import duty, until 2010.
- Reserve ratio (commercial banks) reduced by one percentage point to inject more funds in the economy.
- Solidarity levy of 5% on profits and 1.5% on turnover on profitable providers of telephone services.
- Levy of 3.4% of profits on banks together with an increase on solidarity level on banks.
- Consolidation of the empowerment Programme, Decentralised Cooperation Programme, Trust Fund for Vulnerable Groups and Eradication of Absolute Poverty Programme into the National Empowerment Foundation as a means to focus anti-poverty and empowerment efforts.

Source: J. Marisset, F Bistos and S. Rojid, *Facing-off a man-made disaster: Global financial crisis and policy response in the small tropical island of Mauritius* (Washington, The World Bank), March 2010.

Tripartite consultation on the crisis took place, however in a different contraption, apparently as a follow-up to the so-called social contract between government and private which had concluded the general framework of a negotiated response, including job preservation and income protection provisions. However, this did not mean that the government was unwilling to engage in normal tripartite consultation on the employment effect of the crisis. On the contrary, at the same time the government-private sector partnership was developing, the government had in December 2008 established an ad hoc Committee on Employment Protection, the purpose of which was to address the unemployment that was becoming evident in enterprises. This committee however did not work until after the overarching government-business ‘social contract’ was fully developed. Nevertheless, the exclusion of labour at this crucial agenda setting and policy design seriously undermined tripartite social dialogue in dealing with the crisis.

---

<sup>32</sup> *Facing-off a man-made disaster: Global financial crisis and policy response in the small tropical island of Mauritius*. The World Bank, Mar. 2010. This section of the paper has benefited from this report.

<sup>33</sup> *ibid.*, p. 8.

<sup>34</sup> *ibid.*

---

It is useful to note that, initially, union leaders were sceptical about the government-private partnership which they thought might lead to employment cuts. Labour's view that 'there is no crisis in Mauritius' might have in fact contributed to its exclusion from the top level 'social contract'. But labour's fears turned out to have been misplaced, because the issue of job preservation was one of the key conditions in the government's offer of support to the private sector. In other words, labour's reluctance to discuss the crisis in a joint forum might be seen as a missed opportunity to take part in top level discussions in shaping the national response to the crisis.

In the main, tripartite social dialogue was focussed on the implementation and monitoring of modalities of the 'social contract' at the workplace. For example, the proposal included the reduction of the workweek to 3 days, and the remaining two days for training. The compensation for the two days was made from a government funded Human Resources Development Council. The arrangement assured that the worker did not suffer materially; rather he gained through additional training. Programmes such as these were attributed to saving as many as 3,000 jobs. As a result of these interventions, economic growth and employment were virtually unperturbed in 2008.

Apart from the foregoing, there were discussions at the enterprise level, where the impact of the crisis was directly felt by firms and workers. These bipartite discussions were, for the most part, meant to apply or adjust the terms agreed at the higher levels to the specific needs of enterprises and their workers. These included measures designed to cut production costs and apply flexibility in manning and manpower deployment of workers, depending on the company's level of activity.

Finally, the adoption of the Global Jobs Pact, GJP, by the International Labour Conference in June 2009, created another inducement for government, employers and workers' unions to jointly find consensual way to reduce the impact of the crisis at all levels. The GJP offered the partners an additional basis for developing tripartite and/or bipartite measures to reduce the negative effect of the crisis on employment, income or livelihood.<sup>35</sup> Soon after the global agreement was adopted, the government and social partners in Mauritius met to discuss the application of its principles and provisions to the national context. At the discussion in the NPC, the employers offered to give a salary increase of about 5 per cent to all workers earning below Rs. 12,000 in July 2009. The policy applied to organized and unorganized workers, including those outside the formal economy.

However, unlike the foregoing tripartite agreement, the government soon after decreed a further increase of about 1 per cent in its budget announcement for 2010. This additional increase applied to the same categories of workers as the previous, but it also applied to workers who were covered by minimum wage regulations. However, however, while both awards were gestures intended to cushion the impact of the crisis on the workers, the established institution for such decisions, namely the NPC, was totally ignored. This unilateral action of government not only created disaffection among the parties, it raised serious doubts as to the sustainability of the role of the NPC rather than the collective bargaining system which the GJP endorses.<sup>36</sup>

---

<sup>35</sup> "Recovering from the crisis. A Global Jobs Pact", adopted by the International Labour Conference at its Ninety-eighth Session, Geneva, 19 June 2009.

<sup>36</sup> As a result of the government action, the Chairman of the NPC resigned his appointment. Also, it appeared that

---

### 3. Legal and institutional framework for tripartism and workplace relations

This section provides a preview of public policy on employment relations, as well as a profile of two key institutional actors in the labour market. The government side of tripartism in Mauritius is diverse, comprising several departments of government. However, the Ministry of Labour, Industrial Relations and Employment generally leads on labour issues, and has overall coordinating responsibility for labour market institutions in the country. The role of several government departments in tripartite relations is noteworthy, as it provides a strong impetus for placing employment issues in the macroeconomic context. This arrangement helps to create a realistic debate on labour issues at the national level. The chapter highlights the significant improvement in public policy, notably the adoption of a consolidated legal and institutional framework for tripartite consultation, collective bargaining and employment relations in the country.

The primary legal foundation for employment relations in the post-independence period was articulated in the Industrial Relations Act of 1973. In particular, the right to collective bargaining and the possibility of industrial action was recognized in the law. However, critics had argued that the law was not unequivocal in its support for this fundamental right, and worse still it had made legal strikes practically impossible. As the ILO's supervisory body repeatedly stated, the law did not categorically endorse freedom of association and trade union rights, in respect of the right to collective bargaining and the mechanisms for the resolution of trade disputes.<sup>37</sup> In the context of the employment relationship, collective bargaining is generally considered a major tool for workers to improve their income and for the advancement of social justice in the society.

Despite these shortcomings, however, inconclusive debates over the merits of the revision of the Industrial Relations Act went on for decades. In particular, changing government perspectives on labour reform had contributed to the stalling policy reforms in this respect. However, unending internal complaints, particularly from labour and pressure from the ILO led to the enactment of the Employment Relations Act, ERA, (No. 32) of 2008, which came into force on 2 February 2009. In several important respects, the new law fundamentally transforms employment relations in the country. This section of the paper provides a brief preview of the key provisions of the law.

The law consolidates several existing legal instruments into one comprehensive labour code. It regulates the formation, registration and conduct of trade unions, as well as explicitly upholding freedom of association. It protects trade unions and employers' organizations from any acts of interference, discrimination or victimization on the basis of trade union membership. It increases the number of workers that can form a union from 7 to 30, or the number of members of an employers' organization from 3 to 5. This particular provision seeks to strengthen the basic union at the enterprise level and, at the same time discourage the

---

the government saw the deservice of the unsustainable process of the NPC, and might explain why it decided to scrap the NPC in October 2010. This decision has the potential of boosting the collective bargaining machinery, at least for the private sector. More on this later.

<sup>37</sup> See the Report of the Committee of Experts ACR, <http://www.ilo.org/ilolex/>

---

propensity of unionists to form precipitate unions, thereby strengthening the voice of the unions, particularly at the enterprise level.

One of the main criticisms of the 1973 law was its failure to explicitly guarantee freedom of association, particularly in relation to issues such as union membership, participation in trade union and so forth. As a remedy, the Employment Relations Act contains clearly defines “Basic workers’ rights to freedom of association”. These include the right of every worker to join a union, a right which is guaranteed regardless of previous authorization and without distinction or discrimination.<sup>38</sup> In this context, the ERA rationalises the indeterminate timeframe for union registration procedures by reducing the total registration time-frame to 30 days. The law also removes the limit of 200 workers who can form a union to qualify for check-off, and provides that every registered trade union whose members are employed at an enterprise is entitled to check-off facilities.

As regards the promotion of collective bargaining, union recognition procedures have been democratized such that the duty to bargain now rests on the bargaining parties. As a further boost to collective bargaining, the law provides for the employer’s voluntary recognition when approached by workers. Where the employer is unwilling to do so, the union may approach the Employment Relations Tribunal for a recognition order. Furthermore, the law grants several rights that enhance and entrench the ability to bargain collectively. These include provisions on access-to-the-workplace, which is intended to enable union negotiators to participate in negotiations, monitor compliance with agreements or discuss trade union business. The law also guarantees access to information in the course of collective bargaining negotiation.

In support of workers in the large low pay sector where unions are nonexistent and collective bargaining not foreseen, the law created the National Remuneration Board, NRB, as a tripartite body with responsibility for the determination of minimum wages for the unorganized low pay workers. As will be shown later in this paper, this is a significant institutional arrangement for ensuring basic income for this large category of workers. In relation to trade disputes and industrial conflict, the act in several ways strengthens and fortifies dispute management institutions, such as the Commission for Conciliation and Mediation and the Employment Relations Tribunal, both of which are created in the law. Significantly, the law mandates voluntary arbitration where conciliation or mediation fails, as opposed to compulsory arbitration. In doing so, it obliges the parties to resolve their disputes themselves, through negotiation. Where this fails, the parties may resort to alternative dispute resolution mechanisms. In cases of recognition disputes, the ERA empowers the Employment Relations Tribunal to help resolve such disputes through ballot procedures and within a stipulated time-frame.

Finally, the ERA concretely defines what being “involved in trade union activities” entails, such as membership or becoming an officer of the union, negotiating or representing workers in collective bargaining, industrial action, and so forth. Similarly, the notion of unfair labour practices which was not covered in the 1973 law is dealt with in the new law, by incorporating a provision that regulates unfair labour practices. The law defines unfair labour practice as “any act

---

<sup>38</sup> Employment Relations Act 2008, Section 31. See also Sections 30, 33.

---

or omission on the part of any party which undermines the bargaining process”.<sup>39</sup> Where unfair labour practice is committed, the aggrieved party may apply to the Employment Relations Tribunal for remedy.

Undoubtedly, the law represents considerable relief and comfort, not only to labour but also to the other tripartite parties. At the annual meeting of the employers’ body, the Mauritius Employers Federation, its president hailed the law as a progressive measure, which “calls for a new mindset on the part of all to work together.”<sup>40</sup> Also at the same forum, the Minister of Labour, Industrial Relations and Employment made the observation that employment relations in the country was moving away from a tradition of adversarial relations to a ‘wider concept’ of human resource management “with both workers and employers increasingly working together to achieve enterprise objectives for their mutual benefits.”<sup>41</sup>

The minister’s comments are instructive, particularly in the context of enterprise level employment relations, where collective bargaining and the human resource management approach are either complementary or competing methods for regulating wages and conditions of employment. For their part, labour leaders acknowledge the favourable provisions on labour rights and collective bargaining. They emphasize, nevertheless, that the reforms do not fully reflect the positions taken by workers at the tripartite Labour Advisory Council. Among these are the provisions that allow employers to avoid the payment of overtime and the granting of severance allowance upon dismissal. Furthermore, union leaders maintain that contrary to what was ‘agreed’ at the council, the payment of normal severance pay has disappeared in the law, leaving in place severance pay in punitive situations, such as when an employer is found to have engaged in unfair dismissal of a worker. In this context, labour maintains that, as experience already has shown the contributory National Saving Fund has been used for this purpose, and hence workers wonder why they have to fund their own dismissal from work!

These reservations address important issues on which the LAC may have consider to achieve a consensus building and advise the Minister. However, despite these reservations on the merit and content of some provisions in the new law, all the tripartite partners are united on the view that the law represents a progressive legal framework for employment relations, particularly in removing several of the weaknesses or abuses of the past. Time will tell about the real contribution of this historic and comprehensive reform of the labour code.

## **Trade unions: organization and structure**

The basic level of unionization in Mauritius is the enterprise. As official records indicate, there were 332 enterprise level unions in 2008, with a combined membership of 103,054 in that year.<sup>42</sup> The membership might be slightly higher because the membership of some 13 unions could not be ascertained in the official records. The number of unions does not include workers formations or associations, whose main function is the promotion of the welfare of the workers and other labour-management cooperation services.

---

<sup>39</sup> *ibid.*, Section 54.

<sup>40</sup> *Annual Report of the Mauritius Employers Federation*, 2008.

<sup>41</sup> *ibid.*

<sup>42</sup> All membership union data from the Office of the Registrar of Associations, Ministry of Labour, Industrial Relations and Employment, Port Louis, Mauritius 2008.

---

In Mauritius, collective bargaining and disputes resolution are the main functions of enterprise unions. In this regard, unions at this level have the advantage of having a good knowledge of company performance; they are generally removed from political context of the national unions, and are thus in a strong position to promote the welfare of their members, cooperate with management on issues such as quality and productivity. On the other hand, enterprise unions run the risk of being manipulated by determined managers, particularly when they are weak.

The second level of organization is the federation. Under the law, 2 enterprise unions could form a federation. Thus, as at December 2008, there were 15 federations in the country. However, it is difficult to determine the constituent membership of the federations, in part because disclosure is not mandatory, and in part because several enterprise unions are unaffiliated. Nevertheless, a fair guess might suggest that just about one half of the enterprise unions were affiliated to the federations in 2008.

The functions of federations fall into two parts. First, organize workers and ensure that they are recognized by employers for collective bargaining purposes. However, federation leaders may participate in negotiations at the enterprise level provided the management endorses the involvement of ‘outsiders’ in this process. Nevertheless, federations serve a useful purpose in coaching and providing information, logistics and strategy to enterprise union leaders for negotiations and other areas of the labour-management relationship. Perhaps the most important function of federations outside any involvement in workplace relations is representing workers at the national level. In this role, they participate in the various tripartite institutions, some of which are covered in this paper.

How well these functions are performed depends on the organization, leadership and capacity of the federations. Several federations lack their own financial base; some are ideologically driven or are too weak in leadership capacity to give critical support to the enterprise unions. In some cases, they are too weak to perform their primary functions, such as effective representing their members in the tripartite institutions. These weaknesses negatively affect their ability to promote or assert the rights of workers at the workplace or to influence the agenda and work of several of the institutions in which they are members.

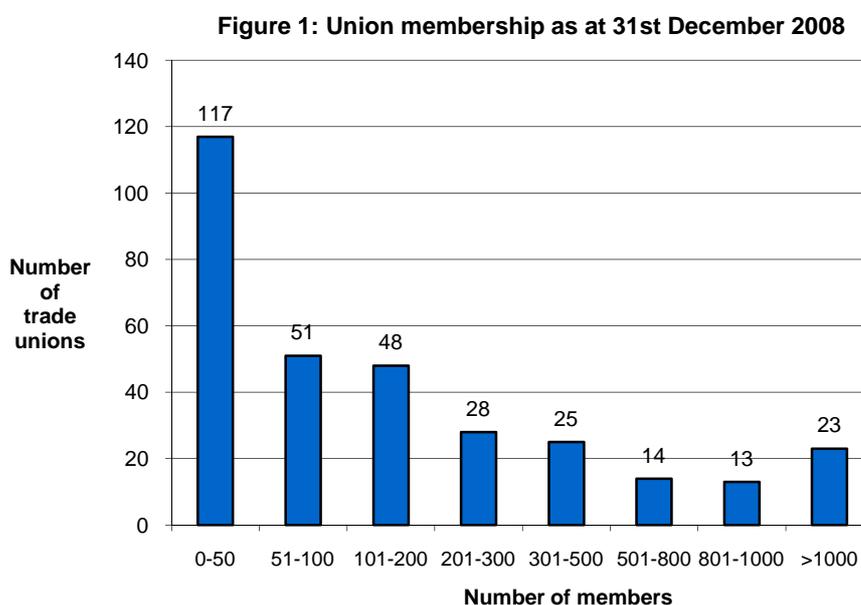
The third level of organization is the confederation, which groups two or more federations. According to official records, there were 3 registered confederations in December 2008. The role of confederations includes representation of workers at national, regional and international levels. At the national level, confederations play a critical role in the tripartite institutions, a function which they share with the federations. This otherwise competing role normally does not create conflict between the two levels of organization, because the leadership of both is essentially the same. As pertains to participation in regional and international levels, this function is exclusive to the confederations. In this regard, confederations represent workers at forums such as the Southern African Development Community, SADC, and the relevant organs of the continental Africa Union and, at the global level, the International Labour Organization.

How well the functions are performed depends on the organization, leadership and capacity of the federations and confederations. Several of them lack own financial base; some are driven by the political motives of leaders, and are far removed from giving critical strategic support to the basic unions. In some cases, the leaders are also unable to perform their primary functions, such as effective

representing their members in the tripartite institutions. Union leaders appear to devote much of their energy on the narrow subject of wages and conditions, which are pursued without internal debate and analyses, and done in reactive manner to government or employers' policies. The capacity to plan, strategize or address long-term developmental issues that can ultimately upscale the standing and influence of labour and the wellbeing of all workers is lacking. These weaknesses negatively affect the role of trade unions as partners in economic and social development, or to influence the agenda and work of several of the institutions in which they are members.

The size of unions and level of organization is another issue. From the foregoing, it can be inferred that the labour movement in Mauritius is highly fragmented while unionization is low. As official records show, the basic unions had a total membership of about 103,054 workers in 2008.<sup>43</sup> This represents an increase of 11.2 per cent over the number of unions in 2000.<sup>44</sup> As a proportion of the unionizable workforce of 372,227, organized labour has a 27.7 per cent in 2008.<sup>45</sup> This figure is consistent with an earlier finding of 28.2 per cent density reported by Hayter and Stoevska.<sup>46</sup>

In Figure 1 below, some 117 unions or 11 per cent had not more than 50 members each in 2008. When membership per union is raised to 100, the proportion of unions in this category rises to 16 per cent. 76 unions had between 101 and 300 members each, and while 23 unions had over 1000 members each. Given this reality, a union with 300 workers would be considered big in Mauritius.



Source: Registry of Associations, Ministry of Labour, Industrial Relations and Employment

<sup>43</sup> Office of the Registrar of Trade Unions. Ministry of Labour, Industrial Relations and Employment. Mauritius, 2008.

<sup>44</sup> "Low rate of unionization in Mauritius". unpublished report of the University of Mauritius, Port Louis, 2003.

<sup>45</sup> See Table 2 above, and "Survey of employment and earnings in large establishments", in *Economic and Social Indicators*, Issue No. 723 (Mauritius, Central Statistics Office), Mar. 2008, p. 6. Officially, this population is defined as establishments employing 10 or more workers.

<sup>46</sup> S. Hayter and V. Stoevska,

---

The fragmentation of unions at the enterprise level is often justified on the basis of occupational unionization, by which workers in clearly defined occupational category group themselves into a union. However, this perspective is not helpful because workers in clearly defined occupations are increasingly unionized. In any event, multiple unions at this level nurtures rivalry, undermine the capacity to impact on or influence the employment relations policy of employers, and highly encourage a determined employer to ignore the union. At the federation and confederation levels, the relatively large number of unions defies any clear explanation; the ideological division of the 1950s and 1960s hardly exit today - and if it does it is highly muted! What appears to be true however is the unwillingness of any of the sides of the employment relations community to address this issue, at least in an open forum.

The new law seeks to address the problem of multiplicity of unions, by raising the number of workers in a union from 7 to 30.<sup>47</sup> The law also simplify the registration procedures, and expects registration to be completed speedily. At the same time, the law does not criminalize or deny an unregistered union the benefits of organization. This important public policy support for union organization may contribute to the evolution of large union, but this remains to be seen.

In several non-union enterprises, workers' associations exist, particularly in workplaces where management go the extra mile to install good human resources management practices. These associations generally deal with non-wage issues, such as staff welfare and grievance handling. In such enterprises, the human resource department is regularly working with these associations to ensure that issues that are important to workers and which could lead to grievances are promptly identified and dealt with. In such cases, while labour and management cooperation is the vogue, management in non-union enterprises invariably perform some functions of the union.

### **The employers: The Mauritius Employers' Federation**

The employers' organization, structure and role in employment relations institutions present a sharp contrast to the unions. Although there were 3 employers' associations in the country in 2008, all employers in Mauritius are solidly united in the Mauritius Employers' Federation, MEF, which has exclusive role as the voice of business in general labour market and related social and economic development issues in the country. Established in 1962 with a modest membership 136 enterprises, the federation's membership rose to about 1000 members in 2008.<sup>48</sup> As Figure 2 below reveals, the Federation has achieved a steady and uninterrupted membership growth during its four decades of existence.

The Federation represents enterprises of all sizes – small, medium and large. In this manner the Federation is able to encourage members to apply minimum labour standards, and thereby influence employment relations policies of its members. However, in the relatively large EPZs, only 80 enterprises held membership in the

---

<sup>47</sup> Section 30. The law also raised the number of employers that could form an employers' association from 3 to 5, but this does not present a particular problem for the employers, whose industry associations are internal arrangement of the peak organization the Mauritius Federation of Employers.

<sup>48</sup> *Annual Report* of the Mauritius Employers' Federation (MEF), 2008, p. 46.

---

Federation in 2008. Most enterprises in this sector are reluctant to accept many of MEF's values, such as adopting the minimum employment standards.

MEF encourages the formation of sectoral associations that address specific economic sectors, and provides a focus on the specific business and employment relations issues that are unique to the respective sectors. As at 2008, there were 11 such sectoral associations within the MEF. This also allows the MEF to fully cover and understand the business environment facing each group, and in turn enables the Federation to contribute to policy that affects each industrial sector. This form of specialization enormously strengthens and fortifies the private sector. By this arrangement the voice of the business community is not only heard, it is taken seriously.

By participating in the various labour market institutions, MEF represent employers in diverse areas of interest, including labour market issues (employment relations, disputes management, productivity, training and occupational safety and health, social welfare, environment and so forth.) Generally the Federation has persistently espoused the view that public policy should be limited to setting the framework, while the parties work together to regulate their affairs. In several cases, the legal framework and other public policy confer too much role to the state relative to the parties, and often such tendency creates a policy regime that is not necessarily business friendly.

In so far as tripartism is concerned, the MEF works closely with the government and trade unions. In this context, the MEF welcomes the new labour law reforms, which it says responds to its historic stand that public policy should allow employers and workers to relate among themselves and less of the coercive power of the government. In its 2008 annual report, the Federation stressed this view that the labour code will usher a regime "where economic actors will have a more determining role to play while taking decisions that shape the viability and success of their enterprise and where the State acts as a facilitator."<sup>49</sup>

In other words, the Federation seeks a movement away from state control to one of setting standards and facilitating labour and management in the determination of employment conditions and their relations. Although the MEF does not take part in collective bargaining, it nevertheless strongly encourages its members to use the machinery. This had been the employers' position during the more than two decades of efforts to reform the primary labour law. This view is more relevant to the organized segment of the private sector and represented by the Federation. For the larger unorganized and small enterprises, the responsibility of the state to protect these weaker groups in the labour market can hardly be disputed, as will be shown later in this paper.

The services of the Federation to its membership are diverse and extensive. The key services include information, training and knowledge sharing. For its information provision the federation publishes a newsletter that contain diverse information on its activities and those of its members, ILO related news and other information that includes comparative experience and best practices, not only among Mauritian firms, but from other countries worldwide. In the area of training and development, the foremost work of the MEF is an elaborate training and development programme targeted to the needs of its members. Through its formal structure for training, the Federation runs periodic training courses in diverse labour

---

<sup>49</sup> *ibid.*, p. 17.

---

market and related subjects, such as productivity, collective bargaining, human resource management, labour market information and so forth. Additionally the federation partners with academic institutions within and outside Mauritius on high-level capacity building programmes, leading to the award of diploma, graduate and postgraduate degrees. Through tailor-made capacity building such as these, the business community is able to gain conceptual and technical understanding of the business and labour market environment, at national and international levels.

Finally, the MEF is active in sub-regional, regional and international institutions, notably the ILO, African Union's Labour and Social Affairs Commission, Global Compact, the Southern African Economic Development Community, the European Economic and Social Council, and other employers' bodies.

---

#### **4. Tripartite cooperation for socio-economic development**

As in many societies, tripartite cooperation among government, employers and workers grew out of the legal and institutional structure of the labour market in Mauritius. Institutions such as these not only provide a forum for discussion and information sharing on important social and economic issues, they regularly aim at building consensus on specific issues that impact on the functioning of the labour market. From time to time, consensus building on issues involves some negotiations, though hardly in the same context or goal as in the case of the negotiations on wages and conditions of employment. Rather, the aim is either to contribute to or inform decision on national issues or, as the case may be, strengthen bipartite negotiation at the lower level of the enterprise or sector. Institutions such as these provide an important avenue for labour and employers to give input to issues that may ultimately influence public policy.

Two institutions whose mandate and work directly affect the broader social and economic development issues, and impact on the labour market and societal wellbeing, are discussed in this section of the paper.

##### **The Labour Advisory Council**

The Labour Advisory Council, LAC, was created in 1975 under the Labour Act of that year, as one of the earliest colonial institutions across former British colonies to facilitate tripartite discussion on issues that were generally referred to as ‘ILO matters’. In this context, the business of the council has ranged from discussion of ILO’s Article 19 on law and practice, to advising the minister of labour on the reform of the labour laws, and providing periodic information on labour market issues to the ILO. The latter includes the completion of periodic questionnaires on the application of ratified conventions. In 2008, The Employment Rights Act (No.33) was enacted to replace the 1975 law.

The Council is comprised of 13 members each from government, employers and workers’ organizations, and chaired by the Director of Industrial Relations in the Ministry of Labour. The relatively large membership was partly designed to accommodate the diverse views across sectors and interests. In the case of the labour movement, it was a practical response to the structural realities in the labour movement where multiple federations – currently as many as 15 – operate often in a competitive context. The monthly meetings of the council serve as a forum for information sharing and discussion on issues within its mandate. Such discussion might simply be information sharing, or a discussion to agree on a particular position or consensus. However, these do not necessarily amount to an agreement in the ordinary sense. One example, harped on by labour during this research was the discussions prior to the enactment of the Employment Relations Act, where labour wanted the government to agree to severance pay funded by employers. As it happens, the preferred labour position did not find a place in the new law. Naturally, labour has criticized parts of the law as a reflection of the reluctance of the other parties, particularly the government, to take on board its positions in the forum.

---

To a large extent, the new law reaffirmed this mandate of the LAC. Thus, in section 65, the law states that on the request of the Minister or on its own initiative, the Council shall advise the minister on labour and employment on issues relating to the operation and enforcement of labour laws on employment rights. It is also charged to debate government position on the agenda of the annual International Labour Conference, and to discuss government views or comments on the substance of the agenda issues. Furthermore, the council is mandated to discuss any proposals to be submitted to the National Assembly concerning ILO Conventions and Recommendations, such as questions relating to ratified and unratified conventions and measures that the government might take to promote both the ratification and implementation of conventions. One recent illustrative example of this was the discussion and recommendation of the Council on a proposed labour Regulation on the Seafarers Identity Document. Finally, the LAC has the mandate to discuss such questions arising from reports to the ILO on ratified conventions, or proposals for denunciation of ratified Conventions, and any other functions and powers subject to the Minister's direction.

In other words, the LAC has doggedly focussed on employment related issues. However, the confinement of the LAC mandate to employment issues is in itself a source of constraint. Apart from being an advisory body, the scope for the LAC to broaden its functions beyond taking account of the forces that shape employment issues is limited. As we see in the preceding section employment and a host of labour market issues are influenced and shaped by the macroeconomic context. A number of similar institutional frameworks in African countries have broadened their mandates, and have addressed other issues that directly or indirectly impact on the labour market.<sup>50</sup>

However, that the LAC in Mauritius has served mainly as a discussion and information sharing panel, rather than a forum for negotiation is within the legal mandate, and has not weakened the value of the forum. While consensus of the parties on conflicting or sometimes competing positions may be reconciled, it is not mandatory. The value of the tripartite discussion and the sharing of the respective position can hardly be underestimated. In this role, different views and positions are placed on the table, and this allows all parties to gain an understanding of the respective positions for a broad understanding of the various dimensions of the issues. The council has clearly an instrumental function in the area of information sharing with its members and their respective constituents.

## **The National Economic and Social Council**

The National Economic and Social Council, NESC, established in 2002 reinforces the participatory tradition of socioeconomic development in the country. One object of the council is “to promote dialogue as a means of achieving consensus for social integration to keep pace with economic development”.<sup>51</sup> Through this process the council is required to “express its opinions and make appropriate recommendations to government, for the promotion of social integration and national development”.

The composition and structure of its governing council is a microcosm of the Mauritian population. As provided by law, the governing council comprises 5

---

<sup>50</sup> Such issues as in Article 19 of ILO constitution are common among the former British colonies. For experience in Africa, see G. Wood and C. Brewster.

<sup>51</sup> Section 4(1a).

---

representatives for each of business and labour, and 8 representatives of the civil society community, including youths, women and senior citizens. However, of the 5 business members, one represents organized business, i.e. the MEF.<sup>52</sup> The government is represented by serving permanent secretaries in the key ministries of Finance, Economic Planning, Labour and the Civil Service, who are ex-officio members. The structure of the council permits the government to make its economic and social development policies understood and improved through the processes of the NESCC.

Yet, in its identification of issues of concern to it, the method of addressing them, analysis and conclusions that emerge, the council maintains its independence and autonomy. This independence and autonomy enables it to be as dispassionate and forthright as possible in its policy analysis and prescriptions. At the same time, it remains sensitive to the dictates of its environment. The council's independence as to what it chooses to do and how it is done is not without sensitivity to the government development agenda, or to public opinion. In this regard, the council's regular interactions with public authorities as well as sections of the economy enable it to understand and gauge the key concerns of the government and the larger society with respect to policy effectiveness, gaps or the needed direction. The council's reports or review of policy are public documents, so interested members of the community have a chance to see how it conducts its review and the conclusions it arrives at. This enables the stakeholders, particularly government and the general public to see the logic of its analysis and conclusions.

The council also plays a critical role of building alliances between and among the various groups on its board, for example, between labour on the one hand, and the civil society and Non-Governmental Organizations, on the other, both of which are regularly involved in issues that touch on the labour market. Not only does this alliance contribute to shaping labour perspectives, it strengthens any joint position they might take. In recent times, such areas of collaboration have included the making of presentations to the labour gatherings, mobilization and working together on such far removed issues as electoral reforms. At the same time, there is a certain degree of aloofness in this relationship, which can be explained, for example, by the reason that, in the case of the NGOs, their work and services are concentrated outside the principal cities and towns.

Its agenda is flexible, responding as it were to dynamic developments that affect in the immediate and long-term period the socioeconomic development of the Mauritian society. It does not operate under a formal strategic plan, and depends on periodic decisions on what issues to take up. In fact, the diversity of the various sectoral interests that make up the council significantly influences or determines which subjects are pursued and which are not.

The council deals with a wide variety of issues that directly or indirectly impact on the labour market and the broader socioeconomic wellbeing of the society. In recent years, several of such issues on which the council had provided information to the general public and policy guidance include its research on migrant workers in Mauritius. The policy thrust emphasized the need for foreign workers to enjoy the rights associated with their status as workers, such as right to unionization, decent wage, social protection and protection against any form of

---

<sup>52</sup> It should be noted that the MEF is not enamored of this distribution, which implicitly rejects the notion of 'organized' business, and because the other 4 business members represent themselves or their companies.

---

abusive treatment.<sup>53</sup> Another was its report on HIV/AIDS, where the council expresses its support for the importation and distribution and marketing of pharmaceutical products. In other areas, the council examined the governments 'water policy', following government's request to the council for comments and suggestions on such issues as water management, distribution, the role of private and public participation, and the legislative framework. On the basis of this review, it offered its comments and suggestions to the government.<sup>54</sup>

Issues of the labour market are critically important to NESC. It is concerned, for example, about the dilemma of relatively high unemployment, where, as at July 2008, about 36,000 people were looking for employment but could not find any. Yet, the country continues to import foreign labour. This dilemma represents a critical challenge in the Mauritian labour market, where there is no match in the supply and demand for labour. Yet, the NESC places its focus beyond the specific details of public policy. In this context, it does not appear to be directly interested in issues such as collective bargaining or disputes, even though it endorses the critical role of collective bargaining in promotion of industrial democracy and labour peace. At the other end of the spectrum, the council had debated and emphasized the virtues of an independent judiciary, free press and an appropriate climate for foreign direct investment.

The council's report is designed to contribute to national policy debate in clearly diverse areas of social and economic development, while its thematic analysis is intended to provide policy options that can serve as advice to government, and contribute to the enhancement and promotion of democratic values, good governance, accountability and transparency.

Although trade unions are well represented in the NESC by its four members, the question remains why labour cannot use its sizeable representation to move or influence the agenda of the council. There is the view which the council tried to avoid that labour issues are either not understood or perceived as confrontational. Both labour and their allies harped on this point, and argued that notwithstanding their relative strength in the governing council of the NESC, it was inconceivable not? to put issues relating to labour rights, such as collective bargaining, unemployment, labour law reforms, and even less contentious issues such as 'tripartism' on the agenda of the council. Its inability to influence the agenda of the council probably explains the frustration of labour.

The preference of labour in addressing labour-related issues naturally makes forums such as the NESC preoccupation with issues such as road congestion far removed from their central interest. While these are development issues, labour appears fixed in their perspective that labour rights come first. As a result, there has been in recent years the view in the labour movement that labour can 'do better' in a labour-focussed forum, where negotiation and consensus building are key goals.

To labour the NESC does not serve this purpose, ostensibly in view of the selective nature of the issues it chooses to put on its agenda. While the issues dealt with are often relevant to the labour market, the fact that the council seeks to avoid issues that might not appeal to the cross-section of the population and the government is seen by labour as a constraint on its capacity to satisfy the demands

---

<sup>53</sup> *The employment of foreign workers in Mauritius*. Report No. 9 (Mauritius, National Economic and Social Council), Oct. 2007.

<sup>54</sup> *Annual Report 2007-2008* (Mauritius, National Economic and Social Council), Jan. 2009.

---

of the social partners, particularly labour. This might be true, but it nevertheless serves as an important forum for the review of public policy that impact on societal wellbeing. This does not necessarily obviate the usefulness of other forums whose structures and mandates allow the tripartite partners to contribute to shaping policies that are specific to the labour market.<sup>55</sup>

This is a misunderstanding of the purpose of forums such as the NESC. As demonstrated in Europe and elsewhere, such institutions are established to provide space for identified groups to contribute to shaping public policy. In Europe where social and economic councils form part of the European social model, member States are obliged to set up such institutions for the debate of issues that help shape public policies in member States. A growing number of African countries, such as Benin, Burkina Faso, Cote d'Ivoire, Kenya and Niger have similar institutions.<sup>56</sup> Although institutions such as these operate in widely different contexts, mandates, compositions, agendas and methods of work, they represent various interests.

Generally the goal of institutions such as the NESC is to contribute to the social and economic wellbeing of the society and to governance. They share information, debate issues and, depending on the issues and the purpose, they may seek consensus, possibly consider options through some form of negotiations, but hardly in the strict context of traditional bargaining. The role of institutions such as the NESC and the LAC in times of crisis can be important. By the nature of their mandate, they can assess the impact of the crisis on the broad segments of the society and use their unique structures to contribute to the design of crisis response.

To summarize, it is suggested that during its 7 years of existence, the NESC has established a respectable image as a non-partisan institution whose role is to articulate issues and build consensus on national issues which it adjudged to be critical for national development and to provide policy options for decision makers. In doing so, the council is undoubtedly a useful institution with diverse interests in the social and economic issues that are considered important to the country's social and economic development. At the same time, its selective choice of agenda, which may appear conciliatory may derogate from its claim to neutrality or independence. While the council's independence in choosing its agenda clearly emphasizes its autonomy, it may also prove a challenge particularly in trying to maintain the confidence of government. Inevitably, some sections of the society might regard this as representing a degree of aloofness on certain development challenges in the country.

---

<sup>55</sup> At the time of writing the tripartite partners were considering the establishment of an institution for this purpose.

<sup>56</sup> T. Fashoyin. "Collective bargaining and employment relations in Kenya", Working Paper No.13, Industrial and Employment Relations Department (DIALOGUE) (Geneva, ILO), 2010; and "Social dialogue in francophone Africa", unpublished.

---

## 5. Productivity and health and safety in the workplace

Among the key development areas with direct impact on the institutions and processes of the labour market and the socioeconomic wellbeing of the society are productivity and health and safety in the workplace. These are important cornerstones of the industrial success and labour market outcomes in Mauritius. Indeed, the provision of healthy and safe workplaces has been a preoccupation of the government and the social partners since the colonial era. This concern assumed greater significance in the post-independence period, as the country pushed for industrialization and sustainable economic growth and development. The two institutions dedicated to the promotion and implementation of policies in these thematic areas are examined in this chapter.

### The National Productivity and Competitiveness Council

At a relatively early stage of the development of the Mauritian economy, the importance of productivity growth as the driver of economic development and prosperity was recognized. As earlier shown, after independence, the country recognized the need for export-led development and began a move away from sugar driven industrialization. In fact, with the expiration of the trade preference agreements, which also signified a declining role for textiles and sugar, the challenge for was the reorientation of the economic agenda towards improving the competitiveness of the economy. This led to a gradual diversification to tourism and, in the late 1990s, to further diversification into information technology and offshore banking and financial services. Improvements in the performance of the export-oriented sectors, particularly tourism, intensified.

However, while the importance of the role of a productivity development was recognized, it was not until several years later that a productivity improvement programme was formally launched. Thus, in 2000, the government established the National Productivity Competitiveness Council, NPCC. The objective of this institution was “to stimulate and generate productivity and quality consciousness and drive the productivity and quality movement in all sectors of the economy with a view to raising national output and achieving sustained growth and international competitiveness.”<sup>57</sup> In the tripartite tradition, the council of the NPCC comprises 20 members, with government, business and labour respectively having 3 representatives. It also includes 9 representatives of industry and consumer associations, professionals and academia, under the leadership of an independent chairman appointed by the Prime Minister.

At the launch, the productivity programme was particularly dedicated to help remove the productivity gaps that were associated with technology, education, management skills, and the reinforcement of the productivity culture among the labour force. An important focus of the programme was thus the labour factor, in terms of motivation, skills development, efficiency and the overall improvement in standard of living of the people. This thrust of the productivity programme on mobilizing the country’s human and social capital was restated in 2007 thus: “In a

---

<sup>57</sup> The National Productivity and Competitiveness Council Act (No. 9) 1999, section 4.

---

small island with limited human, natural, capital and institutional resources, we can only optimize such resources if we work together...on matters of common and national interest in line with the shared vision.”<sup>58</sup>

Indeed, at the inauguration of the NPCC in 2000, the country’s per capita GDP was about \$3,321, which made Mauritius an average middle-low income country and comparatively high in Africa at that time. The programme was commitment to continually improving and sustaining the standard of living of the people. The NPCC was also committed to promoting the country’s competitiveness and sustainable growth. As the evidence suggests, there has been a steady increase in labour productivity or GDP per worker in the country. For example, the labour productivity index rose from 103.7 in 2001 to 122.8 in 2007.<sup>59</sup> According to official statistics, labour contribution to annual GDP growth averaged 12 per cent during the decade of 1999-2009, while capital contributed 86 per cent and total factor productivity contributed 2 per cent during the period.<sup>60</sup>

Driving the productivity movement in Mauritius is the concept of shared vision, which has since its introduction focussed on a ‘better living for the nation’ by the development of a productivity culture for the promotion of economic growth. In this commitment, the role of the NPCC was to help change the mindset of the citizens, through education for greater employability and entrepreneurship.<sup>61</sup> This is built on the belief that responsibility for national productivity derives from individual and collective efforts, and based on the collaboration of all groups and various contributory elements. The role of the NPCC therefore is the harnessing and coordination of these individual and collective efforts through consultative processes in bringing about innovation and positive change.

The strategic focus of the productivity agenda in the foreseeable future is, according to the NPCC, “To make Mauritius work together”. As such the NPCC believes that the country can perform best only through a productivity partnership between the tripartite partners and other stakeholders. As an institution dedicated to the promotion of productivity, the NPCC is concerned with the quality and international competitiveness of the Mauritian economy. The agency has developed tools and strategies for monitoring, quality promotion and competitiveness initiatives across sectors and industries. It also initiates and promotes research and disseminates information on productivity improvement strategies. This productivity movement permeates different structures of the Mauritian economy, involving various strata in the educational system – primary schools up to the university level, and in different communities and regions across the country. At the industry level, labour-management cooperation and partnership are a regular element of the promotional role of the Council.

The aim is to close the productivity gap that is associated with education, skills, technology, management system and the orientation of the society towards a productivity culture across the country. It implies the need for a shared vision of the direction of the economic and social development.<sup>62</sup> This was premised on the view that without a concerted promotion of productivity culture that favours

---

<sup>58</sup> Agenda for Productivity and Competitiveness 2007-2010, NPCC, Mauritius, 2007, p. 28

<sup>59</sup> *Digest of productivity and competitiveness statistics* (Mauritius, Central Statistics Office), Vol.11, 2008, p. 42.

<sup>60</sup> *Productivity and Competitiveness Indicators*. (Mauritius, Central Statistics Office), 2009.

<sup>61</sup> Annual Report 2000-2001, NPCC, p. 2.

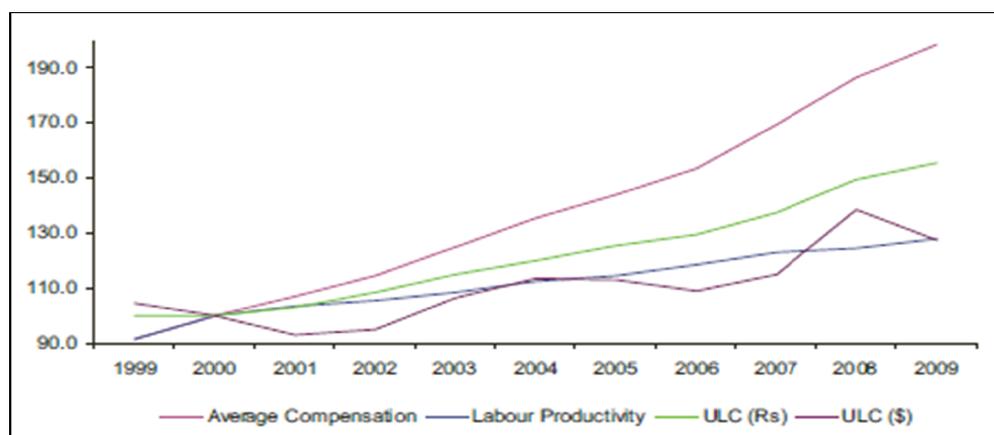
<sup>62</sup> Defined by N. Treebhoun, First Executive Director, in *Annual Report*, NPCC. Mauritius, 2000-2001.

competitiveness of the economy, the country risks a general decline in the standard of living of the people.<sup>63</sup>

The productivity improvement programme in the country has contributed to the growth of the national economy. Spurred by preferential trade agreements, i.e. the Multi-Fibre Agreement and the Sugar Protocol, the programme is seen as a major means for economic growth. Thus in 2005, the NPCC came to the conclusion that for sustained growth, increases in income and the standard of living of the people, the country needed to remain a competitive market economy and achieve an annual GDP growth of 7-8 percent by 2014.<sup>64</sup>

As Figure 3 shows, labour productivity growth in manufacturing averaged 3.8 per cent annually. Capital productivity, i.e. GDP per unit of capital, declined by an average of 0.2 percent, but multifactor productivity growth, or the rate of change in 'productive efficiency' was 0.2 per cent during the same period. On the other hand, in 2008 and 2009, labour productivity actually rose by 2.4 per cent and 7.8 percent respectively.

Figure 4 provides supplementary perspective on the rewards of the growth in productivity and the significance of the productivity movement in the economy. As shown, average annual labour productivity growth was 3.4 per cent on average during the decade of 1999-2009. There has been a steady increase in annual compensation, i.e. wages and salaries, bonuses, overtime and social contribution, which was 10.1 per cent in 2008 and 6.6 per cent in 2009.



Source: Central Statistical Office, Mauritius.

During this period, labour productivity grew between 1.4 per cent and 2.6 per cent. However, as the government admits, this consistency between compensation and productivity has negatively affected the country's competitiveness. The depreciation of the Mauritian rupee, at the rate of 2.4 per cent during the decade, may have cushioned the loss in the country's competitiveness, with the growth in unit labour cost of the dollar of 2 per cent during the period. In the export-oriented sector, the appreciation of the dollar was 2.5 per cent during the decade. The unit labour cost (ULC), which represents the cost of labour per unit of output, increased by an annual average of 4.5 per cent during the decade. In the export-oriented

<sup>63</sup> *ibid.*

<sup>64</sup> *Competitive Foreign. What orientations for Mauritius*, NPCC, 2005, pp. 21-22.

---

enterprises, an annual average increase of 5 per cent was recorded during the same period.

The NPCC has since its founding served as an institution dedicated to the strengthening and fortifying of the productivity culture of the society, through empowerment, advocacy of innovation, best practices, research, information and communication, responding to global changes as they affect the economy. A reasonable conclusion is that the institution has played an important role in reminding the broad spectrum of the society of the critical role of productivity improvement and growth in the country's prosperity and sustained improvement in the wellbeing and standard of living of the people.

## **Advisory Council for Occupational Safety and Health**

In Mauritius there is a concerted and extensively defined institutional framework for the promotion and maintenance of safety and health in workplaces in support of the productivity, industrial development and wellbeing of the labour force. The strategic role of the institution and its contribution to health and safety at work in support of industrial development manifests itself in the preventing and minimizing the occurrence of industrial accidents and poor work environments. As a recent report shows, industrial accidents which were 42 a day in 1987 dramatically decreased to 8 a day in 2006.<sup>65</sup>

The legal and institutional frameworks for safety and health are outlined in the Occupational Safety and Health Act of 2005, which replaced the earlier law of 1988. The new law consolidates and widens the scope of the legal framework on safety and health in the world of work. Its overall thrust is the promotion and management of occupational safety and health programmes and measures that assure the efficient and effective protection of workers' health and safety in workplaces.

Thus, apart from defining specific health and safety concerns in the workplace, the law assigns roles and responsibilities to employers, employees and the self-employed persons. Specifically, the law imposes considerable responsibility to enterprises for the health and safety of their workers.<sup>66</sup> First, it obliges employers of 50 or more employees to develop formal OSH policies that effectively implement and advance the provisions of the law with particular emphasis on ensuring the health and safety of their workers. Second, it obliges employers to conduct regular risk assessments once every two years or earlier if requested by the Ministry.

The Advisory Council for Occupational Safety and Health, ACOSH, was established in 1988 as a tripartite body to advise the minister on the regulation and management of safety and health programmes in the country. The new law specifies its advisory role to the minister on "matters affecting the safety, health and welfare of employees at their place of work or lodging accommodation, or any other persons whose safety, health and welfare may be affected by work activities...".<sup>67</sup>

Operationally, the law reaffirms the role of ACOSH as a key institution in the governance system on the formulation and implementation of policies on safety and

---

<sup>65</sup> R. Allgoo, *Occupational health, safety and welfare*. Terre Rouge, Northern Printing Co. Ltd, 2008, p. 1.

<sup>66</sup> See The Occupational Safety and Health Act 2005, Sections 5-13.

<sup>67</sup> *ibid.*, Section 28(1).

health in the workplace. ACOSH is made of equal representation of 8 members from government, employers and workers, and 2 members with ‘wide experience’ in occupational safety and health.<sup>68</sup>

In the discharge of this mandate the council provides advice to the Minister on wide-ranging issues of occupational health and safety, as they relate to the adoption and implantation of ILO standards in national laws and regulations. A considerable amount of the work of the council is spent on the review and debate of proposed regulations, reports on accidents and risks assessment, and other policies on assuring safe and healthy working environment. This emphasizes the professional technical nature of the work of the council, as well as the importance which the government, business and labour attach to a safe and healthy work environment in the country. Given the technical and professional work of the council, its recommendations are generally accepted by the Minister.

Through subject-focussed or thematic committees, the council undertakes technical review and guidance on general safety and health, by means such as the development of national codes and regulations. In doing so, ACOSH works closely with the Ministry of Health and other health and safety institutions, many of which are directly or indirectly members of the council through the means of cooptation.

Table 3 presents some critical data on the management of safety and health regime, and the prevention of industrial accidents in the country during 2003-2008. In the context of industrial accidents, there has been a decreasing trend in measures of industrial safety in workplaces, with the exception of 2008. Thus, the number of accidents – serious and fatal – generally decreased during 2003-2007. The number of inspections, investigations and prosecuted cases correspondingly decreased for the most part during the period. These indicators generally suggest that there has been an increasing level of compliance with safety regulation in the workplace. With the exception of 2007, the number of prosecuted cases remained within limits.

**Table 3.**  
**OHS statistics, 2003–2008**

	2003	2004	2005	2006	2007	2008
Total no. of accidents	533	585	402	434	481	609
No. of serious accidents	201	249	240	177	149	151
No. of fatal accidents	24	21	9	8	10	13
No. of inspections	5,001	3,443	3,631	5,406	3,904	2,786
No of investigated complaints	151	191	168	149	114	122
No. of prosecuted cases	152	173	67	145	208	114

Source: Annual Report on Safety and Health (Mauritius), 2008.

<sup>68</sup> Of the two ‘independent’ members, one is usually a doctor of medicine in occupational medicine, while the other is usually one with extensive experience and actively practising occupational health and safety.

---

Despite its advisory nature, the ACOSH is a unique labour market institution with which labour appears to have no known or open disagreement in respect of the direction of public policy, its formulation and implementation. There are plausible explanations for the positive perception of this institution. Unlike similar tripartite bodies, ACOSH deals with very focussed and technical issues, which are defined in international standards on safety and health requirements and regulations. These call for specific actions, procedures and yardsticks by which compliance are determined and measured. A related point is that the discussion or conclusions at the council are made jointly with technical experts and are normally expected to meet minimum international standards, so the space for divergent opinions is considerably narrow. Second, the tradition to seek the input of ACOSH on policy initiatives gives the social partners a concrete role in policy formulation, which confers ownership of the eventual policy. Third, the tripartite partners in ACOSH normally do not have difficulty relating with one another, inevitably because their advice to the minister is intended to promote the health and welfare of the workers.

---

## 6. Wage determination and collective bargaining

At a relatively early period the government had favoured well-defined institutional arrangements for the periodic adjustment of wages and conditions of employment in both the public and private sectors. The three institutions for the determination of wages and salaries, and conditions of employment are collective bargaining, the tripartite system for the low-paid or nonunionized workers and tripartite annual adjustments of wages and salaries in both sectors. Thus, in the private sector, collective bargaining applies to unionized workers, while annual tripartite adjustments of the basic wage operate both to the organized and unorganized sectors.

In the public sector, the government's Pay Research Bureau, undertakes the review of salaries and conditions every 5 years and recommends increases for workers.<sup>69</sup> This role of the government agency substitutes for collective bargaining in the public sector. In-between the 5 year period, a Tripartite Committee, later renamed the National Pay Council, determines annual salary adjustments, both for the public sector and also for the private sector.<sup>70</sup> In other words, while collective bargaining and tripartite means are used in the private sector, wage determination in the public sector is achieved through the employer's management processes.

These institutional arrangements might appear as fairly straightforward, on the contrary, they are complex complementary and competing processes involving traditional collective bargaining, tripartite consultation and, in the public sector, the unilateral awards by processes of the employer. The present chapter describes the processes and the outcomes of the prevailing arrangements, primarily as concerns the private sector.

### Collective bargaining

Within the aforementioned institutional arrangements for wage determination, collective bargaining is used in the organized private sector, generally at the enterprise level. It is noteworthy that although the Employment Relations Act provides for negotiations at the sector or industry level, this possibility does not appeal to employers, and probably to workers as well.<sup>71</sup>

Collective bargaining may start from either of two approaches. Negotiations may start on the basis of the initial offer and/or counter-offer upon which the negotiations may lead to an agreement. Or, the two sides may adopt the existing minimum wage (as determined by the tripartite National Remuneration Board) as the floor on the basis of which the negotiations take place. In this case, the negotiations that follow are intended to raise or top up the minimum wage. It is difficult to determine what proportion of employers adopt either approaches; this

---

<sup>69</sup> For more on the role of the Pay Research Bureau, see D. Fokkan, "Comparative study on industrial relations and collective bargaining in Africa: Mauritius". Industrial and Employment Relations Department, ILO, Geneva, 2010, unpublished.

<sup>70</sup> The Tripartite Committee was created under the Special Wage Increase Act of 1977. See T. Ramsamy, *Minimum wage in Mauritius. Its evolution with the transformation of the economy*. Mauritius, July 2009, p. 2. Unpublished.

<sup>71</sup> Section 37(1).

---

depends partly on the bargaining strategy adopted by each of the parties. However, in so far as the use of the minimum wage as the floor is concerned, this approach is used in a number of industries such as sugar, construction, manufacturing and hotels.

Collective bargaining is complemented by the awards of the tripartite National Pay Council, which undertakes annual reviews and recommends the award of increases to workers in both the public and private sectors. It is unclear why the collective agreement does not incorporate provisions for annual adjustments, but rather through the yearly awards by this tripartite body. However, this arrangement might have been influenced by the open-ended nature of the collective agreement, which allows some flexibility in the setting of employment conditions. In such cases, private sector employers tended to wait until the government had announced wage adjustments for public sector workers before they follow suit.

This is probably not unrelated to the observable trend of a gradual decline in the role and coverage of collective bargaining in the country. As official records suggest, collective bargaining exists in parts of the large private sector establishments, defined as employing 10 or more workers each. As official records show, 372,227 workers were employed in this category in 2008.<sup>72</sup> Adding public sector employment of 73,386 yields a total wage employment of 384,986 in the same year. However, official records also show that out of this, 276,300 workers were covered by the remuneration orders regulations (see below) in the same year.<sup>73</sup> In other words, the number of workers that could enjoy collective bargaining would be in the range of 108,686, which yields collective bargaining coverage of 28.2 per cent in 2008. As a proportion of total employment, coverage was 20 per cent in the same year.<sup>74</sup>

Low collective bargaining coverage is a consequence of the structural shifts in employment, which has reduced the size of low skilled and unskilled blue collar workforce relative to the skilled and service workforce. Also, the relative absence of collective bargaining in the large EPZ sector, where 66,762 workers were employed in 2008, had significantly reduced the coverage of collective bargaining. Of considerable importance is the lack or absence of collective bargaining in the large public sector, where 66,139 workers were employed in 2008.<sup>75</sup> Every 5 years, the Bureau consults with government departments and trade unions and makes recommendations, which are usually accepted by the government. However, the role of trade unions in this process is limited to making representation to the PRB, which may or may not be accepted.<sup>76</sup> On the other hand, the reports of the PRB have routinely been rejected by unions, on claims that the process lacked legitimacy. Indeed, as shown earlier, the need to promote and protect the rights to collective bargaining remains a concern of the ILO's Committee of Experts.<sup>77</sup>

Despite the low level of collective bargaining in the private sector, both labour and the employers' organization, the MEF, support and advocate the use of the

---

<sup>72</sup> *Digest of Labour Statistics* 2009. Central Statistics Office, Mauritius, June 2010, Table 1.6.

<sup>73</sup> Ministry of Labour, Industrial Relations and Employment data, 2008. See also T. Ramsamy, Annex.

<sup>74</sup> This result contrasts the Hayter and Stoevska's finding of 16.5 per cent collective bargaining coverage. The difference could have resulted from the use of a different data set. See Hayter and Stoevska, loc.cit.

<sup>75</sup> *Digest of Labour Statistics* 2009. Central Statistics Office, Mauritius, Table 2.8.

<sup>76</sup> Fokkan, loc.cit.

<sup>77</sup> From: <http://www.ilo.org/ilolex/cgi->

---

process, as opposed to what they see as a disproportional role of the government in the wage determination process. This is an irony, because a growing number of enterprise managers favour the human resource management approach, by which the employer determines wage compensation. In some cases, perfunctory role is given to consultation with workers who are not unionized. The inability of union federations to give logistical or organizational support to their enterprise level affiliates contributes to the low level of collective bargaining at this level.

However, the foregoing perspective must be qualified. As will be shown later in this chapter, the tripartite machinery of the NPC for formal sector workers is an important institution for joint determination of wage compensation and adjustments. Also to be shown below is the processes of the National Remuneration Board, by which the minimum wage is determined for some unionized and nonunionized low wage workers (about 276,300 in 2008). This tripartite machinery is equally an important as element of the joint determination of wages in the country. In other words, given that these two institutions are important social dialogue means for wage determination, the question of low coverage of collective bargaining needs to be put in its proper context.

### **National Remuneration Board**

The National Remuneration Board, NRB, was created under the Industrial Relations Act of 1973 as successor to the Minimum Wage Boards, earlier established in the Trade Union Ordinance of 1954. The 1973 law consolidated the several boards but, at the same time identified 30 sectors where separate minimum wage reviews are periodically undertaken. Like the minimum wage boards, the NRB has a tripartite membership of 2 each representing government (Ministries of Labour and Finance), employers and workers. Both the chair and deputy are public officers, appointed by the government.

Throughout the decades the regulation of wages and conditions of employment had the objective of protecting the wage and living conditions of those at the lowest rung of the income ladder, and who otherwise had no bargaining power to defend their employment interest. It also reflected the absence of trade unions to protect and defend the interest of this category of workers. Thus the main target of the NRB process has been the unorganized or non-unionized workers. According to official government data, the work of the NRB covered a total of 276,300 workers or 51 per cent of total employment in 2008.<sup>78</sup> In addition, about 2,191 workers in the small businesses were also covered in the same year, yielding a total of 297,191, or 52.1 per cent of total employment in 2008.<sup>79</sup>

The NRB process involves extensive consultation with the tripartite partners, and the general public. The board receives and review memoranda on the merits of an award, as well as analysis of the relevant data as against the criteria that are critical to the particular sector, such as the rate of inflation, productivity, the level of employment and unemployment, and capacity of employers to pay. At the Board level are debates, opinions and some negotiations. The proposed awards are published for public comments. This stage of the process provides another opportunity for trade unions and employers, indeed all groups, to try to influence

---

<sup>78</sup> Ministry of Labour, Industrial Relations and Employment, Mauritius, 2009. See also the *Digest of Labour Statistic 2009*. Central Statistics Office, Mauritius, June 2010, Table 1.6.

<sup>79</sup> *Digest of Labour Statistics 2009* (Mauritius, Central Statistics Office), June 2010, Table 1.6.

---

the recommendations of the NRB. In such cases, any written counter – representations are reviewed by the Board. This final consultation can be fruitful, particularly to labour, where the unions are able to marshal their case before the board. For example, through this process, the unions in the block-making and construction sector successfully argued the case for paternity leave for construction workers.

It needs to be noted that the criteria that are used by the Board are inflation, capacity to pay of the employers, prevailing wages in the particular sector(s) genuine need of the workers and the general economic situation of the sector. There is perhaps no fundamental disagreement on these criteria, although labour had tended to give a greater weight to the rate of inflation.

In any event, following the elaborate consultation process, the board's final recommendations are sent to the Minister, which the latter may accept, review or return for further review. Alternatively, the Minister may reject the recommendations outright, although the latter decision rarely happens. It is important to bear in mind that, considerable sectoral pressures are put on the processes, even at the level of the Minister, to influence the outcome of the awards, before they are published as *Remuneration Order*, for mandatory implementation in the particular sector.

Table 4 below shows the wages of the lowest paid as recommended in the Remuneration Orders for unorganized workers in 15 sectors. The export processing enterprises has about 67,300 nonunionized workers covered by the remuneration order, and by far the largest group. As the table indicates, the minimum wage for this group was R2,632 in 2008, compared to the minimum wage of R3,440 for organized factory workers, which was 31 per cent higher than that of unorganized EPZ workers. This substantial difference between the minimum wage and the negotiated wage illustrates the benefits of organization and collective bargaining.

**Table 4.**  
**Monthly minimum wage for lowest workers in 15 sectors**  
**(Remuneration Orders 2003-2008)**

	2003	2004	2005	2006	2007	2008
Clerk (attorney)	4685	4865	5135	5270	5570	5870
Learner (block making)	4100	4280	4546	4681	4981	6280
Kitchen helper, sewing attendant (tourism)	3820	3992	4870	5005	5305	5605
Household helper (domestic workers)	1957	2072	2242	2355	2560	2768
Apprentice (electrical, etc.)	2924	3056	3246	3381	3681	3981
Unskilled worker (factory export)	1847	1962	2132	2239	2434	2632
Unskilled worker (factory)	2507	2622	2792	2927	3182	3440
Farm worker grade II (livestock)	3231	3377	3587	3722	4022	4880
Nursing aid (nursing home)	2922	3054	3244	3379	3679	3979
Unskilled worker (printing)	4095	4275	4541	4676	4976	5276
School attendant/cook (primary school)	3102	3242	3443	3578	3878	4178
Apprentice (public transport)	2901	3032	3220	3355	3655	5245
Male field worker (sugar/agriculture)	4486	4666	4936	5071	5371	5671
Female field worker (sugar/agriculture)	3352	3503	3721	3856	4156	4465
Factory worker (female) (tea industry)	3352	3503	3721	3856	4156	4456

Source: National Remuneration Board, Ministry of Labour, Mauritius. (Wages in Rupees: 31.5Rs=1\$, May 2010).

Nevertheless, the outcome of the work of the NRB is particularly important for the nonunionized workers as well as those workers in the private sector who are unorganized and therefore lacked the benefit of collective bargaining. In the case of the nonunionized sectors, where the Remuneration Order was applicable, the NRB reviewed wages in 24 of the 30 sectors in the first 4 years of its establishment. In 2008, the estimated number of workers that were covered by Remuneration Order was 276,000, which represents 50.8 per cent of total employment (i.e. 543,000) in that year.<sup>80</sup> When expressed as the proportion of the labour force of 583,400, the RO covered as high as 47.3 per cent of workers in the country.

The minimum wage policy thus play a critical role in assuring minimum income for the targeted population and, in this way serves as safety net for those who otherwise would suffer in income and livelihood were this policy not in place. In periods of economic crisis, as in the current global economic crisis, this role of the NRB in providing social safety net is clearly indispensable.

<sup>80</sup> See T. Ramsamy. For the labour force figure, see *Economic and Social Indicator*, No. 771, 29 June 2009.

---

However, critics have argued that the processes of the NRB do not totally remove the fact that the institution is politically driven rather than by its economic and social merits.<sup>81</sup> They argue that the process involves a decision by the Minister of Labour, who from time to time mandates the NRB to set in motion the process of review of wages in specific sectors out of a total of 30 economic sectors. Under normal circumstances, the sectors chosen for the review in a particular period is determined by a number of criteria, such as the length of time an existing wage order has been in force, economic performance and inflationary trends, and backed by pressures from both employers and workers' organizations.

Employers and labour, and indeed those who are not directly involved put pressure to influence the minister's decision, either in favour of a review of the minimum wage or to discourage it from taking place. There is also the difficult to prove view that political considerations go into the formulation of the remuneration order. However, the fact that the<sup>82</sup> choice of which sector is reviewed and when it is reviewed depends entirely on the minister exposes the process to political consideration which can hardly be assumed away. In such a situation, those who are directly or indirectly affected regularly lobby the minister to move in a particular direction.

Labour's criticism of the role and processes of the NRB has been that the Board processes inherently discourages or frustrate collective bargaining. Union leaders argue that employers tend to take the Remuneration Orders as the applicable wage for the unionized workers. This argument is partially correct. While some employers might adopt the minimum wages in the RO as the going wage in their firms, an alternative practice the unionized enterprises might be to adopt the minimum wage as the base for further negotiations. In such cases, it behoves the unions to sharpen their bargaining strategy so as to make real improvement upon the base.

The embedded role of the government minister in the minimum wage gives the government the upper hand in determining the outcomes, although this has been criticised by both sides of the industry. Thus, while employers argue that the awards are often unresponsive to the realities of business, union leaders stress that the awards do not meet the needs of the workers. Instead, both sides favour the use of collective bargaining which they believe responds more effectively to labour market realities. The irony, nonetheless, is that most of the workers affected or targeted are not unionized. Given this reality, it is hardly deniable that the minimum wage regime and the institutional mechanism for its determination are socially desirable arrangements that protect workers in the low-pay category. For the unionized workers, the role of the minimum wage as a social floor upon which collective bargaining builds is an important means for promoting rights at work.

## **National Pay Council**

The National Pay Council, NPC, for many years operated as an ad hoc institution. However, in 2007 the Council was reconstituted, following a Cabinet decision in

---

<sup>81</sup> For example, labour claimed that on the eve of the elections in 1995, the government had promised a 15 per cent increase in the minimum wage. However the party that made the promise lost the election.

<sup>82</sup> Under the now replaced Industrial Relations Act, the NRB could consider issues on its own motion, but the new Employment Relations Act has removed this power of the Board.

---

April 2007, but it remained an administrative body.<sup>83</sup> The function of the council is to undertake annual review of salary compensation and to make appropriate recommendations for upward adjustments. In the public sector, this role of the council builds on the 5 yearly reviews of salaries that are undertaken by the Pay Research Bureau of the government. In so far as the private sector is concerned, the council recommends annual percentage increases in salaries and wages.

In making its recommendations, the council seeks to achieve several objectives. First, it aims at providing an objective relationship in salary between the public and private sector. Second, it seeks to promote an investment friendly environment in regard to compensation, and thirdly, to sustain the motivation of the labour force to higher performance. However, it remains unclear how the council does its work to achieve these objectives.

The NPC had a membership of 15, distributed equally among government, business and labour constituents.<sup>84</sup> The government appoints an independent chairman for the council. Government members are chosen from the ranks of permanent secretary in the Office of the Head of civil service, ministries of Finance, Labour, Industry and Civil service Affairs. The council serves in an advisory capacity.

The formalization of the NPC process in 2007 created an unexpected though predictable response from labour. Prior to that year, the reviews by the council were based exclusively on the inflationary trends. Prior to that year, the council had been tasked to propose salary increases in order to compensate workers for the increase in the cost of living during the particular year. However, with the reconstitution of the council in 2007, it was mandated to use three additional labour market criteria in recommending its awards, namely productivity, capacity of the employer to pay, and the level of employment/unemployment in the country.

These criteria reflected the interrelated objectives that had been formally defined for the council. Nevertheless, the criteria were vehemently opposed by labour, which insisted that nothing had changed to warrant the introduction of the additional criteria. But the government, with the tacit support of the employers, was adamant, convinced that it was more realistic to factor in all three criteria for the wage review process. Ironically, notwithstanding the relative availability of data on the rate of inflation, it was nevertheless a bone of contention, as each side provided different calculations to arrive at what the rate of increase in compensation should be. It was therefore to be expected that the adoption of the additional criteria would most likely be contested.

Be that as it may, the diametrically opposing positions between the government and employers on the one hand, and labour on the other, led to the latter's boycott. The grievance of the workers was complex and multifaceted. First, it had to do with labour's opposition to the additional criteria. But this stance was taken by labour despite the obligation of the council to operate in a manner that

---

<sup>83</sup> Soon after this study was completed, the NPC was dismantled and replaced by a 'tripartite Sub-Committee' of the newly established National Tripartite Forum. The functions of the new body are essentially the same as those of the NPC.

<sup>84</sup> The unions refused to nominate its members to this body, ostensibly because they disagreed on the factors the council was to base its inquiry (see below). As a result, the government made the unions' nominations. *See Fokkan, loc.cit.*

---

makes Mauritius an investment friendly economy. It was unclear how labour thought this might be achieved with reference solely to inflationary trends.

The second concern of labour was the advisory nature of the NPC. Instead, labour preferred that the institutions serve as a negotiating body producing binding agreements. The third is related to the fact that prior to 2007, the government members on the council were ministers. As such labour felt a certain degree of confidence that they were ‘negotiating’ with the real decision-makers. Notwithstanding the advisory nature of the council’s recommendations, labour was confident that an understanding with the ministers would assure government’s approval without modification. In this line of thinking, the substitution of the ministers by permanent secretaries amounted to a ‘weakening’ of the government voice and uncertainty of government’s ultimate decision. However, even if this line of reasoning was realistic, the evidence suggests that labour’s apprehension might have been misplaced, as will be shown later.

In any event, during the 2008-9 deliberations in the NPC, the unions continued their opposition to the method of work of the council. While they submitted their proposals to the plenary, they refused to take part in the deliberations, and walked out. Predictably, labour’s proposals were based exclusively on the inflation criterion, at 8.8 per cent. Despite their nonparticipation in the discussion, the council went ahead and made its recommendations. However, perhaps as a conciliatory gesture, the council decided that, apart from the Cost of Living (COL), it would use the productivity measure as a proxy for the other 3 criteria. On this basis, the Council recommended an award of 8.1 per cent for wage and salary increases for the year. The award applied on a graduated basis, with the lowest-paid workers receiving the full percent increase, and the highest paid, the lowest increase.

During the 2009-10 deliberations, labour continued its boycott, despite the conciliatory position taken in the preceding year. In what could be seen as a public campaign on their side, the labour leaders issued a press statement in which they emphasized that as long as the multiple criteria were not removed, it would not participate in the work of the council, a stance which did not discourage the council from carrying out its functions. In doing so, the council followed its earlier conciliatory approach, adopting in the year the inflation rate of 7 per cent, and the average productivity rate of 1.6 per cent. On the basis of these, the council recommended a 5.1 per cent increase in wage and salary compensation for the lowest paid worker for the year. This recommendation was accepted by the government.<sup>85</sup>

Table 5 below shows monthly earnings for the private sector workers in selected industries and the central and local government services during 2004-2007. While earnings have risen every year in all the sectors, the differences were not unusually wide among the two sectors. When the proportions are compared with the movements in the minimum wage – in Table 4 above - the differentials among the two categories were maintained, although the differentials were much wider between the earnings of workers in the organized formal sector and those under the minimum wage regime. The differences are much wider in the case of the central government, where the fixing of wages and salaries had been unilateral by the employer.

---

<sup>85</sup> See *Legal Supplement to Government Gazette*, No. 63 of 11 July 2009.

**Table 5.**  
**Monthly earnings by industrial groups**  
**in large establishments and public sector, 2004-2007**

	2004	2005	2006	2007
Agriculture, forestry & fishing	9450	10,246	10,833	12,549
Mining and quarrying	6,000	6,000	6,000	6,400
Manufacturing	7,415	8,146	8,514	9,380
Hotels & restaurants	9,300	9,900	10,600	11,628
Financial intermediation	19,000	21,500	22,600	25,025
Public administration, etc.	13,694	15,049	14,821	15,821
Central government	14,860	15,717	15,762	16,884
Local government	10,307	11,536	11,536	11,435

Source: Central Statistics Office, Mauritius.

As the table above indicates, all the groups in the private sector had enjoyed the benefits of collective bargaining, undoubtedly because earnings were far greater than those of workers covered by the minimum wage. The main explanation for this has been the critical role of the minimum wage (of the Remuneration Order) which inescapably serves as the floor upon which collective bargaining negotiations builds. In this context collective bargaining has proved rewarding a machinery for the organized workers in the private sector. On the other hand, the minimum wage system itself has afforded the nonunionized and low paid workers to have livelihood and safety net income.

The government decision in October 2010 to abolish the NPC is probably unconnected with the disagreement within the NPC, but it also has to do with government decision to abandon the 5 year periodic salary review in favour of biennial review, which reduces the pressure or need for the in-between annual adjustments. As consultations with workers and employers appear to indicate, the abolition of the NPC appeals to the two sides but clearly for different reasons. While the employers believe that the process could not totally be divorced from political considerations, the new policy represents a favourable public policy response to their longstanding position that employers and their workers should be allowed to sit down and determine applicable wages and conditions through the collective bargaining process. For workers, it represented a relief that met their uncompromising opposition to the 'sudden' introduction of new criteria to the inflation rate for awarding percentage increases. Nevertheless, while the new arrangement still leaves a question as to why the government, as employers, does not embrace the collective bargaining process, the prospect cannot be totally ruled out.

---

## **The challenge for collective bargaining and wage determination**

One of the key challenges in employment relations in Mauritius is the how to achieve complementarities among the often competing wage determination mechanisms in the country. Clearly the NRB fills a critical vacuum which has been created by the lack or difficulty of unionizing the large pool of unskilled and low income workers. Comparatively, this machinery is helping to provide income for the larger segment of the wage earners, than the processes of collective bargaining. As shown the collective bargaining remains the weakest of the machinery for wage determination. With the resolve of the government to abolish the NPC, the time seems auspicious for the government and the social partners to reenergize the collective bargaining machinery. This final section on wage determination provides options for strengthening the wage determination machinery in the country.

As earlier shown, the NRB mechanism has provided the institutional machinery for the determination of wages for the unorganized as well as the unorganizable members of the wage earning population. Also as earlier shown, this group today constitutes the larger proportion of the wage earning population in the country. One of the main challenges is ensuring that the NRB process in reviewing wages in each of the 30 sectors is regular, such that the reviews are carried out on regular and predictable intervals.

The abolition of the NPC does give the private sector employers another opportunity to joint determination with the workers' union at either the enterprise or sector level, by which wage negotiations are related to operational environment in which work is performed. This preferred interest is not necessarily at variance with the emerging government stand, nor are unions opposed to the collective bargaining. Indeed, the predilection of union leaders to negotiate rather than engage in consensus building in the tripartite bodies offers a good chance to turn to wage negotiations. This is clearly the thrust of the recent reform on the labour laws, as shown earlier in Chapter 3.

This leaves the two sides of industry to determine the most suitable structure of bargaining. Generally, employers' preference for enterprise level negotiations is understandable, as this helps to relate personnel and wage decisions to the reality of the enterprise, such as productivity and enterprise performance. The evidence, nevertheless, is that not only is collective bargaining not really effective at this level, in part because of the weakness of the enterprise union, where it exist, and in part because the relatively small size of the enterprise reduces the appeal of the collective bargaining in several cases. What then has emerged is what by all account a consensus to top up the rates that had been set by the NRB Remuneration Order.

Given this reality, the employers (and unions) might explore a sectoral approach to wage negotiations, by which a group of employers and workers in a particular industry or sub-industry agree to negotiate to set wage rates that are applicable to the workers in the particular sector or sub-sector. Conceivably, various rates may be agreed, if both sides agree on different grades of employers or workers. The benefits to workers is that unions and employers can pull their resources and expertise, while a sectoral approach create some degree of uniformity and reduces the pressures to compete among themselves in the particular sector or industry. In fact, an approach that comes closer to this exists in the sugar industry in the country.

---

Irrespective of the structure of bargaining that is adopted, the new reforms portends a brighter prospect for collective bargaining, as foreseen in the new Employment Relations Act and the Employment Rights Act, both of which were enacted in 2008. Above all, this return to collective bargaining industry.

---

## 7. Dispute resolution and labour-management cooperation

One of the main goals of employment relations in the workplace is the promotion of labour and management cooperation by which grievances and trade disputes between the two sides are settled promptly and effectively through social dialogue. This has the capacity to promote labour-management cooperation, social partnership and sustainable enterprise. The Commission for Conciliation and Mediation is a key institution whose operational mandate of facilitating peaceful relations in the workplace is examined in this chapter.

### Commission for conciliation and mediation

The creation of the Commission for Conciliation and Mediation, CCM, was the response of the government to assure transparent and effective means of resolving labour disputes and in which the two sides of the industry are active participants in the resolution of disputes.<sup>86</sup> The CCM replaced the Industrial Relations Commission, which was established by the repealed Industrial Relations Act of 1973. The repeal followed fundamental defects in the mandate of the old institution. Not only was the law imprecise as to what constituted a trade dispute, the operation was limited to the conciliation of disputes, without a specified time frame. Neither did the disputes resolution process of the period foster sustainable labour and management cooperation. These weaknesses naturally led to frivolous and protracted disputes which had adverse effects on relations in the workplace.<sup>87</sup>

A key remedial attribute of the new law is its promotion of the alternative dispute resolution mechanism, as part of public policy support for sustained labour and management cooperation in the workplace. In this respect, the defined role of the state is to create a legal framework, and encourage the parties to find solutions to their problems, while the state assists through the various institutions.

In the CCM, each of the two sides of the industry has two representatives, while two independent members are appointed by the government. This composition of the CCM implies a governance system which assures the two sides of industry of self-governance and transparency. It works towards the reduction of trade disputes and promotes greater labour-management cooperation and joint problem solving between the two sides. In support of these principles, the law repealed the powers that the minister had under the previous law in relation to dispute resolution and instead provides that ministerial interference shall be in relation to employment relations, generally or in a particular industry.<sup>88</sup>

The Employment Relations Act provides extensive reforms that favour bipartite negotiations in the resolution of trade disputes. The policy is designed to

---

<sup>86</sup> In the public service, there exists the Civil Service Industrial Relations Commission and the Civil Service Arbitration Tribunal, with responsibility for settling disputes in the public service. The procedures of these institutions are basically the same as those covering the private sector. However, the former takes account of the peculiarity of the public sector. For example, the right to strike, while not explicitly denied, is extremely difficult to exercise. See the Employment Relations Act, 2008.

<sup>87</sup> See V.P. Torul, and Fokkan, loc.cit.

<sup>88</sup> Section 89. See also Fokkan, loc.cit.

---

promote internal dispute resolution by the parties themselves. Thus, the two sides to a dispute are obliged to make an effort to resolve a dispute on their own, through an institutional arrangement that has been articulated in the procedural agreement in the enterprise. The aim of the law is the promotion of labour-management dialogue and cooperation, through which the parties take responsibility for managing their affairs.<sup>89</sup>

In the course of the internal dispute resolution process, the parties may seek the conciliation or mediation services of the CCM.<sup>90</sup> In such cases, both processes are expected to be completed within 90 days. On the other hand, when a dispute is referred to the CCM for conciliation or mediation, the latter has 30 days to complete its proceedings, except by mutual agreement with the parties for a prolongation of the settlement procedure. Any aggrieved party may appeal to the Employment Relations Tribunal, which must make an order within 60 days. Alternatively, the parties may agree to seek voluntary arbitration through the Employment Relations Tribunal, whose award is binding.

These provisions represent the most fundamental changes introduced under the law. By promoting consultation and labour-management cooperation, the conciliation and mediation role of the CCM is designed to promote collective bargaining and joint problem solving. In this manner, public policy is designed to discourage time-consuming adjudication, which fosters adversarial relations which do not augur well for good labour-management relations on a sustainable basis. However, where these fail, the conciliation and mediation services of the CCM services are to serve as an alternative to legal adjudication. The law also introduces voluntary private arbitration, or alternative dispute resolution (ADR) mechanism, provided the parties agree that a deadlock in negotiations has been reached.

The law makes a distinction between disputes of right and disputes of interest. Disputes of right refer to established rights or entitlements, granted either by law, contracts of employment and/or collective agreement, while disputes of interest relate to claims or proposals by the parties pertaining to the setting of the terms and conditions of employment.<sup>91</sup> Disputes of rights are not normally the concern of the CCM, but of the Industrial Court, while disputes of interest can be mediated by the commission if bipartite efforts fail. In such cases, the law requires the CCM to complete its conciliation or mediation within 30 days, except where circumstances oblige the parties to ask for a time extension. In support of the enterprise level process, the law provides for, in its Fourth Schedule, a Code of Good Practice, which emphasizes the common interest and responsibility of both employers and workers in fostering good employment relations through collective bargaining and human relations in the workplace.<sup>92</sup>

Where the conciliation and mediation role of the CCM, or the intervention of the Employment Relations Tribunal fail, the law allows the right to undertake strike action, after fulfilling the requirements of a secret ballot to ascertain the preferred option of the workers.<sup>93</sup> If the ballot is in favour of a strike, the union must give a

---

<sup>89</sup> Section 64.

<sup>90</sup> Section 88(2).

<sup>91</sup> Section 35 (Fourth Schedule, Part IX), Provisions 136 and 139. See also Torul, *op.cit.*, p. 4.

<sup>92</sup> Section 35 (Fourth Schedule). The code was previously introduced in the repealed Industrial Relations Act, 1973 but largely ignored.

<sup>93</sup> Sections 78 and 79. However, under Section 82(1) of the law, the Prime Minister may apply to the Employment Relations Tribunal or the Supreme Court to stop a lawful strike where public interest is at stake.

---

written notice of the strike or lockout. While a secret strike vote ensures the security of the individual workers, union leaders tend to prefer open ballot, which can make a vote against a strike a challenge for workers.

Table 6 provides a record of the disputes and workload of the two institutions during 2000 and January 2009. This record reports mainly on the years when the old Industrial Relations Act was in force, and just one year under the new legal framework. However, while an assessment of the performance of the new approach is premature, it is instructive that the new legal framework seeks to reorient labour relations towards cooperation rather than confrontation, and to explore joint resolution of disputes when it occurs. In this context, one might argue that potentially the law has the possibility of prompt settlement of disputes, or reduce the incidence where the parties apply the provisions of the law. The number of disputes has declined although it rose during the first full year of the new legal regime. However, the number of disputes that were settled within the year represented more than 50 per cent of all disputes. Only 19 disputes were referred to arbitration and 78 remained pending. In other words, the capacity of the CCM to settle disputes promptly has been demonstrated.

In another context, specific provisions in the law have the effect of containing the resort to precipitating strike actions. For example, under the new law, union leaders contemplating a strike action are required to undertake a ballot of workers before the action could take place. As required, the ballot must include all unionized and nonunionized workers in the particular establishment. As shown in Chapter 2, given the relatively large number of nonunionized workers, and growing labour-management cooperation in workplaces, compliance with the rule might prove extremely unlikely. On the other hand, what might be considered a counter to the foregoing is that the law protects workers by making a dismissal a costly (disincentive) management decision. Thus, in the case of dismissals, the law requires the employer to pay a 'recycling fee' to a government department when a worker is wrongfully dismissed. This fee is intended to support a re-skilling programme so workers can improve their job prospects in the labour market.

**Table 6.**  
**Trade disputes, 2000–2009**

Year	Total	Settled	Referred to IRC	Referred to PAT	Pending disputes
2000-1	272	61	61	33	73
2001-2	350	112	50	26	118
2002-3	385	114	58	56	101
2003-4	285	44	48	52	84
2004-5	317	81	42	59	52
2005-6	246	60	58	22	60
2006-7	297	52	64	25	118
2007-8	342	86	72	60	75
2008- Jan 2009	220	42	15	26	114

IRC: Industrial Relations Commission; Permanent Arbitration Tribunal.

Sources: Commission for Conciliation and Arbitration and Commission for Conciliation and Mediation.

Nevertheless, it remains to be seen whether provisions such as these are desirable for longer-term labour and management cooperation, or could on the contrary create distrust and lead to questions as to the fairness of public policy in the labour and management relationship. Time will tell how far the code of conduct, and indeed the legal provisions will impact on or influence labour-management relations in the workplace. It may be necessary for the two sides of industry, with the assistance of the government to train labour leaders and enterprise managers with the provisions in the code, and indeed the provisions of the Employment Relations Act.

In conclusion, the dispute resolution mechanism provides a user-friendly service to workers and employers. It seeks to assist them in refocusing their relationship, and in the process ensure that the parties aim at finding solutions on their own. When this fails they have the choice of the statutory mediation services or other alternative disputes resolution mechanisms. In this context the institutional framework emphasizes labour-management cooperation as the building block for sustainable relations in the workplace, and in which both sides work together in the interest of the enterprise and the workers.

---

## 8. Concluding discussion

Tripartite consultation is an embedded institutional framework for labour market governance in Mauritius. It represents a fairly elaborate public policy, by which the legal framework sets the rules and procedures for the actors to regulation of employment relations in the country. In this context tripartite cooperation, by which the government, employers and workers consult, share information and seek consensus on broad and specific labour and employment relations is highly significant. An array of social dialogue institutions and mechanisms provide critical space for labour and employers to consult with the government on issues of the world of work and national development. Thus, institutionalized tripartite dialogue has contributed to public policy in several domains of the labour market, such as wage determination and labour and management cooperation in the workplace.

Tripartite consultation on the determination of the minimum wage for the unorganized and low pay workers had helped to provide safety nets for this large category of workers. In several cases the minimum wage has served as an important boost to the outcomes of bipartite collective bargaining. Tripartite dialogue on productivity promotion and peaceful relations and the settlement of trade disputes in the workplace has contributed to the welfare of workers, but also to enterprise performance and national social and economic development. Through its legislative role, the government provides innovative labour market regulation and policies that strengthen the voice of workers. These policies encourage joint determination and consensus building on issues that are critical to the well-being of workers, public policy and governance.

Nevertheless, there are challenges, both for tripartism as a concept and as an institutional framework for organizing work and relations to build consensus around issues that impact on the wellbeing of workers and the general society. The challenge for the tripartite partners, particularly labour, is how they use the consultative and consensus building mechanisms to address labour market issues within the broader social and economic milieu. Attaining the full potentials of tripartite dialogue requires a broader understanding of the role and usefulness of social dialogue and the institutions established for rule making, the sharing of information and opinions so as to work towards consensus on specific issues in which there is mutual interest. As a concept, social dialogue involves knowledge and information sharing, negotiation and agreement-making on how work is carried out and the rewards. But it also involves seeking consensus or understanding on issues that help decision-makers to arrive at fair and equitable policies that not only advance the specific interests of labour and employers, but also the overall wellbeing of the larger society.

That the labour leadership tends to prefer negotiation over consultation is understandable, and probably arose from the lack of a concrete role in the collective bargaining process, arguably the most important means by which workers actualize their freedom of association and shape the decisions over their terms and conditions of employment. The lack of perceptible role of top labour leadership in this important union function might explain why negotiation is preferred to consultation or consensus building in tripartite institutions. However, what appears to be emerging in the employment relations in the country is the resolve to emphasize and invigorate collective bargaining, at either the sectoral or enterprise level or both, as

---

the main mechanism for wage determination, particularly in the private sector. This offers an enviable opportunity for labour leaders to sharpen their knowledge and skills in the negotiation process. At the same time, a realistic perspective is that all issues pertaining to labour market governance cannot possibly be reduced to agreement making. On the contrary, the sharing of views and information, as well as consensus building on issues are equally important processes for understanding of how labour issues interact, depend or influence the broader social and economic development that are important to improving the wellbeing of workers and the society at large.

In other words, collective bargaining offers the best opportunity for employers and workers to jointly determine wages and conditions of employment. The very recent decision of the government to abolish the NPC represents a new opportunity for invigorating the collective bargaining process. This renewal of the possibility of engaging in collective bargaining also presents an opportunity for the reluctant employers to use this machinery to promote the contribution of workers and their leaders in support and promotion of productivity, competitiveness and sustainable enterprise. At this level, available evidence clearly demonstrates the value of collective bargaining and labour-management relations, both with respect to improving the conditions and welfare of workers, and also in creating opportunities for both sides to reach an understanding for joint vision on sustainable enterprise, productivity and performance, and decent work.

In this context, the challenge for the labour leadership is repositioning itself in a manner that its strategies and actions effectively put labour at the centre of policy making at the micro and macro levels on critical issues such as unemployment, skills development for the labour force, the protection of rights at work for all members of the labour force, work-life balance, the environment and other social and economic policies that impact on the functioning of the labour market. Inevitably, this requires a deeper knowledge of how the economy works and its relationship to jobs and rewards. In other words, the role of labour as catalyst for change and in defining the national socio-economic policy environment beyond the traditional areas of wages and conditions of service is and should be a critical area of work for labour leadership.

Issues that impact on the labour market and societal wellbeing, such as the promotion of decent work, sustainable employment, social protection, the environment, technology and so forth are important for tripartite social dialogue. Institutions such as the NESC and ACOSH, as well as the newly established National Tripartite Forum, can help labour to reinvent itself, to move beyond its traditional (and important) role of the defence of wage incomes and similarly advocate issues that ensure the rights and position of labour in a modern society. This transformation might involve ensuring that workers know their rights in the society, to negotiating for the provision of more welfare rights for workers and their families, leisure time, and so forth. This would also involve more training and sensitization of workers and, by extension, the larger society on the role of labour in a changing society.

In conclusion, there is hardly a doubt that the tripartite parties believe that institutions of the labour market, such as collective bargaining, tripartite cooperation and mechanisms for disputes resolution do matter and contribute to governance. It remains a challenge, nevertheless, for tripartite consultation and collective bargaining to serve as means for shaping enterprise performance and

---

national socioeconomic development. Manifestations such as the structural change in industry, declining unionization in manufacturing and corresponding growth of the largely nonunionized service sector calls for strong tripartite and bipartite approaches to addressing issues such as these. Similarly, declining union membership, even when employment is growing in some sectors presents fundamental challenge for government, employers and workers to work together. In the same context, the division in the labour movement, or and multiplicity and competitions among union leaders that limits the contribution of labour to the social and economic development. These are among the issues which the tripartite partners can examine through institutional framework for social dialogue in the country.



---

## Bibliography

- Allgoo, R. 2008. *Occupational health, safety and welfare* (Terre Rouge, Northern Printing), p. 1.
- Berg, J.; Kucera, D. (eds.). 2008. *In defence of labour market institutions* (Basingstoke, Palgrave Macmillan).
- Central Statistics Office, Mauritius. 2010. *Digest of Labour Statistics 2009*, June.
- . 2009. *Economic and Social Indicators*, Issue No. 771, 29 June (Port Louis).
- . 2008. *Digest of Productivity and Competitiveness Statistics*, Vol. 11.
- . 2008. “Survey of employment and earnings in large establishments”, in *Economic and Social Indicators*, Issue No. 723, Mar.
- . 2007. *Digest of Labour Statistics*.
- . 2007. *Digest of Productivity and Competitiveness Statistics*, Table III.
- Employment Relations Act, 2008.
- Fashoyin, T. 2010. “Collective bargaining and employment relations in Kenya”, Working Paper No.13, Industrial and Employment Relations Dept. (Geneva ILO).
- . Unpublished. “Social dialogue in francophone Africa” (Geneva, ILO, DIALOGUE) [2010].
- Fokkan, D. 2010 (unpublished). “Comparative study on industrial relations and collective bargaining in Africa: Mauritius”, Industrial and Employment Relations Department (Geneva, ILO).
- Hayter, S.; Stoevska, V. 2010. “Trade union density and collective bargaining coverage: International Statistical Inquiry 2008-9”, DIALOGUE Technical Brief (Geneva, ILO, Industrial and Employment Relations Dept.).
- ILO Committee of Experts ACR, available at: <http://www.ilo.org/ilolex/>
- Kinunda-Rutashobya, L. 2003. “Exploring the potentialities of export processing zones (EPZs) for economic development in Africa: Lessons from Mauritius.” in *Management Decision*, 41, No. 3.
- Lall, S; Wignaraja, G. 1998. *Mauritius: Dynamising export competitiveness* (London, Commonwealth Secretariat).
- Mauritius Chamber of Commerce and Industry. *Annual Report 2008*.
- Mauritius Employers’ Federation. 2008. *Annual Report*.
- Mauritius Government Gazette*, No. 63, Legal Supplement, 11 July 2009.
- National Economic and Social Council, Mauritius. 2010. “Integration into the global economy. Socio-economic challenges and policy implications for Mauritius”, Report No. 14, May.
- . 2009. *Annual Report 2007-2008*, Jan.
- . 2008. “The employment of foreign workers in Mauritius”, Report No. 9, Jan.

- 
- National Productivity and Competitive Council, Mauritius (NPCC). *Annual Report 2000-2001*.
- . 2005. *Competitive Foreign. What orientations for Mauritius*.
- Olowu, D.; Sako, S. (eds.) 2002. *Better governance and public policy* (Bloomfield, Kumarian Press).
- Otobe, N. 2008. “The impact of globalization and macroeconomic change on employment in Mauritius: What next in the post-MFA era?”, Employment Working Paper No. 9 (Geneva, ILO).
- Ramsamy, T. Unpublished. *Minimum wage in Mauritius: Its evolution with the transformation of the economy* [July 2009].
- Richard, N. (ed.). 2007. *Discriminatory practices in the Mauritian labour market*, Aug. (Port Louis, UNDP).
- Rodgers, G. 1994. “Institutional economics, development economics and labour economics”, in G. Rodgers (ed.): *Workers, institutions and economic growth in Asia* (Geneva, International Institute for Labour Studies).
- The World Bank. 2010. *Facing-off a man-made disaster: Global financial crisis and policy response in the small tropical island of Mauritius*, Mar.
- Torul, V.P. 2009. *The commission for conciliation and mediation. A manual on its functional structures* (Port Luis, Ministry of Labour, Industrial Relations and Employment), Apr.
- Wood, G.; Brewster, C. 2007. *Industrial relations in Africa* (Basingstoke, Palgrave Macmillan).