



THE LABOUR STANDARDS IN THE CIVIL SERVICE: AN OVERVIEW

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I recommend that the obligatory essay prepared under my supervision.

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DEDICATION

To my late father Mr. Mathias Busiku Michelo and my mother Mrs. Loveness Chisenga Michelo. For their love and inspiration they started it all.

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First and foremost I would like to thank the Almighty God for guiding and protecting me throughout my years in school and most of all for widening my borders.

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I wish also to thank my sister and brothers, Mutinta , George, Chichi, Doe and Lwando for having encouraged me during my years in school. (This is a great achievement. Its been long overdue thanks).

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I am greatly indebted to UNZES business center for making the publication of this work a reality. I thank their trust, warm and hospitable spirit .may God bless them.

The law governing labour relations is one of the centrally important branches of law-the legal basis on which the very basis on the large majority of the people earn their living .No one should be qualified a lawyer -professionally or academically-who has not mastered its principles.

Sir Otto khan -Freund

INTRODUCTION

In many ways relations between the government and the party on one hand and the labour movement on the other have influenced the course of Labour relations in Zambia. In a country where the government plays a pronounced role in regulating labour relations this is axiomatic.,

The struggle for better labour standards dates back to the pre colonial era. The labour standards were below par and have continued to be so as a result there is labour unrest in Zambia.

“A French writer Voltaire once pointed out that work spares us from three great evils: boredom, vice and need .Most of us can tolerate a little boredom, and some may even enjoy a small helping of vice. But need is something we would all rather avoid. Although most people like their jobs to be fun and fulfilling what they likely want most it to be paid fairly and on time so that they can enjoy the other aspect of their lives”.¹

Workers have the right to get paid. Workers need to know the time of work, the minimum wage requirement for overtime and possible restrictions on child labour. Therefore, the labour standards must be high. Labour standards are human rights which women and men have in respect to their employment and other working arrangements.

It is cardinal that employees should be able to meet these basic needs hence the labour standards must be high. Minimum labour standards include, freedom of association and effective recognition of the rights to collective bargaining, the elimination of all

forms of forced or compulsory labour, effective abolition of child labour, the elimination of discrimination in all forms of employment and cooperation. Other labour standards include: the right to a safety work place, payment of a living wage, provision of excessive over time, provision of regular employment where possible and the elimination of all forms harsh and inhuman treatment.

Labour standards in a country are also dependant upon whether a country is a member of the International Labour organisation. Zambia is a member of this organisation and so the labour standards must confirm with the international standards. The significance of these international standards is in their practical effect. A country that has ratified a convention must report regularly on its application in law and in practise. These international Labour standards are used as a guide in the design and implementation of labour and social policy at a national level.

This paper seeks to examine the labour standards in the civil service. This will be achieved by looking at different instruments that help in the enhasment of labour standards like the various conventions that have been ratified and domesticated by Zambia and how collective bargaining has helped in the determination of labour standards. In view of the foregoing

Chapter one discusses the history of industrial relations and international labour standards. The role of collective bargaining in determining labour standards will be evaluated

Chapter two examines whether or not labour standards are being adhered to in the civil service .It will also look at the Conventions that have been ratified by Zambia in relation to labour standards. This chapter will also look at the factors pushing labour standards in the civil service in Zambia.

Chapter three analyses the role of the trade union in determining labour standards. It will also look at trade union rights and what is being done by the trade unions to improve labour standards in the civil service.

Chapter four discusses the role of the government in determining labour standards in the civil service. It will determine what government as employer and legislator has done to improve labour standards in the civil service.

Finally chapter five gives a general conclusion of what has been discussed in the preceding chapters. It will also give recommendations of what can be done to improve labour standards in the civil service.

CHAPTER ONE

HISTORY OF INDUSTRIAL RELATIONS.

The advent of the 20th century saw with it the advent of industrialisation in Zambia (then northern Rhodesia). The railway industry from Cape Town to Cairo was being constructed and copper mines on the Copperbelt were opened. In all these industries, African labour was being recruited, either by coercion or inducement. As a way of inducing Africans into these new industries, the colonial government introduced the payment of poll tax² and hut tax³ in the villages to be paid in currency. This forced them to look for jobs in the industries in order to pay the tax money. Those workers who could not pay were intimidated and brutally beaten, thousands of inhabitants fled for their lives, while thousands were arrested and imprisoned. Mwendapole observes that

“ Due to industrialisation, an African no longer enjoyed the security he had in the village community”⁴.

African workers under their new environment were subjected to a lot of harsh conditions, such as poor housing and poor wages⁵. The blacks were discriminated against; furthermore, the Europeans had more privileges than the Africans. Working conditions continued to deteriorate on the part of Africans. As a way of seeking a remedy to this problem of poor working conditions, Africans started to meet in secret to discuss ways and means of overcoming the kind of colour bar in industries⁶. During the pre independence period, the workers and the peasants put up spirited fights against colonial rule resulting in workers engaging in massive strikes between 1935 and 1940, which were clearly political rather than industrial⁷.

The attainment of independence in 1964 was preceded by a wave of industrial conflicts sweeping across the country. This turmoil of industrial conflict, mainly expressed through strike action, could be explained in terms of the economic expectation on the part of the Africans who associated independence, inter alia with equality with the white counterparts and hence better pay and conditions of work.⁸ The labour standards did not improve the conditions of service were below par this is despite the fact that independence had created all those high expectations.

“The workers in particular anticipated and had indeed been promised, Improved wages and conditions. They also wanted to see and end the huge gap between African and European labour”⁹

Between 1948 and 1971 besides the Trade Union and Trade Dispute Ordinance, the legislation dealing with trade unions was the Minimum Wages and Conditions of Employment Ordinance.¹⁰ Under this piece of legislation, wage boards and councils were established¹¹. The wage boards were empowered to fix the wages for specified workers or groups of workers of any occupation and to determine other conditions of employment.¹² In order to make the determinations effective there was a penalty for failing to pay minimum wages, or failing to comply with the determined conditions of employment.

One would presume that the colonial government was to put the minimum wages at a reasonable rate, so as to sustain the livelihood of an employee. Sichone¹³ observes that the minimum wage was too low to enable a worker meet most of his economic daily needs.

The government's industrial relations policy after independence was that of regulation and control ¹⁴. Government played a major role in controlling the level of wages.

It was therefore, the tasks of the government to enact the law that would promote good industrial relations, in line with the tenets of state control. On 20th December 1971 the industrial Relations Act was passed which intended to minimise conflicts, forge a spirit of cooperation between employers and workers and create conditions in which industrial productivity would be enhanced.

Despite all these efforts, most of the labour standards were not adhered to. After independence Zambia changed from a democracy to a one party state, freedom of association was inhibited employees could not voice out their complaints for fear of what could happen to them, child labour was rampant women were not allowed to work in mines, they were not treated equally with their male counterparts this was despite the fact that Zambia has ratified most of the international conventions after independence in 1964.

From the foregoing it can be seen that the conditions of service and labour standards for the workers were not improved. Workers continued to fight for better labour standards hence there was labour unrest, as workers would threaten to go on strike.

HISTORY OF INTERNATIONAL LABOUR STANDARDS: ITS EFFECT ON ZAMBIA'S LABOUR STANDARDS.

The international labour organisation was created in 1919 primarily for the purpose of adopting international standards to cope with the problems of labour conditions

justice, hardships and privation¹⁵. With the incorporation of the declaration of Philadelphia into its constitution in 1944, the Organisations standard setting mandate was broadened to include more general but related social policy, human and civil matters. International labour standards are essentially expressions of international tripartite agreements on these matters.

The international labour standards take the form of international labour conventions and recommendations. The International Labour Organisations conventions are international treaties, subject to ratification by the member states. Its recommendations are non-binding instruments typically dealing with the same subjects as conventions that set out guide law that can orient national policy. It also intends to have a concrete impact on working conditions and practices in every country of the world.

The international labour constitutions requires that international labour standards be set with “due regard to those countries in which climatic conditions, the imperfect development of industrial organisations or other special circumstances make the industrial conditions substantially different¹⁶. Its mandate is to set universally applicable standards. This has resulted in a number of characteristics unique to the international labour organisation system of international standards.

International standards are of universal application and as such apply to all countries that have ratified them regardless of the stage in development, because of this they are written with certain flexibility. International labour standards come from a unique legislative process involving governments as well as employers and workers representatives from around the world.

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International labour standards came about because of the need to protect wages, the need to curb child labour and the need to protect workers from asbestos for health reasons¹⁷ Proposals for new improved labour standards came from labour a movement, which are government and their employees. The International labour standards are agreed under democratic principles by representatives of government workers and employers at all the social and economic systems of the world. The International labour standards are the global model for workplace rights and responsibilities as such it is the obligation of the International Labour Organisation member states to realise them as far as possible and the mission of the International Labour Organisation is to promote their realisation.

In practice international labour standards are used as a bench mark for the provision of human rights and are used as such by international non governmental agencies as well as intergovernmental agencies¹⁸. In all international labour standards are used as a guide in the design and implementation of labour and social policy at a national level.

International labour standards are enforced by ratification. It follows therefore that these conventions have no automatic application. Until ratification is secured as aforesaid, it is impossible to assert a general right to collective bargaining on account of international labour organisation standards¹⁹. It is however, trite law that international instruments on any law, although assented to or ratified by a state cannot be applied in the country unless they are domesticated.²⁰ For example the International Labour Convention No. 15 was held not be applicable in Zambia

without domestication²¹. Zambia is a member of the International Labour Organisation and so the labour standards must conform to international standards. The significance of these international standards is in their practical effect. A country that has ratified a convention must report regularly on its application in laws and in practice.

COLLECTIVE BARGAINING, ITS ROLE IN DETERMINING LABOUR STANDARDS.

Collective bargaining has been defined as the “bipartite discussion leading to the conclusion of agreements. Collective bargaining here involves a process of negotiation between individual employees or representative of employer’s organisations and trade union representatives”²². Collective bargaining in this sense involves negotiating an agreement between the competing interests of an employer and his employee mainly related to the employees’ terms and conditions of employment. Section 3 (1) of the Industrial and Labour Relations Act defines collective bargaining as “the carrying on of negotiations by an appropriate bargaining unit for the purpose of conducting a collective agreement”.

Employees through their representatives bargain for better conditions of service to be included in the collective agreement. There is a duty imposed by section 69 of the Industrial Labour Relations Act to bargain collectively. This imposes a statutory duty to commence negotiations and to conclude a new collective agreement prior to the expiry of the previous one²³ and signed within three months after commencement of the negotiations²⁴. It is worth noting that for collective bargaining to take place

effectively workers must be free to join trade unions. It follows therefore that the right to freedom of Association is the condition sine qua non of industrial relations alongside collective bargaining²⁵. The International Labour Organisation argues that collective bargaining is a fundamental right and an essential element of the employee's freedom of association²⁶.

Collective bargaining in essence is the principal means of fixing wages and conditions of work and of regulating the relations between employers on one hand and workers and their organisations on the other. Simamba²⁷ has documented that there are important advantages exhibited and enjoyed once trade unions engaged in collective bargaining. Firstly there is a creation of employee, employer relations. Secondly their results increases in productivity by improving conditions of work, the workers are motivated and inspired to perform at the work place. Furthermore collective bargaining seeks to avoid pre-empt strikes or lockouts. During bargaining, the bargaining unit seeks to secure the largest possible measure of joint consideration and determination of wages, salaries, hours of work and working conditions for workers. Collective bargaining over the years has ensured that employers do not impose unreasonable lows terms of remuneration on workers who have back up of trade union muscle.

The International Labour Organisation adopted the Labour Relations (Public service) Convention 1978²⁸ to deal specifically with collective bargaining among employees of public authorities. Since public service employees were excluded from coverage by convention No. 98. Article 7 of the convention provides, with regard to collective bargaining that;

“Measures appropriate to national conditions shall be taken where necessary, to encourage and promote the full development of and utilisation of machinery for negotiation of the terms and conditions of employment between public authorities concerned and public employees’ organisations, or of such other methods as will allow representatives of public employees to participate in determination of these matters.”

The major prerequisite for modern collective bargaining is sessions for preparation of the negotiations. Both sides stand to prepare long before the contract expires. Wage controversies are by far the leading cause of strikes²⁹. A lot of work stoppages are due to low wages and poor labour standards. This suggests the vital character of wage negotiations in collective bargaining and also suggests that much can be done to decrease management labour conflicts.

Wages are important and play a controversial role in labour relations. For workers, wages are normally the only source of income and the standard of living of the employee and his family is determined almost exclusively by this source. Where an employee strives to get higher wage to improve their standard of living, employers on the other hand are controlled with increasing pressure in the cost of production. The basis at the end of the day is that the employee should earn what he works for. The workload and the income should tally. It is note worthy that there are a lot of controversies on the wage levels, this is because as has been noted above this is the only source of income for the employees

Conditions of employment that employers give to their employees must conform to the labour standards. It follows therefore that what is in the collective agreements must be of a standard that is acceptable. Collective agreements have been defined as an agreement negotiated by an appropriate bargaining unit in which the terms and conditions affecting the employment and remuneration of employees are laid down. Once a collective agreement is reached, it is submitted to the Labour commissioner³⁰ who shall in turn submit such copies with a comment to the minister³¹ who, will either approve or direct that in copy of the collective agreement be returned to the parties with his reasons for not directing the registration³². It is worth noting that every collective agreement is binding on the parties to it, or on the case of a joint council it shall bind every employer and employee engaged in the industry.³³

The implication of this is that both parties to the collective agreement must fulfil its obligations. Failure to which a party will have a cause for an action or workers will threaten to go on strike.

CONCLUSION

This chapter has given a brief history of industrial relations and what the conditions of work were in the pre independence and post independence era. Furthermore, it has further analysed the international labour standards of the International Labour Organisation to which Zambia is a member state. What remains to be determined is whether government as employer is fulfilling its obligations and further what can be done to improve the labour standards.

END NOTES

1. www.ilo.com 28 .07 04.
2. Poll tax system was one of the many measures that colonial governments had tried to invoke as a means of thwarting the economic doldrums which had obtained as a result of the 1930 depression.
3. Hut tax was a kind of introduced by the colonialists, which required the African to pay towards the effective administration of the territory.
4. Mwendapole. **A History of Trade Union Movement in Zambia**. [1977], p1
5. Henderson I, **Labour Politics in Northern Rhodesia 1905 – 1953**, [1972], P. 110
6. Alfred Roberts, **obligatory essay**, UNZA [1989] p. 10
7. Paul Kapongo, **Obligatory essay**, UNZA [1988] p. 5.
8. Elerner Berger, **Labour Race and colonial Rule (oxford: London)** [1974] p. 10.
9. Robin Fiction and Grace Zulu, **Labour participation in Zambia in development in Zambia** (kenneth kaunda foundation lusaka)[1981], P215.
10. No. 23 of 1948
11. Section 3 (1) Minimum Wages and Conditions of Employment Act, No. 23 of 1948.
12. Frightone Sichone. **Obligatory essay** 2000. UNZA p. 19.
13. Ibid p.31.
14. www.ilo.com, 27.08.04
15. Ibid 27.08.04
16. Ibid 27.08.04
17. Ibid 27.08.04.
18. **Freedom of Association: international Labour Organisation** Geneva [1996] pp. 159 – 189.

19. **Zambia sugar plc V. fellow Nandaluka 2001 unreported.**
20. Ibid
21. C. Barnard EC. **Employment law 2nd** ed (sweet & maxwell)p 557
22. CAP 269 section 69 (1) (a)
23. Ibid section 69 (1) (c)
24. OTTO Kahn Freund, **Labour and law**, (stevens ,london) 1977 p. 162.
25. **Freedom of Association 4th revised. ed: International Labour Organisation,**
Geneva [1996] p. 159.
26. **Trade union rights and the ILO, An African perspective,** LLM. Thesis of
Ottawa [1986], 11 [unpublished]
27. No 151
28. A. Sloane. **Labour relations.**(Oxford london) , 235.
29. CAP 269 section 3 (1)
30. Ibid section 70 (1)
31. Ibid section 70 (2)
32. Ibid section 71 (1)
33. Ibid section 71 (3) (c).

CHAPTER TWO

This chapter considers whether or not labour standards are being adhered to in the civil service. The chapter will also look at the conventions that have been ratified by Zambia in relation to labour standards. There after, it will look at the factors pushing labour standards down.

Labour rights as has been noted in chapter one are human rights, which women and men have with respect to their employment and other, working arrangements. The ultimate legal source of labour rights is the Universal Declaration of Human Rights,¹ which provides that

(1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

(2) Everyone, without any discrimination, has the right to equal pay for equal work.

(3) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

(4) Everyone has the right to form and to join trade unions for the protection of his interests.

The requirements that must be met for labour rights to be upheld are known as labour Standards.² The International Labour Organisation Declaration on fundamental principles and rights at work identifies four important labour standards. These are;

1. Freedom of Association and effective recognition of the right to collective bargaining.
2. The elimination of all forms of forced or compulsory labour
3. The effective abolition of child labour
4. The elimination of discrimination in all forms of employment and cooperation

Other labour standards include; the right to a safe work place, payment of a living wage, provision of excessive overtime, provision of regular employment where possible and the elimination of harsh and inhuman treatment.

FREEDOM OF ASSOCIATION

Freedom of Association is enshrined in the Constitution of Zambia as one of the basic fundamental freedoms. Article 21 of the Constitution protects the freedom to form and belong to a trade union of one's choosing for the protection of his interests. Freedom of trade union establishment is enshrined with the specific purpose of enabling employees to "protect" their own interests.

Furthermore the Industrial and Labour Relations (Amendment) Act, 1997 amended Section 5 of the principle Act³ and expressly protected the right of every employee to take part in the formation of a trade union and to be a member of a trade union of the

employee's own choice,⁴ and not to be a member of an existing trade union.⁵ The Industrial and Labour Relations Act also recognizes the right to bargain collectively.⁶ It is note worthy that convention 98 of the International Labour Organisation on the right to Organise and Collective Bargaining 1994, has been ratified by Zambia.⁷ To this extent Freedom of Association is guaranteed in the civil service. Trade Unions conduct their meetings without any interference from the Labour Commissioner. Furthermore they are not obliged to inform the Labour Commissioner what was discussed. The problem arises when there is abuse of these rights, that is the right to bargain collectively and to form and join a trade union of one's choice. For a long time the mining industry has been represented by the Mine Workers Union of Zambia. However on 23rd May 2004 the National Union of Allied mine Workers was formed. Due to this splinter union being formed, there has recently been in fighting between the two unions. This has caused instability in the mining sector. The problem as the Labour Commissioner acknowledged is that trade unionism has become a form of employment⁸

ELIMINATION OF ALL FORMS OF FORCED LABOUR

The elimination of all forms of forced labour has also been guaranteed by the constitution.⁹ Forced labour was prevalent in the pre-colonial era, where poll tax and hut tax were introduced. This forced Africans to look for employment to enable them pay tax. However due to a more systematic way of engaging people in employment forced labour is non existent. This is because employers and employees have to enter into contracts of employment.

ELIMINATION OF ALL FORMS OF CHILD LABOUR.

Child labour has been a concern of the Zambian government and the world over. The Zambian government has through the Ministry of Labour set up a draft policy on **National Child Labour Policy Towards a Child Labour Free Society**, to help in the eradication of child labour. Furthermore government has set up a national standing committee on the worst forms of child labour which meets regularly to discuss what can be done to curb child labour. This standing committee consists of delegates from Government, non-governmental organizations, employers, Trade Unions and donors. Government has also ratified Convention 138 and 182 on the Elimination of All Forms of Child Labour and has domesticated these into national legislation through The Elimination of Young Persons and Children's Act No. 274. It is worth noting that in the civil service employment is guided, therefore there are usually no cases of child labour. These are more prevalent in the informal sector.¹⁰

DISCRIMINATION IN EMPLOYMENT AND COOPERATION.

In the field of employment, several laws have been repealed for example women were banned from certain types of work such as working in the mines. However after the ratification by Government of the International Labour Organisation Conventions concerning discrimination in respect of Employment and Occupation 1958, women can do any kinds of jobs. Despite this, disparities in employment still exist notably gender income differences. Some employment practices are still discriminatory for example maternity leave with full pay is only given after the completion of two years

of service. This is discriminatory against women in the sense that they are unable to go on maternity leave with pay before a period of two years. It is also worth noting that there are attempts by employers to undermine full enjoyment of these rights. In general women's participation in the economy remains insufficient with 54% of women not working.¹¹ Experts on women's Anti Discrimination Committee dealing with Zambia's representatives say traditional stereotypes undermine efforts to ensure equality.¹² and that the disparity between men and women is because of historical and culture differences.¹³

The payment of a living wage has been the subject of controversy in the civil service. Trade unions have often sought to fight for improved wages. The Government contends that it does not have the economic resources to provide it's workers with a living wage and therefore there is always a clash between government and trade unions. It follows therefore that poor labour standards are associated with poverty.¹⁴ Generally poor labour standards are more acute in developing countries like Zambia

On the provision of necessary employment, the Zambian government is making necessary efforts in providing employment in Zambia. For example at the **Employment and Poverty Alleviation** conference held in Wagadogu¹⁵ consisting of officials, social partners and heads of state, a commitment was made by each country as a member state with the help of the International Labour Organisation to work out mandates on how these countries are going to provide employment. Despite the efforts being made by government there are still high levels of unemployment. This is

mainly because of the economic policies made by Zambia notably privatisation which brought about retrenchment.

The elimination of harsh and inhuman treatment is provided for in the Constitution,¹⁶ in the Bill of Rights which is an entrenched clause. The Zambian Government is doing its best to ensure that no such practices prevail in the civil service.

To this extent labour standards have been exclusively catered for in form of legislation. What remains to be considered is whether what is in paper, effects the actual situation on the ground.

CONVENTIONS RATIFIED AND DOMESTICATED BY ZAMBIA.

Generally Zambia's record on human rights enforcement is excellent. Zambia has ratified a total of 40 conventions. It ratified a great number of these Conventions upon independence and in the early 1960's, then at a regular pace over the 1970 and 1980's with the most recent in October 2001. Convention No. 45 was denounced in March 1998 following the advice of the committee of expert's to ratify in parallel the more modern convention on mine's No. 176. It is noteworthy that Zambia has ratified the eight core conventions, these are

- Abolition of Forced Labour Convention 1957 No. 105 ratified on 22nd February 1965
- Equal Remuneration Convention 1951 No. 100 Ratified in June 1972.
- Convention Concerning Discrimination in Respect of Employment and Occupation 1958 No. 111 ratified on 22nd October 1979.

- Freedom of Association and Protection of the Right to Organize Convention 1948 No. 87 ratified on 02 September 1996.
- Right to Organize and Collective Bargaining Convention 1949 No. 98 date of ratification 02 September 1996.
- Worst Forms of Child Labour 1999 No. 182 ratified on 10th December 2001
- Convention of Minimum Age No. 138.1979. Ratified on 09 September 1976
- Minimum Wage Fixing Convention 1970 No. 131 date of ratification June 20 1972

Other Convention ratified are Tripartite Consultation (International Labour Standards) Convention 1976 No.144 ratified in December 4th 1978, Convention on Maternity Protection No. 103, Occupational Safety and Health Convention 1981 No. 155 and 1985 No. 101.

FACTORS PUSHING LABOUR STANDARDS DOWN

There are a lot of factors pushing labour standards down in the civil service. There are no labour inspectors to go in the field to find out how the employee's are being treated, whether or not the labour standards are being upheld. There is basically no check as there is no manpower.

Another factor pushing labour standards down is that government has a tendency of intimidating the work force in general so in event that the workers go on strike Government always threatens the workers with dismissal or other sanctions as a

result the workers input in production is usually low. Government should, when there is labour unrest talk about options and not punishment all the time.

Ministers play an important role in the implementation of labour standards as they are the direct link between the people and government and so they are well versed with the knowledge of what people want. However it is very difficult for a minister to play a neutral role because the principle of collective responsibility demands that a minister has to implement what government has collectively agreed.

The problem is that the Ministry of Labour does not get a good share of the national cake. The funding is below par and therefore there is no capacity to implement these standards as the labour commissioner rightly put it.

“Unless the status and role of the ministry is not resolved, these problems can’t be rested. It has to be determined whether the Ministry of labour is an economic or social ministry”.¹⁷

It is also difficult for workers in developing countries to fight for workers rights as they often feel lucky to have a job and are unwilling to demand decent conditions as well. There is usually a desire by the employer to increase profit by cutting costs. There is no employment once, one is employed they feel lucky and will accept what ever little pay. There is need for an active union that will represent their employees needs to the fullest. More so, there is need to educate people about the essence of labour laws.

High labour standards are very important for the production, productivity and motivation of staff. Levels of remuneration are affected by the budgetary realities. Due to the economic crisis in developing countries governments cannot afford a living wage for public sector employees.¹⁸ The role of a union in pay bargaining depends on historical patterns as well as the extent to which privatisation has been used as a mode of decentralization. However in circumstances where economic forces combine not only to push standards down but also systematically to dissuade and disempower workers from halting the trend,¹⁹ the international standards play an important role in defending decent working conditions. They represent the level standard below which no worker shall fall. All stakeholders are entitled to uphold international labour standards.

In conclusion as has been noted above Zambia has an excellent human rights record, however most of what is on paper is not what is prevailing on the ground. This is because of the economic hardships that the country is facing. The international labour standards are flexible to the level that a country can only implement these standards when they have the means of doing so, this is seen as a problem because even when countries ratify these conventions, labour rights abuse is still prevalent. From here what has to be determined is the role of the trade union and the government in implementing labour standards and the penalty for not adhering to them.

END NOTES.

1. Article 23
2. www.caford.com 28-09-04
3. Act No 27 of 1993
4. Section 5 (1) (a) and (b) of the **Industrial and Labour Relations Amendment Act, 1997**
5. Ibid Section 5 (1) (f)
6. Section 69 of the **Industrial and Labour Relations Act, 1993** imposes a statutory duty to commence negotiations and to conclude a new collective agreement prior to the expiration of the previous one
7. Ratified on the 2nd September 1996.
8. Personal interview **with Mr. Siasimuna** (Labour Commissioner.) on 23 September 2004
9. Article 14
10. Personal interview with **Mr. Kabwe** Deputy Labour Commissioner on 23rd September 2004
11. **Committee on Elimination of Discrimination against women** twenty seventh session 551-552 meetings.
12. Ibid
13. Ibid
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CHAPTER THREE

INTRODUCTION

This chapter will discuss the role of the trade unions in determining labour standards. To achieve this objective a brief history of trade unions will be given. This chapter will also look at the trade unions rights and what is being done by the trade unions to improve the labour standards in the civil service.

HISTORICAL BACKGROUND.

Trade unions developed through out the world because workers understood that by joining together in unions they could express a collective view to their employers.

This strengthened the ability of workers to influence the terms of their employment and other aspects of their professional lives. It is important to note that in some countries efforts to establish trade unionism has been marked by bitter struggles.

Workers have fought hard to establish the rights to belong to trade unions and the right to bargain with employers to improve standards of employment.

The main objective of trade unions is to protect the social economic and political interests of its members. From here it can be stated that it is the Government, which formulates policies, which affects the people as

- (1) Citizens
- (2) Workers
- (3) Producers
- (4) Consumers

In the colonial era, employers used chiefs as a source of obtaining labour either by paying cash or by exchange with gifts. The British South African Company however, did attempt to put an end to this trend by ensuring that the native commissioners had

knowledge of any labour recruitment transactions.¹ Therefore the early labour policy did not support compulsion to render labour. But as more settlers settled in the territory, chiefs were under pressure to provide workers and both direct and indirect methods were used to extract labour from every employable African.

The most significant step to an emerging trade union in colonial Zambia could be traced back to the 1930's. This period marked the opening up of the copper mines on the Copperbelt and a rise in concentrated populations along the rail of mostly miners. The workers were subjected to inhuman conditions of work, low wages and racial discrimination, as Noel² rightly put it, Africans lived in bred discontent. The impasse between the mine workers and their white employers continued throughout 1940 and 1948. As political pressure mounted on the colonial government to grant Zambia independence, these mineworkers organisation united into the African political organisation.³

It was the general view that the economic plight of the miners was as a consequence of the colonial government. The mine works were in league with a broader political stratum. Finally, this pressure brought to bear and in 1949, the National Rhodesia African Mine Workers Union was formed symbolising an emphatic emergence of the trade union movement in Zambia.

THE ROLE OF THE TRADE UNIONS

It must never be forgotten that trade unions have a vital functions to fulfil in society: that of making a decisive contribution to social justice. It is essential for these organisations to provide a genuinely free forum for all workers and employers,

particularly since conflicts of interest are likely to continue. While deprivation of trade unions rights certainly gives rise to violent situations, all forms of limitations on individual's freedom of association may result sooner or later in alienating people from trade unionism itself, which can only prove harmful to the interests of the workers and, in the final event, of the community as a whole.

It is important therefore that workers and employers should be able through independent organisation free from any outside interference, to express their aspiration and to provide an indispensable contribution to economic development and social progress. To achieve this objective trade unions seek to ensure that the fundamental International Labour Organisation's objective are adhered to. They are the watchdogs of the government, as one of the committee members at the Geneva conference rightly put it.

“It is essential we have a mechanism that will ensure millions of workers now contributing to the production of world trade obtain realistic benefits from that trade. It is essential that we have a mechanism which ensures that the comparative advantage a country may have in competing in the world market is not obtained through suppression of trade union rights at the direct cost of those who at least able to afford”⁴

Concerning protection of the right to organise and procedures for determining conditions of employment in the public service, Convention number 151 of 1978 Article 1 states that the Convention applies to “all persons employed by public servants to form trade unions. It should be noted that, when the said Convention was

discussed for the first time at the 1977 Session of the International Labour Conference, the workers members of the committee dealing with the amendment unsuccessfully moved an amendment to the effect that the proposed instrument should cover persons employed in public commercial, industrial, agriculture and similar undertakings. Since this clause was not included, the Convention leaves a certain latitude for interpretation; however the point is not likely to create serious problems, as workers in public undertakings of the type referred to by the draft amendment are normally covered by Conventions 87 and 98.

The two sectors which do give rise to problems are the “essential services”, and workers who are normally classified as belonging to “the civil service”. Conventions 87 and 98 both contain the words: “the extent to which the guarantees provided for in this convention shall apply to the armed forces and the police shall be determined by national laws or regulations”. Further, Article 6 of convention 98 states: “This Convention does not deal with the position of public servants engaged in the administration of the state, nor shall it be construed as prejudicing their rights or states in any way”. Each of these various categories of worker will need to be given separate consideration

It is worth noting from here that the terms and conditions negotiated by the trade unions must conform to the labour standards. Collective bargaining therefore plays a major role in determining labour standards whose main objective is to improve and

protect the economic and social interests of the union members. Among important objectives are

- (1) To raise the material living standards of the workers.
- (2) To create the skilled, stable and secure workforce required to operate a steadily expanding production of national wealth.
- (3) To create a community of workers which is conscious of the dignity of labour and the importance of its role in the nation. A community without concern for race, tribe, religion, and political belief, to which all workers are loyal and in which they feel at home.
- (4) To give self confidence and self respect to the workers as individuals.
- (5) To eliminate ignorance and illiteracy, which hold the workers in developing countries prisoners in their own countries and let them enjoy that human dignity which free trade unions believe to be the inalienable right of all men.
- (6) To build for the fulfilment of these objectives, strong trade unions which are conscious of their responsibility of the workers and to the nation as a whole.

From the foregoing it can be said that for collective bargaining to succeed a trade union has to be financially strong and healthy that is to say; a real union should not be financed by the employer as if it is, it will be serving the employer and not the

workers. Furthermore government has to legislate good labour laws. Biased labour laws are a menace to trade unions.⁵

A union should be strong at all times, but especially during negotiations for a collective agreement. The demands drawn by the unions executive that is the National Executive Council, as is the case in the Civil Servants Union of Zambia must be explained to the members and approved by them at a special membership meeting before negotiations begin. The trade union's role therefore is to build the enthusiasm of the members for the demands not only before negotiations, but also while the negotiations are going on. The employer will know by the fighting spirit of the union members, that they are ready and eager to go on strike if the government does not agree to reasonable settlements.⁶

TRADE UNION RIGHTS AND LABOUR STANDARDS

The rights of workers to form and join trade unions and for trade unions to function freely are essential elements of international human rights. The International Labour Organisation's Conventions 87 and 89 does however provide a key definition of trade union rights, but the whole range international rights are of importance to the trade union movement. Trade union and human rights are vital in promoting democracy and genuine social development.⁷ Trade union rights include:

- (1) The right of all worker, without any distinction what so ever, to establish and to join organisation of their own choosing without previous authorisation.

- (2) The right of trade unions to establish and join federations and confederations and the right for any such organisation to affiliate with international trade union organisation.
- (3) Protection for trade unions against discrimination in respect of their employment.
- (4) The right of trade unions to bargain collectively on the regulation of terms and conditions of employment and all other matters affecting the livelihood of their members.
- (5) The right of workers and their unions to strike as an essential means for promotion and defence of their economic and social interest.

From the foregoing it can be stated that labour standards in the civil service are largely determined by the trade unions. In this regard the trade union as has been stated above has to be effective. The trade union has to represent the workers wishes. An example of trade unions fighting for their rights is when the government declared a wage freeze on the salaries of the government employees.⁸ The imposition of a wage freeze defeats the whole purpose of collective bargaining. However, there is always one sector where a government usually expects to be able to apply a wage freeze, and obviously that is in the sector where the government pays the wages, either directly or indirectly. Public servants were not slow to react to what appeared to them to be a policy of discrimination, even of victimization. Their unions organised

resistance to policies, which caused public service wages and salaries to be frozen while wages, salaries and other forms of income in general continued to rise together with the cost of living, some governments have therefore found it difficult to impose incomes policies against the will of the trade unions, and more than one state has been accused before the ILO of the infringement of the collective bargaining conventions.⁹ Unions face a lot of challenges and this in a way deters their role in determining labour standards. Among these the most outstanding ones include;

- (1) Structural Adjustment Programmes with their painful offshoots of retrenchments: redundancies: liquidation of parastatals including government ministries and departments.
- (2) High unemployment which is ever rising: deepening recession: high and continuing inflation and balance of payment problems.
- (3) Structural and labour market changes reflected in an increased demand both for higher managerial; professional administrative and technical skills and of lower paid service workers.
- (4) New technology and an increasing pace of change and development
- (5) Widening pay disparities
- (6) Rising employee aspiration for more influence over their working life and more satisfying and fulfilling jobs.

It is an established fact that trade union education must have as a primary goal, the empowerment of workers within their work place and society through active and democratic involvement in the affairs of trade unions. This can best be achieved through a continuous process of capacity building, at all levels within the trade union movement, the skills, competences and commitment necessary to enable trade unions to effectively defend and promote workers interests.¹⁰

The problem with trade unions in Zambia is that they are weak, although most of the splinter unions have come back to the umbrella union ZCTU. ¹¹In general the social partners have substantial ground to cover before a genuine tripartite system is in place. Generally government unilaterally determines the interventions in the labour market and the partners are inexperienced in how to use the system to solve such conflicts.¹²

In conclusion trade unions play a major role in determining labour standards. That is in their capacity as bargaining units. They check on the government to ensure that they adhere to the convention entered into. Trade unions with regards to International Labour Organisation Conventions must be seen to actively play the role of ensuring that government complies with its obligation under Article 19 (5) (b) of ILO Constitution, which provides that;

“In the case of a convention, each of the members undertakes that it will, within the period of one year at the most from the closing of the session of the conference, or if it is impossible owing to exceptional circumstances to do so within the period on one year, than at the earliest practicable moment and in no case later than eighteen months

from the conference, bring the convention before the authority or authorities within whose competences this lies, for the enactment of legislation or other action”.¹³

Trade unions must therefore pressure their governments for early ratification.¹⁴ Trade unions must also strive to ensure that their demands are met. Having discussed the trade unions, role what remains is to discuss the government’s role which is to ratify ILO Conventions, to domesticate them and finally to enforce laws relating to labour. The next chapter will therefore discuss the role of the government in determining labour standards.

ENDNOTES

¹ Mtopa M. **LABOUR LAWS IN ZAMBIA** (1989) p5

² Noel Simwanza **OBLIGATORY ESSAY; UNZA.** (2003) p5

³ Opcit

⁴ Geneva Conference on International standards June (2003)

⁵ Mbirintengerenji Phiri **Collective Bargaining** (2003) p2

⁶ Ibid

⁷ Roger Wright **Trade Union Rights**. (1986) p 216

⁸ In 1998 the government declared a wage freeze to this effect the matter was taken to court, where it was held that the wage freeze was illegal.

⁹ Personal interview with Mbirintengerenji Phiri. (Organising Secretary for the Civil Servants and Allied Workers of Zambia) on the 28th October (2004)

¹⁰ Ibid

¹¹ Opcit Mbirintengerenji Phiri **collective bargaining**

¹² Opcit Noel Simwanza

¹³ ILO constitution

¹⁴ Issue of the international labour office on labour education No (1991/4) at pg 12

CHAPTER FOUR

INTRODUCTION

Since the introduction of industrialisation in this country a substantial proportion of the work force continues to be employed in the Public Sector, that is, the Civil Service, local authorities, education, police, health and the mining industry. Consequently the policies and actions of the government in this area have had a significant impact on the industrial relations system as a whole. This chapter will, therefore, deal with the role of the Government in determining labour standards and will also consider what government as an employer and legislator has done to improve labour standards in the Civil Service.

THE ROLE OF GOVERNMENT

The primary responsibility for guaranteeing workers rights lie within national governments. Employment regulation has traditionally fallen within the scope of the state and the international labour standards are intended for implementation by government. In developed countries such as the United Kingdom, governments largely uphold workers' rights. However, for governments in developing countries it is difficult to ensure that decent working conditions are upheld, this is because government may lack the political will to uphold workers rights. Furthermore, there is usually a lack of expertise and funds to implement labour law effectively. As Labour Commissioner noted, there is misplacement of priorities when it comes to allocation of money in the national budget.¹ This is a very sensitive Ministry and so should be well catered for.

It is also worth noting that government usually refrains from implementing laws in their anxiety to attract foreign investors. For instance, Zambia has initiated a wage

freeze as a directive from International Monetary Fund until it reaches the Highly Indebted Poor Countries (HIPC) Completion point. This is despite the fact that a wage freeze was declared illegal. This position was Judicially tested in the case, **AG v. Civil Servants Union of Zambia and National Union of Public Service Workers**,² where it was held that the government was in breach of not only the statutory obligations under Section 69(1) of the Industrial and Labour Relations Act but also International Labour Convention 98 on the right to organize and bargain collectively. The Industrial Relations Court ruled in favour of the workers and stated that the government had no legal right to do what it did unilaterally.

There are however three basic roles of the government in determining labour standards. Firstly, Government has to ratify International Conventions that deal with labour matters in consultation with their social partners and stakeholders like the trade unions, employers and employees. Ratification of a treaty is a formal ceremony where by after some time after the treaty has been signed, the parties exchange solemn confirmations of it. Normally a treaty³ must be ratified in order to be binding.³ As such government should ensure that international Conventions that are of great importance are ratified.

Secondly, the government's role is to domesticate the conventions ratified and this is done by codifying them into legislation. For example, Zambia has ratified Convention number 131 on the Minimum Wage Fixing,⁴ and as a result in 1997 the Minimum Wages and Conditions of Employment Act was passed.

Furthermore, government's role is to enforce this legislation, so that those in breach should be dealt with accordingly. This is done by placing in various legislation impunity measures. For example, the Employment Act⁵ provides in part IV provides for powers of courts and offences. Furthermore, there is a General Penalty for a person guilty of an offence under the Act.⁶

The lack of capacity on the part of Government to implement the provisions of the law is a great threat to the spirit of good industrial relations. The Governments policies at any given time may be viewed as no more than the expression of national interest within society which expresses itself in a political party and which predominates by virtue of having been legitimised by the electorate. It has been argued that legal policy cannot be divorced from the interest of ideology of the lawmakers and from the wider political and industrial conflict. It is the ideological base of the political parties, which provides a foundation for a governments legislation regulation and conciliation policies.⁷

There is need for good will to enforce the law. The problem is that government does not have the capacity to enforce the law. For example, there are no inspectors to see if labour standards are being adhered to and people do not know their rights. For example, trade union leaders have called for a strike ballot to be cast. This is to be done throughout the country at the same time. There are 72 labour offices and there are only 20 officers. There is need for officers to supervise the ballot which means Government has to employ more officers. The Minister will have to issue a Statutory Instrument to this effect. To this extent, as Labour Commissioner admitted, ⁶the

government lacks the capacity. He further stated that, there is a danger of being impartial by the labour officers because some of them are members of the Unions.⁸

GOVERNMENT AS EMPLOYER

It is a truism that government is the largest employer. Therefore, government should play a major role in implementing labour standards. Governments should satisfy its work force or else there will be labour unrest in the country.

Government should respect collective agreements signed between themselves and trade unions as it, bind parties to it and where there is a Joint Council, it is binding on the employer and employee engaged in the industry.⁹ Furthermore, the Government should respect workers' conditions and it should provide favourable terms of employment.

The Government should also provide a good and conducive environment for employees to work in. For example, schools should have proper classrooms, tools are also a necessity. So government should be in a position to provide vehicles for different ministries, books to schools, medicines and most of all experienced personnel.

Government should provide employment. Many people have got knowledge and expertise in different fields but have no jobs. Government should, therefore, provide employment to it's citizens as unemployment affects service delivery bearing in mind that after privatisation a lot of jobs were lost and so there is a high level of

unemployment in the country now. The intended objective of creating employment opportunities and good industrial relations has fallen short of the expectations of the people. The MMD preached that they would bring a suitable climate in which both the private sector and the public sector would flourish. One would definitely expect the policies of liberalisation to be implemented within well articulated and formulated policies that would ensure free collective bargaining and rationalised regulating measures.

Some Governments argue that low labour standards make economics less competitive. However, there is no hard evidence to confirm this view even where high labour standards costs, this experience may be offset in the eyes of the investor by the greater social stability that result from a happier work force so that investment remains stable¹⁰

Overall, the concept of government as "a good public sector employer" has shifted from one base on setting. An example of supportive employment and welfare practices changing is adopting the competitive flexible performance and related ideas of the private sector

Government therefore has a duty to pay wages in return for such willingness to work and to provide reasonably necessary opportunity to earn such wages. The Government as an employer also has a duty to take reasonable care for the employee's safety. This duty is extensively provided for in the Factories Act. The law implies duty on the employer in the performance of a contract to take reasonable care to insure the safety of the employees. The duty of an employee to take care is three fold.

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- 1 Safe plant and appliance
 - 2 Safe system of work
 - 3 Reasonably competitive employees

The duty to maintain safe plant and machinery and appliances means that all equipment, tools, machinery shall be reasonably safe for work.

The Government also has a duty to treat the employer with proper courtesy and to provide board and medical attendances. It is worth noting from here that the Government as an employer has no duty to provide accommodation unless there is a collective agreement to that effect. In all the Government has a duty to ensure that all the labour standards are upheld.

GOVERNMENT AS LEGISLATOR.

The Zambian Constitution vests legislative power in parliament, ¹¹which is the National Assembly acting together with the President.

In industrial matters, the Minister of Labour and the Labour Commissioner represents the Government. As has been noted in chapter 2, Zambia has ratified eight core Conventions. Consequently, Government has reacted by codifying these conventions into national legislation by the process of domestication.

The constitution provides under Article 19 (2) that;

“A person shall not be required to perform forced labour”

Furthermore Article 21 provides that;

“Except with his own consent, a person shall not be hindered in the enjoyment of his freedom of assembly and association, that is to say, his right to assemble freely and associate with other persons and in particular to form or belong to any political party, trade union and other associations for the protection of his interests”.

The Constitution contains some provisions of the international labour Conventions. For example Convention 87 on Freedom of Association and Assembly and Convention 105 on forced labour. The Constitution further provided that the provisions in the bill of rights are justiciable by virtue of Article 28, which states that.

If any person alleges that any of the provisions of Article 11 to 26 inclusive has been, is being or is likely to be contravened in relation to him, then without prejudice to any other action with respect to the same matter which is lawfully available, that person may apply for redress to the high court which shall

- (a) Hear and determine any such application.
- (b) Determine any question arising in the case of any person which is referred to it in pursuance to clause (2)

The implication of this Article 21 is that employees are free to join trade unions of their choice. Furthermore, trade unions can hold meetings without seeking for permission from the Labour Commissioner. However, to this there is a limit. That is freedom of association can be enjoyed provided that it is not against public safety, public morality, public order and public health¹²

The Government enacted the Minimum Wages and Conditions of Employment Act¹³ as a reaction to Convention 131, which is the Wage fixing Convention. It is worth

noting that this Act excludes public service employees from its application. It is mainly meant for the private sector whose activities are not governed by collective bargaining or where trade unions do not exist. However the Act can be used where a bargaining unit has failed to agree on a particular issue. As Darlington Banda¹⁴ rightly put it;

“The Minimum Wage and Conditions of Employment Act and the regulation made thereunder may provide a general guide in so far as what a minimum standard could be on any particular issue. This is in view of the fact that the Minimum Wages and Conditions of Employment Act and the regulations made under it are the basic minimum upon which the employer may improve upon through collective bargaining (where a trade union exist) or unilaterally (where employees are not represented).”

Government has also reacted to Convention 182, which is on worst forms of child labour by amending the Young Persons and Children’s Act.¹⁴ It has also set up a national standing committee on Child Labour on the worst forms of child labour , which has proposed that the Minimum age for employment of labour to be 15 years. There is a lot of controversy on this issue as different legislation gives different ages for minors as a contractual age.

Convention 144 has also been embodied in the Industrial and Labour Relations Act under Part X, which provides for tripartite consultative Labour Council. Convention 103 on maternity protection has been in the Employment Act under Section 15A

Government as legislator has played a major role in determining labour standards. However due to the economic status in the country the government has found it difficult to implement its policies. Good laws are needed enhance Labour standards. The government should therefore insure that good labour laws are enacted. Furthermore the government should ensure that it has a satisfied workforce, that way production will be enhanced

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 3. Sheila bone, **Osborns concise law dictionary**.sweet & maxwell) (2001) P320
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 13. CAP 269 1997
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 15. Darlington Banda **Employment law in Zambia**(fredriech ebert stifing) (1999)
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CHAPTER FIVE

RECOMMENDATION'S AND CONCLUSION.

To measure the real levels and equality of civilisation of any society, it is said that one should take a quick look at how it takes care of its most vulnerable¹. In Zambia among such groups are employees from the public sector or civil service. There are a lot of shortcomings with the labour standards in Zambia. This is despite the fact that as noted earlier, the Zambian Government has ratified the eight core International Labour Organisations Convention. This chapter will give recommendations on what can be done to improve the labour standards in Zambia. Furthermore it will give a general conclusion on what has been discussed in the other chapters of his paper.

We have evaluated in chapter one that the colonial governments policy for instance was based on serving sectional interests by using Africa cheap labour to entrench the productivity in industries which served the interests of the colonial masters. Very little or no regard was made to the said security and safety of the employees during all that period, the industrial relations policy of voluntary did not serve the interests of the workers because employers were always in stronger position to dictate the conditions of service. It was against that labour inequality that Africans fought for self rule in the hope that upon the attainment of independence there would be improved wages and standards of labour.

The essay has further established that the international labour standards play a major role to country which which has ratified the the ILO Conventions.

It has also been established that the government should have a role to play in the implementing of labour standards in a country. Governments intervention in the regulation of industrial relations is inevitable. However it should only be the degree and extent of intervention.

It was also been established that the MMD government has failed because they have gone into the extremity of privatisation in the area of industrial relations. It has been shown that the government should always maintain its role of legislator and employer. The ILO has set decent work for all as the goal for its own work.

The four pillars of decent according to the International Labour Organisation are employment opportunities, workers rights, social protection and representation.² The working poor in the formal sector experience the greatest deficits in decent work. They are the least likely to benefit from full time employment. Therefore to reduce poverty there is need to reduce the decent work deficits between those who work in the civil service and those in the private sector.

The national governments should recognise that employees in the civil service have the same rights as those in the private sector. The implementation of labour standards is particularly difficult due to the economic status in Zambia and therefore requires a special effort by Government. The first step Government should take however is to remove all legal obstacles to the organisation of work in the civil service for example, there should be no exclusion of statutes which may apply to different sectors of the society. In this regard the Minimum Wages and Conditions of Employment Act should be amended to include the civil service. There should be an Act, which stipulates what the minimum wage of the employees in the civil service should be.

MINIMUM WAGE

It has been noted above that the public sector in Zambia continues to be among the largest formal sector employers. Maintaining artificial low wages in this sector, therefore, has a very devastating effect on our national economy. These low wages tend to artificially lower national demand for many locally produced goods and service, thereby directly reaching prospects for real national growth, development and employment³. By providing a household with a living wage, employment can be best route out of poverty. In the words of Director General of the International Labour Organisation

. “It is precisely the world of work that holds the key for solid, progressive and long lasting eradication of poverty. It is through work that workers can expand their choices to a better quality life⁴”.

The beneficial effects to employment are undermined if workers are forced to tolerate unacceptable conditions.⁵ There is therefore need to have a minimum wage as only a minimum wage that meets the cost of basic necessities of life will stimulate real patriotism in many skilled and educated Zambians.

FAIR LABOUR STANDARDS ACT

There is need for a fair labour standards Act which clearly stipulates what the acceptable labour standards are. The problem is that the labour standards have been fragmented into different legislation this makes it even more difficult for employees to know what their rights are. A fair labour standards act would therefore make it easy for the unions, workers and employer to know what the labour standards are. As such the labour standards provided would not be below the minimum expected standard.

EDUCATION

To improve labour standards therefore, there is need for a literacy campaign of labour rights. There is need for education of the employees academically professionally and business wise furthermore there is need for a work force that is properly organised and disciplined. As has been noted above most workers do not know their rights. Educating them on their rights would reduce the possibility of the employer exploiting them.

EFFECTIVE CHILD LABOUR INSPECTORS

With regards to child labour, labour inspectors should be empowered to go in the field to monitor whether or not there is child labour prevailing in the civil service. This can be done by making them mobile and by giving them materials to work with. Furthermore there is no standard definition of the age of a minor. Different pieces of legislation give different ages. There is therefore need to have a standard age of a minor.

FUNDING

The ministry of labour is charged with the responsibility of ensuring that labour matters are dealt with accordingly. Both the labour commissioner⁶ and the organising secretary of the Civil Servants and Allied workers Union of Zambia⁷ acknowledged the fact that this ministry is under funded. The ministry of labour is a very sensitive ministry and therefore needs to be funded adequately. It needs manpower and equipment especially in rural areas where labour offices still have old equipment. There is therefore need for capacity building. Labour inspectors are a necessity in ensuring that labour standards have been adhered to. Without them ratification of conventions would be meaningless.

RESTRICTIONS ON THE NUMBER OF UNIONS

As was pointed out in chapter 2 there are a lot of splinter Unions. This is seen as a weakness. The failure of the Zambia Congress of Trade Union to spear head the working class organised labour resistance against the forces of oppression has led to the disintegration of the labour movement. The Zambia Congress of Trade Union has disintegrated into splinter Unions because it has placed so much faith in compromising the principles of government.⁸ From here it can be stated that the principle of “one union one industry” can be seen as an effective way of workers representation. It has however been argued that the principal of “one union one industry” is against the principal of Freedom of Association.

Trade Unions should therefore perform their functions in good faith. They should represent their members needs. Furthermore they should use sensible bargaining methods. It follows therefore that collective bargaining should be done in good faith.

Trade Unions should be seen to promote the rights of the workers. They should do everything in their power to ensure that the rights of their members are not suppressed.

GOOD GOVERNMENT POLICIES AND CREATION OF EMPLOYMENT

The government as has been noted above also play's an important role in determining labour standards as such it most create good economic policies which will make it easy to implement the international labour standards for example Zambia has a narrow tax base.⁹ For it to increase the tax base the government has to create more employment so that a lot of people can contribute to the Governments confers. It is worth noting that the Government is the largest employer and there are about four hundred thousand employees in the formal sector.¹⁰ The problem however is that the rate of income tax is very high. This creates a substitution effect, where the employees decide to do less work because they feel they are paying more tax.

The government should therefore find ways and means of widening the tax base. If this happens the government will not have to depend on donor funding and as a result will not subject themselves to unreasonable policies of International Organisation. For example the current wage freeze in Zambia is as a result of the policies of the International Monetary Fund.

From the foregoing it can be said that there is still a lot to be done to improve labour standards in Zambia. Zambia as has been noted earlier has ratified the eight core International labour Conventions, however the implementation of these policies leaves much to be desired. This is because of the economic hardships the country is

facing. The International labour standards are flexible to the level that they can only be implemented when a country has the means of doing so this is seen as a problem because even when countries ratify conventions, labour rights abuse is still prevalent.

OCCUPATION HEALTH AND SAFETY ACT

Zambia does not have an Occupation Health and Safety Act. There is a need to enact one. It should be noted that workers spend most of their time at work and so the environment in which they work in must be safe. As such an occupation and safety act must be enacted. Currently the law governing occupation, health and safety is the Factories Act which only applies to employees in factories. Hence the need to enact an Act which will be of general application.

This paper has given various ways in which government can improve labour standards in the civil service. There is a need for a happy and satisfied workforce to enhance the production levels.

Trade unions are a necessity to every working class. Without such the workers' demands would not be heard. Their aim is to ensure that labour standards are not only ratified but also implemented. They ensure that collective agreements conform to the labour standards.

The government should therefore implement good economic policies, enact good laws, ratify domestic and enforce labour conventions. This will enhance the labour standards in the civil service.

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