


**DECLARATION**

I MWEEMBA HUMPHREY COMPUTER NO. 99338425 DO DECLARE THAT I AM THE AUTHOR OF THE DIRECTED RESEARCH ESSAY ENTITLED.

**TRANSNATIONAL CORPORATIONS IN ZAMBIA & WORKERS WAGES: A CASE STUDY ON SHOPRITE.**

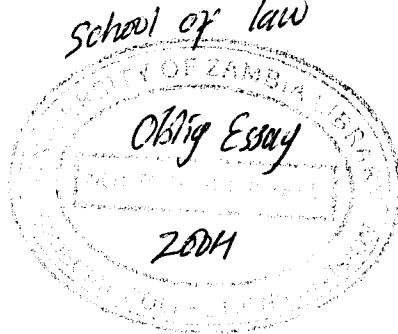
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STUDENTS NAME.....MWEEMBA HUMPHREY M.....

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DATE.....20<sup>TH</sup> DECEMBER, 2004.....





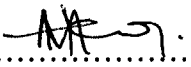
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SIGNATURE..........

DATE.....20<sup>TH</sup> DECEMBER, 2004.....

**THE UNIVERSITY OF ZAMBIA  
SCHOOL OF LAW**

I RECOMMEND THAT THE OBLIGATORY ESSAY PREPARED UNDER MY  
SUPERVISION

BY

MWEEMBA HUMPHREY M.

ENTITLED

TRANSNATIONAL CORPORATIONS IN ZAMBIA & WORKERS WAGES: A  
CASE STUDY ON SHOPRITE

BE ACCEPTED FOR EXAMINATION. I HAVE CHECKED IT AND I AM  
SATISFIED THAT IT FULFILS THE REQUIREMENT RELATING TO FORMAT AS  
LAID DOWN ON THE REGULATIONS GOVERNING OBLIGATORY ESSAYS.

DATED THIS.....*20<sup>th</sup>*.....DAY.....*Dec.*.....2004

SIGNED BY THE SAID PROF. C. ANYANGWE AS SUPERVISOR.

SIGNATURE.....*Camp*.....

## **DEDICATION**

### **BRENDA & MILTONS**

**For being the best mom and dad in the whole world. I especially dedicate this work to my late mom Brenda for ensuring that her son became what he is by providing the best that she could for me. I wish you could be there to see your son through all his successes.**

### **TRACKSONS & MARRION**

**For helping me out in all the moments that I have needed your help. You have always been there for me spiritually and physically.**

### **JACQUELINE & MILTONS JR.**

**For being there for me as a special friend and brother in particular. You have given the love and care that I will cherish for the rest of life. Continue receiving the blessings of the good Lord.**

### **ANNIE**

**To you my beautiful and loving sister, I pay my greatest tributes and utmost thanks for all your support and care for me through out my university education. You have really taken the place of our lovely mom. You are a very supportive sister. I love you.**

## ACKNOWLEDGEMENT

The preparation of this work owes much to a number of people without whose support and encouragement, would have led me into difficulties in the research and compilation of this work. To you all I say thank you and may you be touched by the Holy Spirit.

Special gratitude goes to my Supervisor, Professor Calson Anyangwe, who has critically analyzed my work, chapter by chapter, keeping me abreast to the need for clarity and invaluable offering me advice and considerable encouragement. I especially appreciate the fatherly attitude and care I have received from him. You are special professor.

I should also thank you Mr. Mweetwa Jerome of investment center for being the first to guide me on how to go about my research and for the assistance in some materials. I would be failing if I do not recognize the help of Mr. Kasonde Innocent, the Shoprite manager for Mazabuka branch for accepting to talk to me in his capacity as manager as it was not easy to obtain any information concerning Shoprite both from Lusaka management and Kabwe management to mention but a few.

My special thanks to my brother and friend Revees Malambo (Auto Force) for giving the very support I needed during my research both financially and physically. You are special to me. I need to mention my own lovely auntie Mrs. Annie Phiri and her lovely friend Auntie R.B. Chita for helping me with secretarial services that led to the completion of this work. I could have not managed without them. Thank you to you dear friend Taonga Milanzi for giving me the support I needed most in this my research.

I should say that thank you to you all, and everybody else that helped me even spiritually to get through with my work. You are a great pillar to my success. I LOVE YOU ALL.

Most of all I pay special tribute to the lord almighty that I am able to show appreciation for and that which I may have overlooked in my life.

The lord has been, is and continues to be:  
“...My shepherd, I shall not want,  
...I will not be afraid, because lord you are with me.”

Psalms 23:1-4

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## **ABSTRACT**

Wages are a matter of concern and importance in every particular country. Good wages are a source of happiness for most families. For this reason all countries attach importance to the issue of wages.

This essay is about wages by Transnationals operating in Zambia to their employees. It explores the level of wages in Zambia generally and particularly employs of Transnationals operating in Zambia.

The essay consists of four chapters. The first chapter provides for the Legal Framework under which Transnationals operate. This highlights the necessary provisions from the Investment Act Cap 369 of the Laws of Zambia. Chapter two discusses the method of wage determination that should be utilized. It also shows the poor wage trend in Zambia with Shoprite as the case study. Chapter three on the other hand considers wages from the human rights perspective.

It is the contention of this essay that the government of Zambia has not done enough in ensuring that workers in different industries are adequately wages. It is further the contention of this essay that the Zambian government itself does not pay its employees adequate salaries, which makes it difficult for government to promote a good wage system. Adequate wages by government would entitle it to claim the moral high ground from which to lecture the need to pay adequate wages.

## **INTRODUCTION**

Transnational Co-operations are now common phenomena in Zambia.<sup>1</sup> Transnationals have provided employment to many Zambians and this is especially appreciated if consideration should be given to Shoprite, which has currently about 1,048 stores employing about 6,725 people.<sup>2</sup> The company is a market leader in the retailing of food and non-food products. Its target the lower and middle income groups, concentrating on providing goods at the lowest price, in the cleanest shops on a cash basis.

The focus of this chapter is on wages – the wages paid by shoprite to its workers. Wages are basically an important aspect of the law of industrial relations in any given society. There are basically two methods adoptable in any society when it comes to consideration of how much is to be paid as wages to each and every individual worker.

### **METHODS THAT ARE EMPLOYED IN DETERMINING WAGES**

Under one system/method, the system has acquired the name of liberalization and the level of payment is left to be agreed upon between the employer and the employee.<sup>3</sup> Under the other method, the system has acquired the name of state control and the level of payment is decided by some means lying outside the control of the

employer and the employee. For example the level of wages is determined by the state.<sup>4</sup>

In Zambia, the system of wage control was employed in the Second Republic while the system of liberalization has been embraced in the Third Republic.

Whichever method should be adopted, the government should have a prime overall objective reflective of an economic character... which is to maintain and enhance the stability and production of its economy through the pursuit of four not easily recognized goals of full employment, price stability, a favorable balance of payments and protection of the exchange rate.<sup>5</sup> Consequently, the strategies within the Industrial Relations system can be seen as primarily intended to support the government in achieving its economic objectives.

### **THE SYSTEM OF LIBERALIZATION IN WAGE DETERMINATION**

The system of liberalization basically entails an economy that operates without any supervision by the state.<sup>6</sup> The state stands aside and lets economic processes take their natural course. It is contended that the laws of supply and demand will produce the levels of wages and levels of prices that are appropriate in the light of the totality of a nation's economic circumstances.

Where the system of liberation operates, there is absence of the law of industrial relations to regulate collective relations between employers and employees.<sup>7</sup> The state does not participate, but parties regulate their own affairs. Under this system the state says to the parties

***“Demand what you like, strike if you wish, stay out as long as you like, but do not forget, in the end, that you have got to eat. And do not forget, too that if you extract higher wages from your employer than he can afford to pay you, then he will cease to be able to compete with other industries, and will go bankrupt and you will be out of employment and will starve”.***<sup>8</sup>

The State says to employers:

***“Go ahead; pay what wages you like to your employees. But do not forget that if you pay too high a level of wages, your products will cost more than those made by other industries, and so people will not buy your products and you will go out of business. And do not forget, also that if you pay too low a wage, your workers will not stand for it, and will come out on strike, and disrupt your business. Or at least, they will drift away to other industries and you will be left without a workforce.”***<sup>9</sup>

Apparently, advocates of the above system of liberalization argue that the system has logic, which is compelling both in its coherence and its

simplicity. The system, with its checks and balances operates like the mechanism of a clock, with each movement having a counter balancing effect on some other parts of the system.

### **REASONS FOR SUPPORTING THE SYSTEM OF LIBERALIZATION**

The system has been supported not only on the ground that it is rational in terms of economic, but also on the ground that it is the system which provides the greatest degree of freedom within society. For those who support the system, enjoyed, the absence of interference by the State in the affairs of its citizens. It is asserted that this is freedom to be cherished.

A further argumentation is that liberalization not only maintains prices and wages at levels which are in accordance with a nation's economic capabilities, but also has the effect of tending to increase the prosperity of the nation as a whole. This is basically due to competition between employers that makes each to strive to produce a better product than his competitor and at a lower price so that sales of each product will be increased and profits enhanced. The result will be that prices will fall to the advantage of workers and, further, the money produced in the form of profits will be available for investment, so providing further opportunities of employment to those seeking work. Thus, it is contended that the system is, in accordance with the economic realities and that it encourages efficiency, fosters initiative promotes the national prosperity

and that it permits freedom and the system receives support on all these grounds. The foregoing tenets of liberalization were the basis upon which the Third Republic wished to base their economic and labour policies in Zambia.

### **THE SYSTEM OF STATE CONTROL AS A METHOD OF WAGE DETERMINATION**

Under the system of State control, wages are determined by the State or by machinery provided by the State. Under this system, since the state determines what wages are to be paid, workers are not free to claim what wages they choose, and thus, strikes are not permitted. Employers must pay no lower and no higher than the wages laid down by the state.<sup>10</sup>

### **SUPPORT FOR THE SYSTEM**

Advocates of this system start from the premise that within any given society a certain amount of wealth is available for distribution, whether in the form of wages, or of profits, the latter being available distribution to share holders (if capital remains in private hands) or for re-investment or for the payment to the state. Further, it is rational that the wealth within a society should be distributed in accordance with the Nation's needs. Including the needs of wage earners, the need for re-investment, and the needs of the state. Since the amount of wealth available is known by the state, and the state, being above sectional interests, is in a position impartially to determine a rational distribution of wealth, it is in a

Nation's interest that the state should make this distribution. Thus under this system, the state determines what wages should be paid, and determine also. If the system is carried to its logical conclusion, levels of prices and indeed all aspects of the nation's monetary affairs. The above are socialist tenets upon which UNIP government in the Second Republic based their economic and labour policies.<sup>11</sup>

### **REASONS FOR SUPPORTING THIS METHOD OF WAGE DETERMINATION**

Followers of the state control system claim that the wasteful rise of industrial strife is avoided and so also is the harshness that can result from permitting market forces to have free play. It is further claimed that the profits can be channeled into investment activities, which tend to increase the long-term interests of the nation. It is claimed that under this system, justice for all is more likely to be attained.

The disciples of state control point to the deficiencies and practical results of liberation and contend that under liberation, there is exploitation of the weak leading to low wages and oppressive working conditions. There is unjustifiable inequality of wealth and investment of profits in concerns, which produce high fields, put which do not necessarily serve the National interest. Under this system there is dominance of greed over considerations of humanity.<sup>12</sup>

The advocates of liberalization, on hearing the criticism that this system produces oppression of the weak, points of that in relative terms and the

economic position of all classes; including the poorest, has improved under the liberalization system. As a reaction to the critics advanced by the advocates of the state control system, the supporters of liberalization point to the shortcomings of economic systems regulated by the state. They argue that such systems are characterized with inefficiencies and waste resulting from the absence of the stimulus provided by competition, in those whose instinct is to act on their own initiative, there is proliferation of bureaucracy and the growth in the power of the state without attendant threats to democratic governance and personal liberties.<sup>13</sup> It is observable from the foregoing arguments above that the author concentrates on two methods of wages determination and that in most labour industries, wages are a matter of importance to an extent where they would enhance production if proper wages are given and may reduce production if wages are not properly given.

### **SUITABILITY OF THE TWO PROCESSES**

However, the two extremes presented above only portray apart of the picture. Between these two extremes could lay a variety of arrangements that incorporate some characteristics of each system. For example, a system that is based on state control may permit principles of liberalization to operate with regard to prices, the state determining wages levels but leaving prices to be determined by

market forces. Or the system may be posed on liberalization principles, but state control principles may be allowed to operate with regard to both prices and wages in certain parts of the economic. For countries it may have a system of total control by the state... and so is it with liberalized economies.<sup>14</sup>

## ENDNOTES

- 1 Some examples of Transnationals that are currently operating in Zambia with some force include Shoprite stores and Pep Stores that came to Zambia initially as PEPKOR group, Coca-Cola, Agriflora and many other more.
- 2 Data sourced from PEPKOR GROUP INVESTMENT LICENCE APPLICATION at P.7
- 3 Ibid P.9
- 4 Sichone. F. The Role of Government in Regulating Industrial Relations in a Liberalized Economy, 2000, University Press: Lusaka P.1
- 5 Ibid P.2
- 6 Riddall J.G. The law of Industrial Relations, Butterworth's (1981) P.2  
Fox, Industrial Sociology and Industrial Relations: Royal Commission Research Paper No. 3 HMSO 1966 P.2
- 7 Ibid
- 8 Riddall J.G, The Law of Industrial Relations, Butterworth's (1981) P.2
- 9 Ibid P.2
- 10 Sichone F. The Role of Government in Regulating Industrial Relations in Liberalized Economy, 2000, University Press: Lusaka P.5
- 11 Ibid
- 12 H.A., Clegg, Pluralism in Industrial Relation, British Journal of Industrial Relations, Vol. XIII, 1975. P. 309
- 13 Ibid
- 14 Roberts, A collective Bargaining with reference to the law on Collective Agreements and Collective Disputes in Zambia P. 10

# CHAPTER 1

## LEGAL FRAMEWORK OF OPERATION FOR TRANSNATIONALS IN ZAMBIA

Transnationals in Zambia operate as investors and therefore, have their operations guided by the provisions of the Investment Act Cap. 385 of the Laws of Zambia. Transnationals play a critical role in the growth of International trade and capital flows. "These huge business firms with their far flung net works of subsidiaries all marching to the drum of centralised global profit-maximizing decision of parent companies located in other countries present a unique opportunity and a host of critical problems for the many developing countries in which they conduct their businesses."<sup>1</sup>

The need for foreign capital is important for the enhancement of the economy of a developing country. With the recognised need for such capital, many developing countries put in place measures to ensure that foreign investors are attracted. This could be done through local legislation, which promotes and protects foreign investment or by concluding international Agreements with other states or Multinational Corporations (MNC) thereby creating a secure, stable and predictable environment for investment.

It must be stated from the outset that legislation is not the only factor that promotes investment in a particular country. There are other factors such as good physical infrastructure, political stability, cheap labour, high

literacy level, the geographical position of the host country and legal Law infrastructure of that country.

## **LAWS REGULATING INVESTMENT IN ZAMBIA**

However, this chapter will restrict the discussion to the Legal Infrastructure under which the investors operate. The investment laws are found in the Investment Act of 1993. The investors who wish to come to Zambia have the starting point as provided in Part III of the INVESTMENT ACT<sup>2</sup>. It provides that any person investing in a business enterprise may apply for an investment certificate provided that in respect of certain industries specified in the second schedule of the Act. "The Investment Board shall not issue an investment certificate to an investor until the investor obtains the necessary licences, authorisations or permits from the relevant ministry or body."<sup>3</sup>

### **APPLICATION FOR THE CERTIFICATE OF OPERATION UNDER THE ACT**

It is imperative to observe that an investor who comes to invest in Zambia can apply for an investment certificate in any industries except industries specified in the second schedule. These are industries that manufacture arms and ammunition, explosives, military vehicles and equipment, aircraft and any other military hardware. Industries manufacturing poisons, narcotics, dangerous drugs and toxic hazardous and carcinogenic (something likely to cause cancer) materials, any industry

producing currency, cars and security documents are part of the second schedule.

The investment code will ordinarily seek to define the kind of investment projects which foreigners will be permitted or encouraged to undertake. Despite the proclaimed "open door licences", no country will allow foreign nationals in all types of economic activity.<sup>4</sup>

It is also important to realise that certain types of investment should be best done by Zambians and need be done by Zambians. Therefore, the Zambia investment Act needs to close certain sectors of the economy to foreign investors and keep them for Zambians or local investors only. The importance of restricting certain sectors of the investment to the local investors lies in the fact that it helps to stimulate investment locally as the profits that are made are not repatriated but are used for savings thus creating a base for other local investors to borrow money from the banks. Moreover, usually such projects do not require a lot of capital hence the local can easily have access to the money.

### **CONTENTS OF AN APPLICATION FOR THE CERTIFICATE**

An application for an Investment Certificate must be made to the Director General of the Investment Centre<sup>5</sup> and should provide information on the identity of the applicant, proposed business, activity, financial aspects of the proposed project, the qualifications and experience of the applicant and his employees, information on technology transfer agreements to be

General of the investment Centre is required to forward applications to the Investment Board, which shall consider the application, and it shall reach a decision for granting or refusing an application within six weeks. In granting the Investment Certificates, the Director General must be satisfied that the business activity planned is not unlawful and is in the interest of Zambia generally.<sup>6</sup>

The Investment Certificate once granted, authorises the holders or holder to make all necessary arrangements for the commencement of business and contains the terms and conditions of the license and incentives, if any, subject to their being utilized within twelve months. Investment certificates have an unlimited period of validity.<sup>7</sup>

If an applicant for an investment certificate is aggrieved by a decision of the Board (that is they have rejected the application) he may appeal to the Minister subject to a further appeal to the High Court.<sup>8</sup> In fact a decision of the Board rejecting an application shall be accompanied by the reasons for the rejection.<sup>9</sup>

#### **OTHER IMPORTANT PROVISIONS OF THE ACT**

The Act also provided for the Amendment and Transferability of Certificates. Investment Certificates are transferable subject to the approval of the Investment Board.<sup>10</sup> The Board also has power to amend an investment certificate in circumstances where some other person has

succeeded to the interest of the license holder or where the name of the enterprise has been altered.<sup>11</sup>

The Board may suspend or cancel any investment certificate if the investor obtained it on the basis of fraud or transferred or assigned without the prior approval of the Board. The Board may also suspend or cancel a licence if there is failure without reasonable cause to establish the enterprises within the stipulated time or for non-compliance within the terms and conditions of the license of the provision of the Investment Act.<sup>12</sup> The Board may also extend the period during which investment is to be made or vary the amount of the investment. It is important to observe that the Act permits the holder of an investment Certificate, at any time during the validity of the certificate he/she is holding, incentives or conditions on which the certificate is held. The investment Board may grant or refuse to grant such application.

### **GENERAL INCENTIVES FOR AN INVESTOR**

The other relevant part of the Act to be considered which will help show the legal framework of operation is Part IV. Part IV of the Act provides for general incentives, which apply to any investor investing in a business enterprise Under the Act.

An Investor shall be taxed on that portion of Income, which is determined by the Commissioner or originating from the expert of non-traditional products at a rate of fifteen per cent.

An Investor shall be taxed on income received from rural enterprises for each of the first five charge years for which such business enterprise is called on, reduced by such amount as is equal to one seventh of that tax which would otherwise be so chargeable on such income.<sup>13</sup>

Furthermore, an investor shall be entitled to capital allowance, which shall be deduced in ascertaining gains or profits at the following rates:

- Buildings used for manufacturing of hotels qualify for a wear tear allowance of 5 per cent per year of the cost of the in the year in which building or hotel is first used.

A depreciation rate of 50 per cent per annum (in two years) for implements, machinery and plant used exclusively for farming, manufacturing or tourism; and

Capital expenditure used on farm improvements qualifies for farm improvements allowance of such expenditure.<sup>14</sup>

- Losses incurred (other than in running), payments made for the purpose of technical education and expenditure incurred on research are deduce able.
- Dividend declared from farming is tax exempted.
- Investors are permitted to establish bonded factories and

- Small-scale enterprises are tax exempted for three and five years for urban and rural enterprises respectively. Customs duty and sales tax exempt.

Furthermore a Small Scale Enterprise or a Village enterprise registered under the Small Industries Development Act Shall be entitled to the following incentives;

- Operating of a manufacturing enterprise for the first five years without a manufacturing licence required for such an enterprise under any law.
- For an enterprise with an investment plant and machinery of less than five million Kwacha, exemption from the payment of licensing fees required for such an enterprise under any law and
- Exemption from the payment of rates on factory premises for the first five years.<sup>15</sup>

Section 25 provides for double taxation agreements. It states: where a double taxation agreement exists between Zambia and another country, Foreign tax payable by an investor to the other country in respect of any foreign income shall be allowed as credit for that investor against Zambian tax in respect of that foreign income.<sup>16</sup>

Zambia has concluded a number of Double Taxation Agreements (D.T.As) with Botswana, Canada, Denmark, Finland, France, Germany, India, Ireland, Italy, Japan, Kenya, Netherlands, Norway, Romania, South Africa,

Sweden, Switzerland, Tanzania, Uganda, United Kingdom and the United States.<sup>17</sup>

D.T.As cover the avoidance of double taxation of the same income by two different tax authorities. D.T.A's also help in the prevention of tax evasion and fraud. "DTA's are important contributors to a good investment climate, both internally and internationally. Elevation or reduction of double taxation of income promotes International Capital movement, which should translate its increased foreign investment including in developing countries like Zambia.

DTA's helped create an atmosphere of certainty and predictability necessary for foreign investors financial projections. They give generally not only to a stable fiscal environment, but also to other benefits and advantages found in such agreements.<sup>18</sup>

Section 74 (1) Income Tax Act provides with a view to the prevention mitigation or discontinuance of the levying, under the Laws of the Republic and such other country or territory, of taxes in respect of the same incomes or to the rendering of assistance in the administration of and the collection of taxes under the income tax laws of the Republic and of such other country or territory."<sup>19</sup>

However this reduces on the so much needed revenue for Zambia as the tax is forfeited. The "classical source of revenue for any government is tax imposed on the activities of legal and natural persons including foreign

enterprises yet, it is from this liability that investors usually seek to be excused especially in the early stages of the enterprises.<sup>20</sup> It is also imperative to know that the capital and income flows permitted under DTAs may depart from the mutuality of benefits of foreign investment and Zambia by substantially reducing tax revenue intake.<sup>21</sup> Therefore when negotiating DTA's it is inevitable for Zambia to secure DTA's provision that do not undermine its efforts to attract foreign investment. The whole essence of DTA's (at best in Zambia) is to attract investment; it is merely an incentive.

Furthermore government granted tax rebates to particular investors for instance "the Investors of the mines on the Copperbelt have been given 20 years tax rebates."<sup>22</sup> The rationale for this is that since these investors invest a lot of their capital they need to recoup their initial investment. It must be observed that tax rebates are given only to foreign investors and not local investors. However it is difficult to reconcile the fact that a large amount of government revenue is derived from tax, but at the same time it grants such relief for a long time. Moreover these "foreign investors are exempted from paying customs duty on the equipment and machinery they import."<sup>23</sup>

Notwithstanding the provisions of the immigration and Deportation Act, an investor who invests a minimum of two hundred and fifty thousand United States Dollars or the equivalent in convertible currency and who

employs a minimum of ten persons shall be entitled to self employment permit or residence permit. The centre shall assist an investor who meets the requirements of subsection (1) to obtain work permits for up to five expatriate employees.<sup>24</sup>

## **REMOVAL OF CERTAIN INCENTIVES**

Statutory Instrument No.5 of 1996, which amended the 1993 Act, removed special incentives under the Investment Act in 1996. "Special incentives were removed because government was losing a lot of revenue from these incentives."<sup>25</sup> However those investors who obtained their investment licences before the repeal continue to enjoy these incentives.<sup>26</sup> Those include exemption from customs duties, sales duties and sales taxes a machinery and equipment (other than motor vehicles) required for the establishment, rehabilitation or expansion of eligible enterprises.

It has been submitted that the removal of special incentives has increased the cost of Investment for Investors.<sup>27</sup> Further it was stated that new investors are aware of the removal of the incentives, however, licence holders under the 19991 Act continue to have the incentive until the five years period has elapsed. 39(2) states that any registration done, or any other right or benefits accruing or any liabilities suffered under the Act, other than those specified in Section thirty seven, shall continue in accordance with this Act.<sup>28</sup>

## **INVESTMENT CENTRE AND ITS ROLE IN INVESTMENT**

Part VI provides for services, which the investment Centre offers. An investor may be assisted in identifying suitable land for investment. The investment centre also assists investors in applying to relevant authorities in obtaining water, electric power, transport and communication services and facilities required for investment. It also provides services and facilities required for investment. It also assists an investor in obtaining licence permits, registration or authorisation for the purpose of commencing or operating the business enterprise.

## **OTHER FORMS OF SECURITY FOR INVESTORS UNDER THE ACT**

Section 35 provides for protection against acquisition. "Nor property of any description shall be compulsorily acquired, and no interest in or right over property of any description of an investor shall be compulsorily acquired except for public purposes under an Act of parliament relating to the compulsory acquisition of property which provides for payment of compensation in respect thereof."<sup>29</sup>

Any compensation payable under the section shall be made promptly at the market value and shall be fully transferable promptly at the applicable exchange rate in the currency in which the investment was originally made without deductions for taxes, levies and other duties except where those are due.<sup>30</sup>

Section 36 provides for the transfer of funds, it states notwithstanding the provisions of any other written law relating to externalisation of funds, a foreign investor who has registered Foreign Capital with Bank of Zambia shall be entitled, in respect of a business enterprises to which Investment Certificate relates, to transfer out of Zambia in foreign currency and after payment of relevant taxes.

## **CONCLUSION**

Despite its inadequacies in certain areas, the Act provides Legal framework of investment laws in Zambia. It has been argued that the investment Act does not represent a comprehensive legal framework of investments laws in Zambia. This is because there are certain aspects of investment that it does not carter for. For instance the Mines and Minerals Act governs Investment with regard to mining minerals.

It is also a fact that it is not mandatory for any person investing in Zambia to obtain an investment certificate. In fact it is optional, it is a matter of choice whether or not to apply and obtain an Investment Certificate. The effect of this is that there are so many people in Zambia investing without an Investment Certificate.

## **Endnotes**

1. Michael P. Todaro; Economic Development in the Third World, 2<sup>nd</sup> Ed. Longman, New York, 1981 p.400.
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## CHAPTER TWO

The government that is supposedly in existence should take the role of balancing the conflicting tenets of state control economy and liberalized economy. It should act as the legislator, regulator and custodian of both national and sectional interests.<sup>1</sup>

In Zambia, it is undeniable that the state has liberalized the economy to an extent where labor laws have not been applied effectively. Shoprite in Zambia has shown a trend where the employer is able to put in place conditions of service and salaries as they choose for their workers notwithstanding the labor laws and the regulations patterning to the minimum wages and conditions of service code.

The question is how have the wages been determined for the employers of transnational in Zambia such as Shoprite for instance. A study carried out on shoprite has revealed a number of important factors about shoprite and the mode of wages for its workers. The table below shows the wages as paid to permanent workers.

**TABLE 1: SHOPRITE CHECKERS NEGOTIATED MINIMUM MONTHLY SALARY SCHEDULE, 01/07/2004.**

Basic	160 000 / R400
Housing	50 000 / R125
Travel	30 000 / R75
Medical	10 000 / R25
Lunch	10 000 / R25
Gross	260 000 / R650

Working hours are forty-five hours a week, excluding lunch hour, in a 6-day week. Including lunch hour the working time without overtime is fifty – one hours, from 08.00 hours to 17.00 hours on Monday to Friday and from 08.00 to 13.00 hours on Saturday and Sunday from 09.00 hours to 13.00 hours respectively.

**TABLE 2: GROSS SALARIES/WAGES REPORTED BY INTERVIEW SAMPLE**

			PERMANENT (SALARY)		CASUAL (WAGE)	
	M	F	M	F	M	F
Receiving Admin. clerk	2	0	540,000 (R1,350)			
Supervisors	2	0	400,000 (R1,000)			
Clerks (Admin., PIC two-way and Ordering cash-up receiving )	4	0	300,000 430,000			
Department controllers	3	2	304,000 415,000 (R760 – R1037)	210,000** 330,000 (R525-R825)	29,000 - 30,000 (R72 – R75) R304-R315	29,000 – 30,000 (R75-R85) R304-R357
Shelf packers, Cashiers, Storeman, Sales Assistant, till packers, parcel attendants, trolley controllers.	9	15	380,000? (R950-?)	516,000 (R1200– R1400)	280,000 (R70 or R294 p.m.	
	20	17				

The wage range for permanent workers in the sample was R525/R1400 .

The average wage for the sample was 369,000/R900. The average

Wage for men clustered around 389,800 kwacha and for women

around 271,000 Kwacha/R677, suggesting that women are paid lower than men in similar job Categories. But probably this would be justified Considering that the average used did not include females in the Categories of receiving admin. Clerks, supervisors and clerks (admin, PIC, etc)<sup>2</sup>

### **POOR WAGES OF SHOPRITE WORKERS**

There is a struggle for sheer bodily survival. They report that their salaries are used up by the fifteenth of the month. They do not have enough money for transport to get them to work. They are dealing with food but they themselves are starving at work.<sup>3</sup>

***"Before I started working for shoprite I used to admire my friends going for work, may be clean uniforms, you would see them on the till, some merchandising on the shelf so I used to admire such type of work. Even now I can't say I have any problems with my job. I like it as a shelf packer... I don't like the salaries of shoprite. They are just too low. I am getting paid 250,000 Kwacha) on average and I have to pay rentals up to 150,000 Kwacha. For the 100,000 Kwacha you have to eat and buy groceries up to the month end. It is really pathetic out here."***<sup>4</sup>

Not only did every single worker say the money was too little, over and over again they provided prices of their cost of living to show how their monthly salaries do not meet their basic costs.

***“I hate working for shoprite. I put in a lot of effort. I try to work hard to be an asset to the company but what I am given at the end of the month brings dislike working for shoprite.”<sup>5</sup>***

### **Working Hours:**

The first and most overwhelming way in which workers at shoprite made claims (Manda Hill) was at the scale of the body. All the workers interviewed saw work intensification, a central feature of global capitalism today as the most degrading and debilitating aspect of their work at shoprite.<sup>6</sup> It was immediate, physical pain that preoccupied them most, and which they insisted on talking about. Their physical fatigues were palpable. A calculation of overtime rates showed that they were working 60 hours per week on average. Shoprite relies on the extension of work hours to attain the requisite productivity from workers. Technological innovations that the company has in the pipeline will allow electronic monitoring of workers at check-out/tills – currently, however, most jobs are monitored by their output the cleanliness of the shelves, the off loading of trucks, the replacement of replenished stocks, the taste of food made in

the delicatessens. Food retailing has its own specificities in relation to work discipline. A significant portion of labor control rests on the formal subordination of labor; where external methods of discipline are used to secure the co-operation of workers.

Retailing also has a 'front and back' dimension. During the store's hours of operation, on going activities such as customer service, replenishing stock and cleaning are necessary, ordering, cataloguing, sorting and fetching stock often have to be done before and after the shop's doors have opened or closed.

The designated hours of the working day do not correspond to this 'front and back' dimension of the work. Where workers have responsibility for pricing or keeping shelves in order, they will need to work overtime to ensure the requisite level of efficiency. In terms of company policy, for example, sales assistants need to notify management three months before, of an expiry date. If they do not, the shelves may carry expired goods, leading to charges of South Africa "dumping".<sup>7</sup> Shoprite Management does not respond to this front and back retail peculiarity by enlarging its workforce. Instead, the working day is lengthened for the same number of workers. Multi-tasking also added to the fatigue of

workers. Cashiers complained that they had to do till-packing as well as packing shelves and cleaning the tills, baskets and aides.

One significant consequence in this extension of their working day that workers point to is loss of study time. Workers see further studies as an important requisite for personal advancement. By working so hard, they are too tired to study. Not only to their current condition unsatisfactory, but their future plans are also being jeopardized. Suffering now might make sense if reward was being postponed. However, work at shoprite was both destroying their present quality of life and sacrificing their future ambitions as well.

## **LABOUR LAWS IN ZAMBIA**

The conditions and poor salaries seen above are not as a result of shoprite operating in an environment where labor laws are not favorable to the workers. Zambia as a country has got laws safeguarding wages and conditions of service in working industries.

Zambia has got labor laws or simply laws governing employment in Zambia. Some of the laws that could be of essence to employers and employees if properly revised and adhered to include the minimum wages and conditions of employment Act<sup>8</sup> and the minimum wages and

conditions of employment.<sup>9</sup> Though these codes and Act in particular may not apply to certain unionized industries, there are still other laws like the Industrial Relations Act<sup>10</sup> which regulates labor in unionized industries.

The laws have not been adequately (properly) implemented in Zambia probably because the state has not played a role in ensuring that the laws are properly abided by. One suggestion attributed to the kind of reluctance by the government to implement those laws is that government itself has not been able to provide good wages and services or good conditions of services to its employees, it being the largest employer in the country. Therefore, there is a fear that once workers in the private sector start to get far better wages than the government employees, there will be problems in the government sector, hence the government deliberate policy to allow the private sector to abuse workers so that it remains to look a better employer as compared to the private sectors.

#### **PROVISION FOR PERIODIC WAGE INCREMENTS AND UNIONS: SHOPRITE**

Shoprite like any other transnationals operating in Zambia has the unionized workers not part of management represented by a union. This is by way of an agreement entered into by and between National Union of Commercial and Industrial workers (NUCIW) ("the union") and African

Supermarkets (T/A: Shoprite) "the company") which covers conditions of employment.

This Act or Agreement is to apply to "**all union members in good standing (eligible members as defined in the recognition agreement) in the company's stores within the Republic of Zambia, who are full time permanent employees of the company.**"<sup>11</sup> It further provides that "all conditions of employment based on statutory requirements and provisions will only apply in accordance with the relevant statutory requirement and for so long as the statutory requirement exists."<sup>12</sup>

In Section 3 (of the Agreement) there is provision of Redeployment of employees. Payment of Basic Salary/Wages comes in section 4 (4.1), which provides that. "**Basic Salary/Wage means the basic fixed hourly/monthly remuneration for the position for which the employee is employed excluding overtime and premium payments or any other allowance whatsoever.**" (4.2) of section 4 provides that the member will normally be paid the wage/salary due to him not later than the last day of the month expiring. Subject to the conditions laid down in this agreement relating to sick pay, leave pay and public holidays, the members will be paid only for days/hours.

## **PROVISSION FOR SARARY INCREAMENTS**

It is the same agreement that also provides for salary increments in the section headed salary review in section 5 of the agreement. It provides as follows Section 5.1 "Salary increments are not automatic but subject to negotiations in terms of the Recognition Agreement. In future, any negotiated wage minimum, increase or adjustments to allowances will be based on the performance of the company or store and may include turnover growth, shrinkages improvement, shrinkage level or improvement in profitability. In 5.2 it provides for review of salary and allowances "salary and allowances shall be reviewed once a year.

Further – 5.3 provides that "the company will not be obliged to adjust the allocations of monies to meet new minimum requirements for wages and allowances in accordance with any statutory amendments, for as long as the sum of the basic wage and allowances being paid is in excess of the new minimum requirements for the wages and allowances.

The Agreement further provides for various other things among them Acting Allowances in Section 6, probation in section 7 and transfer of allowances in section 8. It also provides for other requirements which are so detailed and not very relevant to the discussion but which are otherwise important as to the operation of the company.

The agreement above and some of the section highlighted are of significance to the chapter. This is evident that shoprite workers are unionized workers and the union is an affiliate of Zambia Congress of Trade Union in Zambia (ZCTU). This therefore shows that in terms of its bargaining power, shoprite is represented. As to the issue of provisions for wage increments, the agreement clearly stipulates that there is room for these increments though they may not be automatic.<sup>13</sup>

### **SHOPRITE AND PROFITS**

It is evident that shoprite is a successful company in Zambia making billions of profits of which it is not investing in anyway in Zambia. This is owing to the fact that workers who have always handled billions of kwacha have realized very little and they say the rest of the money is sent to South Africa. Poor wages could only be attributed to government's reluctance in intervening in the implementation of the labor laws in Zambia. Wage determination as shown could be on the basis of the liberalized economy where wages are left to be determined by employers. Zambians have no choice especially that jobs are difficult to come by a situation that has led to acceptance of whatever subjections are made upon them. The only solution could be by way of intervention by government to ensure that categories of workers are paid not lower than a certain amount of money considering poor economic conditions.

It should also be a matter of importance before establishing the method of determination of wages for one to understand the distinction between money wages, real wages, and labor wages or costs. Money wages are payments in cash, which the workers receive for their work.<sup>14</sup> Workers are not, however, interested merely in their pay but in the goods and services they can buy with their wages. These are known as real wages.<sup>15</sup> If money wages increase but the cost of food, clothing, housing and other necessities rises still more, real wages fall and the workers and their families are worse off.

Another important factor one requires to understand if the process of wage determination should reflect the reality of the situation is to be well informed with the growing complexity of public administration and economic and social structures for it is now more important than ever that workers – as well as other social groups should have a general understanding of the main issues affecting their own interests.<sup>16</sup>

## **METHODS OF WAGE DETERMINATION**

The basic problems of wages are the same in every country, but the days by which they are solved and the methods of regulation differ. In some

countries wages are often fixed by the employers and workers at individual undertakings. In others, they are regulated by collective agreements that apply to whole industries. In countries with planned economies the total amount available for wages is fixed centrally in accordance with the national economic program. Amounts are allocated to each industry and undertaking and the superintendents or managers of the undertakings arrange details for the different categories of workers. Representatives of the trade unions are associated to a varying degree with the different stages.

### **IMPORTANT FACTORS TO CONSIDER WHEN DETERMINING WAGES**

In wage negotiations the main questions considered are the following:

- (i) What amount is necessary to maintain or improve the worker's standard of living?
- (ii) How do the wages of the workers concerned compare with those paid to workers of similar grade and skill by other employers in the same or other industries?
- (iii) What wage can the undertakings or industry afford to pay?

Something that one should not forget to consider when determining

Wages are the nutritional requirements of a worker and his family, housing, clothing requirements.<sup>17</sup>

Other ways by which wages could be determined include accessing of Family budgets, that is to say, how much does a family spend in order to Survive in a month by way of considering every income of that family in a particular month regardless of where it originates. The total expenditure then, should be used to access how much one then requires for a living wage.<sup>18</sup> This would seem to be the appropriate method to use except for its disadvantage with regard to the fact that most families rarely keep every record of their expenditure and figures that are given are barely estimates of the money spent<sup>19</sup>, which does not reflect the real picture of what actually obtains.

Again what should include a living wage should be enriched or supplemented by the following:

- (i) It should be sufficient to purchase the minimum theoretical needs of a typical family, calculated in accordance with some more or less scientific formula.

- (ii) It should be sufficient to pay for a satisfactory basic budget, as revealed by a survey of actual family expenditure.
- (iii) It should be comparable with a living wage already established in similar circumstances.

In practice, all the three methods may be combined, each acting as a check on the others, one or more may be used according to the formation available.

Finally, common sense and local knowledge are indispensable in the interpretation of statistics, as it is obvious that there is no really reliable, objective or scientific method of calculating the living wage.

Wages should also at times be determined by way of comparing wages of one industry to another or industries of the same nature operating in different countries. Equal remuneration for work of equal value should also be applied to all grades of workers, skilled, semi-skilled and unskilled, and to men and women, relative wages would be fair.

Capacity of Industry to pay-wages and standards of living depend on the capacity or productivity of the Industry in question<sup>20</sup>. The most effective way of providing high standards of living is for industry to produce enough to satisfy these standards. If money wages are raised

too high, the result will be inflation

or (unemployment). Investigations here have shown that if all

Profits, except to amounts required to cover costs of depreciation, to

Pay reasonable rates of interest on invested capital and to maintain

reserves to meet contingencies, were divided among the workers, the

Sum available would usually raise their wages by only a small

Percentage. It is necessary to cover depreciation, pay interests on

Capital and maintain reserves if a business or industry is to survive.

Profits could also assist in helping determine worker's wages. The greater the profits, the more reasonable should be the package in terms of wages.

### **HOW HAS SHOPRITE APPLIED THE METHODS OF WAGE DETERMINATION**

It is evident with (the) most of the transnationals operating in Zambia that non-of the methods of determining wages mentioned in the above discussion has been employed. This is with greater regard to the fact that most of them especially Shoprite despite the profits that are made and the realization of the social and economic pressures of the country, they still pay low allowances or wages to the workers. This is evident from the rates as they are paid lower than K500, 000 which cannot even last two weeks in a house of a family with basic needs to be catered for.

It is therefore important that employers should be educated on aspects of wage determination and that Government should greatly intervene, notwithstanding, that Government itself as an employer pays low wages to its employees.

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## CHAPTER 3

### HUMAN RIGHTS AND WAGES

Human Rights have been defined as "**basic moral guarantees that people in all countries and cultures allegedly have simply because they are people.**"<sup>1</sup> Calling these guarantees "rights" suggests that they attach to particular individuals who can invoke them, that they are of high priority and compliance with them, is mandatory rather than discretionary.<sup>2</sup> Human rights are held to be universal in the case that all people have and should enjoy them, and to be independent in the sense that they exist and are available as standards of justification and criticism whether or not they are recognized and implemented by the legal system or officials of a century (Nickel 1992: 561-2). Nickel James further states that "**human rights aim to secure for individuals the necessary conditions for leading a minimally good life**".<sup>3</sup>

The doctrine of human rights rests upon a particularly fundamental philosophical claim: that there exists a rationally identifiable moral order, an order whose legitimacy precedes contingent social and historical conditions and applies to all human beings everywhere and at all times. On this view, moral beliefs and concepts are capable of being objectively validated as fundamentally and universally true.

## **INSTRUMENTS SIGNIFYING THE IMPORTANCE ASSOCIATED WITH HUMAN RIGHTS**

The concept of human rights had various theories attached to it, which led to certain important declarations. For example the concept of rights had become a vehicle for effecting political change. Though one could argue that conceptual prerequisites for human rights had long been in place, a full declaration of the doctrine of human rights only finally occurred during 20th century and only in response to the most atrocious violations of human rights, exemplified by the Holocaust. Article 25 of the Universal Declaration of Human Rights provides for a right to an adequate standard of living as being fundamental human rights.<sup>4</sup> The universal declaration of Human Rights only finally (occurred during) has been supplemented by such documents as the European convention for the protection of Human Rights and Fundamental Freedoms (1953) and the International covenant on Economic, Social and Cultural Rights (1956). The particular and specific aspirations contained within these three documents have themselves been reinforced by innumerable other declarations and conventions. Taken together these various, declarations, conventions, and covenants comprise the contemporary human rights doctrine and embody both the belief in the existence of a universally valid moral order and a belief

in all human beings possession of fundamental and equal moral status, enshrined with the concept of human rights.

The introduction above to the subject of human rights highlights a few aspects about the need for a human being to be accorded the best in life. For instance Nickel James's definition of human rights includes an important aspect of maintaining a minimally good life. This would only be achieved if human beings should be accorded enough basic income.

### **INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL & CULTURAL RIGHTS**

Conventions on human rights have also highlighted the importance of wages in every working environment. By the provisions of Article 7<sup>5</sup> it is evident that the aspect of proper and fair wages is emphasized. The provision provides as follows:-

***The states parties to the present covenant recognize the right of everyone to the employment of just and favorable conditions of work, which ensure, in particular.***

- (a) Remuneration, which provides all workers, as a minimum, with:**
- (i) Fair wages and equal remuneration for work of equal value without distinction of any kind.....**
  - (ii) A decent living for themselves and their families in accordance with the provisions of the present covenant;**

**(b) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.**

Fair wages in this respect should have a connotation of a wage that should accord somebody decent life able to meet the basic needs of the person involved. Therefore, if a wage paid to someone, cannot help him/her afford food, shelter and clothing, then it ceases to be a fair wage. There is then exploitation of human resource.

#### **UNIVERSAL DECLARATION OF HUMAN RIGHTS & WAGES**

In article 23 (3) of the Universal Declaration of Human Rights (UDHR) with regard to remuneration, it provides that "**everyone who works has the right to just and favorable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.**"<sup>6</sup>

This also shows the kind of importance attached to a proper pay that would sustain a family.

#### **ZAMBIAN APPLICATION OF THE HUMAN RIGHTS INSTRUMENT ON WAGES**

In Zambia, the case is however not the way it has been reflected above especially with Multinationals operating in Zambia. This is not withstanding the fact that Zambia is a states party to the two conventions. Could the reason be as a result of failure by the companies involved to raise enough to meet the necessary demands of

the workers, or could it be as a result of the state's reluctance in ensuring that human rights are protected? Wages for most workers in Zambia are not enough especially for those living in urbanized areas where the cost of living is rather high. Human rights demand that people should be dignified in the way of life and it calls for better wages capable of meeting at least the basic needs of a home.

Zambia as a country that advocates for the promotion of human rights should actually ensure that after becoming a states part to any of the conventions, it adheres to the principal requirements. There should be therefore laws formulated by the Zambian government that should ensure that wages are paid not to insult or sit upon rights, but are paid to help and promote better standards of living for all human beings. Human beings dignity is to be respected which should actually call for better wages as one of a guaranteed human right in the two conventions mentioned above.

### **INTERNATIONAL LABOUR ORGANISATION (ILO) ON WAGES**

Finding ways to ensure the payment of decent wages has been a fundamental concern of the International Labor Organization.<sup>7</sup> Therefore it has not only carried out tasks of setting international standards for labor protection, but also involves itself in ensuring that there is payment of proper wages to people. By laying down principles and standards in labor matters over the past 60 years and more, the ILO

has exercised pressure on the course of development of these structures, in favor of workers' welfare and social progress.

## **CONSTITUTION OF ILO**

The original constitution of the organization (ILO), established in 1919, listed "**the provision of an adequate living wage**" among the improvements in conditions of labor urgently required to combat social unrest and promote peace.<sup>8</sup> It specified as an objective for member states "**the payment to the employed of a wage adequate to maintain a reasonable standard of life as this is understood in their time and country**".<sup>9</sup> In fact the 1944 Philadelphia declaration concerning the aims and purposes of the International Labor Organization affirmed that "poverty anywhere constitutes a danger to prosperity (anywhere) everywhere' and advocated world wide programs that will achieve "**a minimum living wage to all employed and in need of such protection.**"<sup>10</sup> More recently, the declaration of principles and program of action adopted by the 1976 Tripartite world conference on employment, income distribution and social progress and International Division of Labor included a recommendation that, as part of a basic-needs development strategy, wage policies should "**ensure minimum levels of living.**"<sup>11</sup>

## **MINIMUM WAGE MACHINERY CONVENTION No. 26**

As one of the measures to be used to this end, the ILO has for many years advocated direct action by means of establishing legally binding lower limits to wages. The minimum wage Machinery convention, 1928 (No. 26) requires the creation and maintenance of machinery for fixing minimum wages in manufacturing and commercial trades, where no arrangements exist for the effective regulation of wages by collective agreements or otherwise and wages are exceptionally low.<sup>12</sup> This convention ratified in 1980 by 94 countries, has become one of the most widely accepted instruments of the ILO.

## **MINIMUM WAGE FIXING MACHINERY (AGRICULTURE) CONVENTION (No. 99) & No. 131**

In order to encourage the extension of wage protection to rural workers, the International Labor Conference adopted in 1951 the minimum wage fixing machinery (Agriculture) convention (No. 99). A further encouragement to the extension of minimum wage protection was given by the conference in 1970, when it adopted the minimum wage fixing convention (No. 131) which requires the establishment of minimum wage systems covering virtually all workers.

## **ILO INSTRUMENTS ON WAGES**

As has been shown above and still to be shown below, there are several instruments by ILO that basically reflect the importance attached to

wages. Wages have been given such great importance by the International Labor Organization such that it has advocated for a minimum wage to be paid to a worker which wage should sustain a worker with regard to the basic needs. An example of this is the minimum wage fixing machinery convention, 1928, C.26 which is a convention concerning the creation of minimum wage fixing machinery. This convention contains up to 11 articles of which the greatest emphasis is basically on the importance of having a minimum wage fixed that will ensure a standard living.

Another of the ILO instruments is basically a recommendation of 1928 concerning the application of minimum wage-fixing machinery which gives guidelines as to what should be done when a proper minimum wage has to be fixed. R 89 minimum wage fixing machinery (Agriculture) Recommendation, 1951 which recommends taking into account among other things, the cost of living, fair and reasonable value of services rendered, wages paid for similar or comparable value of services rendered, wages paid for similar or comparable work under collective bargaining agreements and/the general level of wages for work of a comparable skill in other industries in the area where the workers are sufficiently organized. This has actually been a

recommendation to C 99 minimum wage fixing machinery (Agriculture) Convention, 1951.

### **ILO INSTRUMENTS ON WAGES REGARDING DEVELOPING COUNTRIES**

The above stipulate the essence of wages and attributes the criteria of wage considerations based on various factors. As if these are not enough there are other conventions that ILO has put in place to ensure that matters in the area of wages are cleared without leaving any loopholes for manipulation and exploitation of workers. There is for example **convention of 1970 concerning minimum wage fixing, with special reference to developing countries**. The date of coming into force was 29<sup>th</sup> April 1972. The convention has up to 14 articles. The convention was adopted so as to ensure coverage of all categories of wage earners in all fields of employment. The articles actually subject non-compliance of wage laws to penal sanctions.

An accompaniment to this convention is the **Minimum wage fixing recommendation of 1970** which concerns minimum wage fixing with special reference to developing countries.

The apparent essence of all these conventions by ILO is in order to make systems of minimum wages both an effective instrument of social protection and an element in the strategy of economic and social developing of every country and its people effective considerations have equally been taken to the effect that minimum wage fixing should

in no way operate to the prejudice of the exercise and growth of free collective bargaining as a means of fixing wages higher than the minimum wage.<sup>13</sup>

It is clear from the above that wages have been accorded apparent importance by the International Labor Organization (ILO) and that member state of ILO should show an adherence to the submissions of these conventions. They require that wages shall be paid fairly to individual worker considering the kind of work, hours of work and the standards of living presenting in a particular environment. It is undisputable that in Zambia, the cost of living has apparently gone high a fact that should be considered whenever wages are in dispute.

The Zambian government should come to the Zambian people's aid to ensure that transnationals such as shoprite and other investors pay wages worthy meeting proper standards of living to people. Workers as it is now are being exploited not because the companies or employers involved cannot afford to pay better wages, but merely because the government has made the environment so conducive for the employers to pay low wages by not monitoring the wages being paid to the workers.

International Labor Organization demands better working conditions and wages to be afforded to the employees in whichever field of employment. Why then should Zambian which has acceded and

ratified most of the conventions on Labor fail/to honor these demands? The issue is that even the Zambian government itself has a major employing field offers very low wages to its workers. Where then does the solution lie for our Zambian employees? Whereas human rights demand fair and equal treatment, it has been, noticed that certain government officials are treated better than others. Even where the government's claims there is no money, money for other ventures is always found which in most instances, do not even benefit the Zambia people. The answer lies in change of attitude and formulation, implementation and enforcement of good labor laws.

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## **CHAPTER FOUR**

In this Chapter the focus will be on recommendations relating to possible actions that may be employed to address the problem of wages addressed in the preceding chapters. The chapter is structured as follows:

- (i) Summary of the preceding chapters
- (ii) Regional claims of Zambian workers
- (iii) Recommendations
- (iv) Conclusion

### **SUMMARY OF THE PROCEEDING CHAPTERS**

Chapter one only serves as a form of introduction to the legal framework under which Tran nationals operate in Zambia. This has been done by basically highlighting the relevant sections of the Act governing operations of investors in Zambia. It also highlights the policy of the government with regard to promotion of investment in Zambia.

Chapter two deals with methods of determining wages that should have been employed in Zambia which should have ensured that better wages are paid to workers of transnationals. Particularly Shoprite has been considered as a case study. The Chapter has also considered the possibilities of wage increments left within the agreements. It also looks at the system of bargain involved i.e. whether there are provisions for Unions.

Chapter three deals with (the) Human Rights and its provision on wages. Particular interest is on the two conventions or Declaration, which have provision on wages. The two instruments being the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights. It further deals with the International Labour Organisation (ILO) and what it provides for regarding wages. ILO conventions on wages have been highlighted.

### **REGIONAL CLAIM MAKING IN POST-APARTHIED SOUTHERN AFRICA:**

Regional claims are understood as the extent to which the demands of workers or strategies of management entail reference to either imagined or real shop floor practices.<sup>1</sup> Direct regional demands explicitly invoke the harmonisation of labour standards in the region, such as in the case with the trade Union movements. Indirect regional claims invoke South Africans, as the standard for the regional, were shoprite working standards are concerned.

Where regional analyses do exist, they are located within policy discussions on 'regional integration.' Narrow institutionalism limits these discussions to contractual relations that govern labour markets and the state. Institutional actions such as trade unions are the focus, with limited ethnographic and empirical information on new processes of regional working class formation.

The way that workers in one country compare themselves with workers in other countries is an important aspect of regional working class analysis. The concept of 'working class dispositions' highlights these cross-national comparisons.

### **REGIONAL CLAIMS OF SHOPRITE WORKERS (ZAMBIA)**

South Africa has emerged as a Universal standard for workers at Shoprite. South Africa pervades both the national and local lives of Zambian workers. While political independence and the struggles that emerged over the direction of the Zambian national economy brought an awareness of how important the national economy is, there is a sense that external assistance is necessary for the nation states survival. The economic prevalence of South Africa companies, as outlined earliest, means that South Africa has emerged as high up on list of external rescuer parties for the Zambian national economy. The eyes of workers are thus focused on their International Investors, who also happen to belong to the same geographic region, Southern Africa. With this regional geographical focus come particular regional expectations of how Zambian workers should be treated. This standard is set up with reference to South Africa standards.

Nations of fairness and justice are constructed by Shoprite workers with reference to South Africa, and the exclusion of workers from the perceived South Africa lifestyle and industrial citizenship of Shoprite has created feelings of frustration and regional exclusion.

## **REGIONAL WORKPLACE ORGANISATION**

Zambian workers claim that there is no centralisation of shoprites operations in Zambia. Ordering stocktaking and recording movements of merchandise is controlled centrally in South Africa.<sup>2</sup> While South Africa nationals are the top managers in the Zambian operations and in South Africa and most of the goods come from South Africa.<sup>3</sup>

Many workers believe that they would be better off if budgets and targets were controlled in Zambia. They believe that there is lack of empathy amongst South Africans for Zambian conditions because of lack of knowledge amongst South Africans. Centralization therefore works against the improvement of their work conditions.

The centralized nature of Shoprite's operations has an effect on work place relations on the Shop floor. Workers complain that the Zambian management refuses to answer their queries or complaints, saying that personnel-related issues are decided in South Africa.<sup>4</sup> This also applies to trade union negotiations, where South Africa Company representatives

are the key negotiators on behalf of the company. Workers find this disempowering as their complaints are stonewalled in this way.

The regional company is the place where their demands for fair working conditions should be met. Much of their sense of regional entitlement is market oriented. They work hard therefore, they should be rewarded and they should be paid the same as other workers in the company, especially South African workers.

Zambian Shoprite workers have knowledge of their South African counterparts through many means.<sup>5</sup> They have learnt that South Africa Shoprite workers are able to afford decent accommodation, cars and even have celebratory luxuries such as weddings using their salaries from Shoprite as the only income.

The question is could these differences about conditions of service and wages be as a result of (i) the fact that the company started in South Africa, (ii) that the national economy is stronger and the national currency is stronger, or (iii) Apartheid attitudes to black workers ensure amongst white South Africans managers, and that 'Boers' can not be trusted to treat black workers well. (iv) Or is it because of regional discrimination between countries, where workers in poorer countries are discriminated against, particularly a poor country of the region like Zambia. The other

reason attributed to his and (v) whether South African is more united and workers are willing to fight for their rights.

### **COMPANY – LEVEL CLAIMS: SAME CONDITIONS AS SOUTH AFRICA:**

Shoprite Manda-Hill workers believe that Shoprite – South African workers are able to afford cars and drive to work, whereas here in Zambia they cannot even own bicycles.

***“Here in Zambia once you are seen with a car, then you are a suspect of theft. They will definitely think you stole something from Shoprite.”<sup>6</sup>***

Workers in South Africa own houses and get loans from management look at someone working for five (5) years. There was an awarding ceremony. He has been given a bicycle, a fridge, a stove, but that has never been the case to Zambians ever since they came.<sup>7</sup>

Workers believe that they should get the same payment and conditions as workers in South Africa. Workers argued without exception that everyone who is part of Shoprite, who is “under the same roof” should be under the same umbrella as it were, meaning be treated the same. The geographical expansion of Shoprite shows that it is economically successful. However, the perception of workers is that South Africa, not Zambia, benefits from shoprite's investment.

## **CONCLUSION**

Workers are not making claims on the basis of regional entitlements. They are using a market principle. They are not demanding regional redistribution from the rich to the poor. They are saying Zambia should be given a fair, market-related opportunity to develop. Trade should be fair. They are saying that the company should give a fair day's work for a fair day's pay. In so doing, however, they want to discount National Variations.

The question is should the blame for the differences in both wages and conditions of services for Zambia Shoprite workers and South Africa workers be attributed to South African Management or Zambian Government.

## **RECOMMENDATIONS:**

From the brief summary of the paper and particularly from Chapter One, it may be deduced that the final product of the government's careless and unethical manner of implementing well – meaning policy has been a mammoth legal hitch or complication. If left unresolved, this may trigger unending complexities for the Zambian employees especially those working for multi national organisation such as Shoprite.

This paper proposes recommendations to what should be done to cushion the differences or disparities that exist between workers of other nations and workers of Zambia regarding the Transnational operations. The list of recommendations below could not be exhaustive and the application or adoption of each recommendation is necessarily dependent on the resultant implication of adopting it. The recommendation may include the following:

(i) **Enacting laws to address minimum wages.**

This could be done either by making amendments to the present code on Minimum Wages to the extent of allowing for the (Act) Code to apply even to unionised workers. The best however, is to introduce an Act which should stipulate a minimum wage to be paid to every employee depending on the type of work that is involved. If one is unable to pay, then there should not be a need to employ in order to exploit. An example of the criteria to be used is by way of considering wage determination methods discussed in Chapter Two. This code or Act should be enforced and implemented effectively, and it should provide for penalties to those who fail to abide by this code.

This however, should only apply to certain types of jobs of course excluding may be those involving house maids and garden boys plus a few Shopkeepers. It is evident that most investors in Zambia make vast profits that they should be able to pay at least not less than Five Hundred Thousand Kwacha to an employee. However, as mentioned above, minimal wages should only be fixed considering the criteria expounded in Chapter two.

(ii) **Setting up Serious Conditions in contracts of Operations considering Wages:**

It is not a matter in dispute that the government engages in contracts under which conditions are set regarding the operations of investors. The recommendation is that under these terms, should be terms stipulating the least an employee can be paid, again of course, considering the various methods of wage determination. This would especially work as an alternative to the first recommendation, which involves the enactment of the Act to regulate Minimum wages. The Investors should commit themselves to a certain minimum wage to pay to the employees in their companies. Investors should not be left completely with the freedom to chose what salaries they will pay to their employees. This could be one of the reasons why currently they are paying very

little in terms of wages to their employees. This is notwithstanding the amount of profits that they are able to realise from operations in Zambia. These conditions should be binding and should be taken as an important aspect breach of which would lead to termination and a further subjection to damages

(iii) **Settling up Conditions encouraging investment in Zambia:**

It is evident that most investors operating in Zambia have made millions and have deposited them all in the banks of their country of origins. Therefore, apart from what they are able to give to government with regard to the conditions of service, all other monies are instead invested in their countries, which work to the disadvantage of the Zambian government. It is therefore important that in addition to the above recommendations, government should also give conditions to investors as they come to ensure that they leave certain big projects in Zambia to benefit the Zambia economy. At the moment what is obtaining is that once an investor leaves Zambia, they carry with them everything without any trace of them even having invested in Zambia.

A suggestion is that all investors should be asked to invest by way of for instance, building roads in areas of operation, schools, clinics and other facilities that enhance development in a country. This would help because even as an investor leaves, these other

products of their investment should remain to benefit the Zambian people. This at the moment is not the case and serious considerations should be taken to ensure that this is implemented.

### **CONCLUSION:**

This paper revealed and analysed the prevailing problems that are eminent in relation to wages and condition of service for employees of Transnational and particularly Shoprite as a case study. The paper has revealed the necessary provisions of the Investment Act which provides a legal framework of operation for investors in Zambia. It expresses how bad wages have been paid and the poor working conditions of workers of Shoprite. Furthermore the paper has looked at methods of wage determination, the aspect of provisional wage increments and bargaining aspects of Transnational taking Shoprite as a case study.

Therefore, considering the analysis in the paper even the region claims, the government should consider implementing certain policies to ensure that proper wages are paid to individual employees of transnational Corporations. Human rights demand that individuals be accorded proper living standards. Obviously this could only be achieved where a proper income is attained. Government should ensure that Zambian Shoprite workers are treated in the same way as South African Shoprite Workers.

## END NOTES

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