

CHAPTER FIVE

5.0 RECOMMENDATIONS AND CONCLUSION

5.1 Introduction

This chapter outlines suggested recommendations that have been formulated in line with the issues that have emerged in the preceding chapters; and brings the discourse to a close by way of conclusion.

In view of the issues that have emerged in the exploration of the study of part-time employees, one key aspect that stands uncontradicted is the deep vulnerability to which this class of employees is subjected. The study has however, demonstrated that this differential treatment perpetuated by employers towards part-time employees is simply a mental fiction that attracts neither moral nor legal justification. The factors that might have given birth to the conception that part-time employees are an inferior class of workers have equally been laid bare. What therefore remains in the twilight of this study is to look at viable means of restoring the dignity of part-time employees comparable to full-time employees. It must be quickly mentioned that the suggested remedial measures are merely illustrative of what must be done and should in no way be construed as an exhaustive package of solutions to redress part-time employees' challenges.

5.2 Recommendations

5.2.1 Sensitisations on part-time employment

At the very core of all the measures that may be conceived in arresting the ills associated with part-time employment is sensitisation. Sensitisation brings about awareness with respect to the existence of a given state of affairs. Without sensitisation, even well-meant and properly

thought out interventions may not bring the desired results. However, sensitisation in this case is in the context of the discussion in the preceding findings. The discussion on the whole has established that the labour laws interpreted in their present form exhibit no trace of discrimination between part-time and full-time employees with regard to treatment and entitlements. What therefore, requires redressing is the mindset which is the birth place of the conception that there is a dichotomy between the two classes of employees. This redress can be achieved by mounting rigorous campaigns and sensitisation programmes targeting both employees and employers. It must be explained properly that breaking the mental barrier between the two classes of employees unlocks a plethora of benefits for both part-time employees and full-time employees as the discussion has already demonstrated. The Ministry of Labour and Social Security must spearhead sensitisation and awareness campaigns and take on board other strategic bodies such the National Pension Scheme Authority, among other bodies.

5.2.2 Increased funding

Inextricably bound to the above recommendation is the aspect of funding from the government. In order for these bodies to robustly carry out this role, adequate funding is needed to conduct campaigns which must be followed up with ferocious inspections of places of work and meting out of appropriate penal measures to extract compliance. The current alleged docility on the part of the labour commissioner is inimical to the demands of every citizen for social justice as the cornerstone for everlasting peace. There is therefore need for remodeling of functions and adoption of viable mechanisms that are result oriented in the above mentioned bodies.

5.2.3 Legislation enactment

The other inescapable measure that must be embarked upon borders on the enactment of a distinct piece of legislation to specifically address the plight of this class of workers. As already noted in the foregoing chapters, prior to the privatisation that began in the early 1990s, the prevailing policy of the government (the sole employer) was to hire an employee first for a six-month probationary period (as a temporary employee) and then on a permanent basis (as a permanent employee) until an employee retired either upon reaching 25 years of service or an age of 55¹. Nowadays, each individual employer has its own policy on hiring labour, and an employee might be hired on a part-time or a full-time basis (36 to 48 hours per week), on a 1-year, 5-year or open-ended contract; on a contract stipulating a salary or an hourly wage, on a formal or informal basis. In other words, at the very heart of the Zambian labour laws is an outdated Employment Act that recognises all the present employees as either working for the government or for parastatal companies because retirement at the age 55 is not strictly followed in the private sector as employers are free to employ on terms other than the permanent and pensionable basis. This situation can be comprehensively dealt with by way of enacting a specific legislation or revising the current labour laws. One may ask at this point as to why amend or enact specific legislation when it has already been mentioned earlier that the labour laws presently do not discriminate? The question of enacting or amending the present laws to specifically include peculiarities of part-time employment cannot be overemphasised. Firstly, the enactment of specific legislation to deal with this class of employees will once and for all put the debate as to legal protection of part-time employees to a close. In other words, the law will quell any form of doubt both in the present and the future.

¹ Section 18, National Pension Scheme Authority, No 40 of 1996

The danger with maintaining the status quo is that any argument that may arise regarding the entitlements of part-time employees is dependent on the interpretation of the courts for resolution. Admittedly, there is nothing wrong with this dependency on the courts for interpretation, but it is even better to take out the benefits and the entitlements due to part-time employees outside the realm of conjecture and speculation so as to attain the same clarity as those of full-time employees by clearly providing for such in an independent Act. Further, the Act can be an opportunity and viable forum to address other matters incidental to part-time employment such as measures to encourage or foster the development of flexible labour market and the benefit thereof as well as providing incentives for employers providing high quality part-time work on the same terms as full-time. Besides, enacting a law to provide for part-time employees as a distinct and vulnerable class in need of protection is in consonance with the standard practice in countries such as the United Kingdom, Canada and South-Africa. In the United Kingdom, there is enacted a law called Part-Time Workers (Prevention of Less Favourable Treatment) Regulations 2000. This is so, notwithstanding that part-time employees are covered within the meaning of the term “employee” in the primary labour legislation as the situation is in Zambia.

It must be further noted that the reason why the law in question in the United Kingdom was passed, was not necessarily that less favourable treatment was widespread, it was essentially to propel the development of a flexible labour market, encouraging the greater availability of part-time employment and increasing the quality and the range of jobs which are considered suitable for part-time employment and partly to end residual cases of less favourable treatment. It is therefore not superfluous at all to have an independent Act that addresses the plight of part-time employees in Zambia, especially if it also seeks to foster other objectives akin to the English model.

5.2.4 Advocacy

It is undoubtedly attestable that prudent labour laws provide a foundation for uplifting the quality of employment created as well as ensuring that employees extract a fair share of their toil. The promulgation of sound labour laws, however, requires intercession and advocacy from strategically positioned organisations such as the church and the civil society organisations and other interest groups. The church and the civil society organisations have a unique role in shaping the society in which respect for human rights becomes the common language worth of subscription. The church as an embodiment of the social teachings of Jesus Christ is expected to rise to the occasion and speak against the ills obtaining on the labour market. Civil society organisations can equally play a key role in lobbying for a change of attitude by employers on part-time employment among other issues. The voices of civil society organisations can undoubtedly spark response from government and provide a forum for consultation with a view to promulgating laws that have an embodiment of justice. Advocacy from both the church and civil society organizations is a key to creating a multifaceted response aimed at suffocating the ills attached to part-time employment.

5.3 Conclusion

It is not indispute that a perfectly competitive labour market is a key to the realisation of social justice and maintenance of peace in the world. This state of affairs, however desirable, requires genuine and legitimate efforts in both policy crafting and legislative interventions as recommended above. The finding that a given class of workers suffers unjustifiable discrimination at the hand of many employers must be a shared concern which must spark dialogue aiming at finding lasting solutions to this challenge. The ills attached to part-time employment is also a clear demonstration that the labour market cannot perfectly regulate itself in a manner that fosters equality and economic satisfaction among its players because of

the immense bargaining power wielded by employers. It is in circumstances like this that the government must prove its qualities of compassion and play its role effectively as independent umpire in the regulation of the labour market.

The discourse has brought to the fore misconceptions that accentuated the birth of the ills associated with part-time employment. Having therefore dismissed these fallacies that tended to perpetuate discrimination between full-time and part-time employment, it is important to address traditional disparities in pay and benefits between full-time and part-time workers which cause dissatisfaction among part-time employees. Part-time work must be encouraged and facilitated (especially on a voluntary basis), as it contributes to the flexible organisation of working time in a manner which takes into account the needs of employers and workers.

This discourse has shown that times have and service organisations have found and will continue to find it necessary to extend their hours to accommodate customer needs. Part-time workers have been a source of labour that has been used to fill these extended hours. It is therefore important to address traditional disparities in pay and benefits between full-time and part-time workers which cause dissatisfaction among part-time employees.

A part-time employee is in essence comparable to full-time workers and no preferential treatment must be encouraged. A part-time worker can be compared to a full-time employee where both employees perform the same work and under the same or similar conditions or each is interchangeable with the other in relation to the work. There are however, exceptional circumstances under which a part time employee may be treated less favourably. Such grounds must be objective. A ground would be considered as an objective ground for treatment in a less favourable manner if it is based on considerations other than the status of the employee as a part-time worker and the purpose of the less favourable treatment is to achieve a legitimate objective which is clear enough and such treatment is necessary for that

purpose. It must be made clear that part-time employment in itself is not bad. However, what becomes problematic is the “face” society tends to attach to it. It is undeniable for instance, that part-time employment may be a solution for better work- life balance, enabling parents to spend more time with their children while remaining in employment, on the other hand employers can adjust their resources to cyclical conditions over the course of a time period by using part-time labour.

The “watchword” in all these endeavours is that part-time work requires and must have a human face. The perception or the reality that part-time employment appears economically unstable and less secure as compared to the conventional full-time employment is an affront to social justice. A free market economy in which conscionable labour laws with moral values superintend and guide the labour market is not a far cry. A society in which employees and employers alike work enthusiastically in cooperation in the interest of industrial peace, greater efficiency and productivity to create a better Zambia for today and tomorrow is possible. It is notoriously true that man in his entire journey on earth appeals to certain indispensable virtues and among them is the pursuit of happiness. Happiness dignifies the gift of life and brings about fulfillment and self-actualisation. This is only possible with a fairly levelled labour market whose sole aim must be to uplift and restore the dignity of a Zambian employee. To underscore the importance of happiness in the life of mankind, the pioneers of the American independence, in their infinite wisdom decided to enshrine in the American Declaration of Independence and state:

We hold these truths to be self-evident that all men are created equal, that they endowed by the creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness.

The economic tides of the world may have evolved and will continue to do so. However, the common understanding of the dignity of work remains unshaken. It is therefore hoped that

the investigative abilities that have brought to the fore the fictitious difference between full-time and part-time employees will fuel constructive and rigorous scanning of the labour market with a view to redressing the imbalance between the two classes of employees.

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