



Trade Union Country Report

- Zambia -

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1. SOCIAL ECONOMIC AND POLITICAL ENVIRONMENT

1.1 Economic and Labour Market Development

The last decade was characterized by transformation of the Zambian economy from one where the state played the leading role not just in policy formulation but also in the ownership and management of industrial enterprises, to one with a highly liberalized economy. The economic transformation began in earnest in 1992 with the support of the IMF and soon after the election of the new Government led by the Movement for Multiparty Democracy [MMD].

The main thrust of the transformation and reform was the liberalization of the economy which involved the removal of deep rooted distortions created by earlier policies. The package of reforms included removal of the protection of the domestic market, as well as abolition of subsidies and all forms of controls – prices, exchange rates, interest rates, together with formidable monetary policy. It also included, more importantly, extensive privatization of state owned enterprises and elaborate reform of the civil service. Some of the key elements and objectives of the reforms included establishment of positive market determined interest rates, liberalization of foreign exchange market, elimination of chronic budget deficit, reduction of inflation, broadening tax base, improvement of revenue collection, liberalization of agricultural marketing, reductions of state control of the economy and allow the private sector to run businesses, attraction of direct foreign investment, liberalization of the labour market through appropriate reform of labour laws, and reduction of the civil service to improve remuneration and efficiency. A number of policy actions were thus taken and implemented in this regard. At the commencement of the privatization exercise, there was a working portfolio of 282 parastatal enterprises. Since then 258 enterprises have been fully disposed off and only 24 are under preparation as at 31st October 2003. Whilst the privatization had a vision that the proceeds from the exercise would be employed, among others, to support social and alternative income generating projects, redundancy schemes, and establish credit finance for emerging Zambian entrepreneurs, it would appear that very little support has been directed to this end.

Despite the transformation and reform, the economy remained depressed for much of the decade as reflected in the following table.

GDP GROWTH % (at 1994 Prices)

1992	1994	1996	1998	2000	2002
-1.7	-8.6	6.4	-1.9	3.6	3.0

SOURCE: MOFED Economic Reports [various]

According to data from the Central Statistical Office the labour force in the 1990s grew at an average of 3.8% annually. On the other hand, formal sector employment contracted from 544,200 in 1991 to 475,100 in 1997 and to 476,347 in 2000. In the face of labour force growth, depressed economy and contracting formal employment, the employment situation was bleak. With regard to gender, women continued to lag behind in terms of both numbers employed and were largely occupied in the low ranks and stereotyped jobs such as teaching in pre and primary schools, secretarial, nursing and clerical. An important development during the decade in relation to gender was the adoption by the Government of the National Gender Policy to promote equality between men and women at all levels of development.

Given the decline in formal employment, details of which are given in the table at Annex, the informal economy naturally assumed the main source of employment. Apart from young people leaving school and entering the labour market for the first time, redundant workers were also forced into the informal economy for sustenance and or simply to survive. The informal sector offers low quality jobs which are largely uncovered by employment protection legislation. Where they are covered, the legislation is timidly enforced. Income levels in this sector are low leading to low standard of living and high poverty levels.

The major effect of the liberalization programme in Zambia in terms of labour market was the large scale retrenchments and lay offs of workers arising largely from restructuring of Companies and work force rationalization measures aimed at improving the efficiency of Companies following privatization. The loss of employment also arose from the closure of inefficient enterprises that were not able to withstand foreign competition.

The Mining sector gives a good illustration of the drop in employment levels arising from the privatization programme and ensuing restructuring. In 1991 the Mining sector accounted for over 64,000 employees. Following the privatization of the Mining Companies, in 2000, the Mining and quarrying sector accounted for only 35,000 employees. The public sector was not spared from the loss of employment as a direct result of the public service reform programme. Between 1997 and 1998 an estimated 15,000 workers were declared redundant or induced into premature voluntary retirement.

In terms of trade union membership, the employment losses arising from the new economic policy dispensation obviously meant reduced trade

union membership. To counteract this, the Unions made inroads in organizing people in the informal sector.

1.2 Political Developments

The major political development that occurred in Zambia which had profound effect on trade unionism was the introduction of plural politics. The one party state was abolished with the amendment of the country's Constitution allowing for the establishment of other political parties other than the United National Independence Party [UNIP]. The trade unions were particularly instrumental in bringing about this political change and some of its officers held top positions in the new Government including that of State President.

The opening up of the political scene triggered agitation for similar let up in the industrial relations arena where hitherto monopoly trade unionism was the order. Hence in line with international standards on freedom of association, the law and practice were ultimately altered to also allow a plural dispensation.

In the one party era, the trade unions through their only central organization, the Zambia Congress of Trade Unions had close affinity with the Party, [UNIP] and participated in the various activities of the Party such as the General Conference and National Council where Party and Government policies were mooted.

This arrangement, whilst beneficial to the trade unions in that it afforded them the opportunity to participate in making decisions that affected their members or offered them a platform to be heard, also had the effect of compromising the Unions' independence.

Following the onset of multipartism, the trade unions resolved to adopt a neutral position in relation to political parties but vowed to work with the Government of the day. Since then, the trade unions have maintained a reasonable distance from political parties without impairing the right of their individual members to join or support a political party of their choice.

2. LEGAL FRAMEWORK AND PRACTICE OF LABOUR RELATIONS

2.1 Labour Relations: Overview and Recent Developments

The genesis of the industrial relations framework in Zambia, may be found in many International Labour Conventions. Of particular importance are Conventions No 87 and 98 dealing with freedom of association and the right to organize and collective bargaining. Although these important instruments were ratified by Zambia only in 1996, their provisions were largely incorporated in the industrial relations legislation much earlier. The initial thrust of the legislation was basically to provide protection to the vulnerable group in the employment relationship in order to create a level play ground for interaction. The legislation was tailored to allow for Government intervention in the labour market to assure reasonable terms and conditions of employment and the safety health and general welfare of workers in the era when trade unions were none existent or were ineffective and therefore incapable of providing counter-veiling force in the interests of workers. By passage of time and development of trade unions and employers organizations, it has become possible to progressively diminish the state regulatory mechanisms in favour of collective bargaining. Today there are only small pockets where collective bargaining is not felt.

2.1.1 LEGAL SITUATION

The basis of the legal framework for industrial relations in Zambia originates from the fundamental rights in Part III of the Constitution of Zambia and more particularly from a provision in Article 21 which in sub article (1) reads” no person shall be hindered in the enjoyment of his freedom of association.....and in particular to form or belong to any.....trade union for the protection of his interests.” The foregoing constitutional basis has been transferred and amplified in the Industrial and Labour Relations Act. The other legal instrument for industrial relations in Zambia are the Employment Act, the Minimum Wages and Conditions of Employment Act, the Employment of Young Persons and Children Act, and the Factories Act. In addition there are other relevant labour legislation whose details are given in the Annex.

The Industrial and Labour Relations Act (Chapter 269 of the Laws) was first enacted in 1971 (Act No. 36/1971) and replaced in 1990 (Act No. 36/1990). The current Act was enacted in 1993 (Act No 27/1993]. The Act provides the legislative framework for the establishment, organization and management of trade unions, employer’s organizations and their federations. It provides for collective bargaining, settlement of industrial conflicts, consultative mechanism and the establishment and operation of the Industrial Relations Court. In 1997 considerable amendments were introduced to accommodate, among others, the dictates of the liberalized political and economic environment. The changes entrenched the principles of freedom of association in accordance with the ILO standards and abolished the policy of “one union one industry” which promoted

monopoly trade unionism. The new arrangement also made it possible for enterprise level collective bargaining to flourish.

The Employment Act (Chapter 268) was first enacted in 1965 and is the basic employment law. It provides the legal framework for employment relationships. It provides for enforcement of contracts of employment, protection of wages and welfare of employees. This Act was also extensively amended in 1997 to take into account among others ILO Conventions which Zambia has ratified relating to minimum contractual age, termination of employment, protection of wages, and maternity protection. Concern has been expressed that there is insufficient protective provisions in the Act covering work people infected with or affected by HIV/AIDS pandemic. Consensus has since been built up for a need to incorporate protective provisions in this or other appropriate labour laws particularly with regard to discrimination.

The Minimum Wages and Conditions of Employment {Chapter 276) is an enabling law. The Act empowers the state through the Minister of Labour to prescribe minimum wages and other conditions of employment for sectors where collective bargaining is not possible or effective.

The Employment of Young Persons and Children Act provide protection to young persons particularly in occupations that are hazardous or injurious to their health, safety and development. Zambia has now ratified the ILO Convention No. 182 on the elimination of the worst forms of Child Labour. A review of this Act will therefore be undertaken to take account of and conform to the new ILO requirements.

The Factories Act provides for occupational safety and health in factories, construction sites and other workplaces. The Act empowers Factory Inspectors to enforce occupational safety and health regulations at workplaces. Concern has been expressed over the limitations of this Act particularly with regard to occupational safety and health in the agricultural sector and indeed other employment places falling outside the scope of the Act. Discussions to establish an all embracing occupational health and safety standards are progressing.

2.1.2 RECENT TRENDS IN LABOUR RELATIONS

Following the liberalization of the labour market some important developments have occurred. The free exercise by the workers of their right of association has manifested in the emergency of many more and often competing unions seeking registration and recognition. For the workers, multiplication of unions has meant fragmentation and weakening their ability to articulate and champion the workers cause effectively. For the employers, the multiplication of trade unions has made collective

bargaining cumbersome as the employer has to deal with a number of unions. In the education sector there are currently four Unions catering for more or less the same classes or categories of employees and all of them have been recognized by the employer as bargaining partners. The situation has been compounded by the refusal of some of the unions to bargain jointly. In the mining sector, previously renowned for stable industrial relations, new unions have emerged bringing in its wake recipe for potential instability in labour relations in this key sector.

In the implementation of the liberalized economic and labour market policies, a number of challenging key issues have emerged. These include notable reluctance of new investors to tolerate and deal with trade unions leading to preponderance of casualisation of labour and the use of contract labour. Other challenges relate to retrenchments and redundancies, non payment of benefits when due, and the effects of HIV/AIDS pandemic on human resources and its development. These are issues of grave concern to the Government and the social partners needing concerted attention and effort.

2.2 Establishment and Functioning of Trade Unions

2.2.1 LEGAL SITUATION

The Industrial and Labour Relations Act provides detailed provisions on the rights of employees in respect of trade union membership and its activities, the establishment and organisation of trade unions and indeed employers associations. In particular section 5 of the Act as amended in 1997 provides every employee with, among others, the following rights:-

- ❖ the right to take part in the formation of a trade union and to be a member of a trade of his choice;
- ❖ the right to take part in the activities of a trade union including the right to seek and hold trade union office subject only to the rules of such trade union;
- ❖ the right to obtain leave of absence from work for the purpose of taking part in trade union activities;
- ❖ the right not to be prevented, dismissed, penalized victimized or discriminated against or deterred from exercising the trade union rights;
- ❖ the right not to be a member of a trade union or be required to relinquish membership;

- ❖ the right not to be dismissed victimized or prejudiced for exercising the trade union rights;
- ❖ the right not to do work normally done by an employee lawfully on strike or locked out unless such work constitutes essential service.

The section further provides remedies for hindering the exercise of the foregoing rights. In addition it grants for autonomy of trade unions and their officers by providing protection against manipulation by employers or their agents such as through funding of such organizations. Similar overall rights with appropriate modifications exist for employers in section 37 of the Act.

Trade unions and employers organizations are required to seek and obtain certificate of registration. Provided they meet the basic procedural requirements, they are entitled to be registered and issued with a certificate empowering them to operate legitimately. The procedural requirements include the mode of application, conditions as to minimum number of persons necessary to constitute a trade union qualified for registration, and the content of trade union rules.

The right to form, belong to or holds office does not apply to employees in the Zambia Defence Forces, the Police and Prison Services, the Zambia Security Intelligence Service. Certain officers in the Judiciary are also excluded from the foregoing rights. These include Registrars, Local Court Justices, Magistrates and Judges. Other exclusions may also be made under the Act by the Minister after consultations and in agreement with the Tripartite Consultative Labour Council. So far no other exclusions have been made. The trade unions through their central organizations have agitated for lifting the exclusion affecting the Police and Prison Services so as to allow them the liberty to establish and/or join trade unions like all other employees. The proposal has not been supported by the Government.

In so far as Export Processing Zones are concerned, a law to establish these zones has been enacted but no such zones have so far been established although certain areas have been identified, and from pronouncements made by Government officials the zones may be exempted from application of the industrial and labour relations law. The possible exemption of normal; labour relations in the EPZs has not been received well by the social partners particularly that Zambia is a signatory to various international instruments on labor relations.

2.2.2 TRADE UNION RIGHTS IN PRACTICE

The responsibility for the administration of the trade union law reposes in the Labour Commissioner who is also Registrar of trade unions. His responsibilities include examination and scrutiny of Union rules prior to registration or any amendments made thereto. The rules are determined by the Union concerned but must contain certain basic provisions which include the objectives of the union and the classes of employees to be covered, the organizational structure, rate and collection of subscription which may include stop order arrangements, judicious application of funds, benefits accruing to members, appointment and removal of officers, inspection and audit of books of accounts, conduct of strike ballots and dissolution of the union. Where a Union is registered, its management is governed strictly by its rules and there is little intercession from the Commissioner. Apart from giving counsel to ensure due observance of the rules, the Commissioner is empowered to receive audit reports and information on financial affairs at regular intervals. This arrangement is intended to ensure that Union funds are handled properly and in the interests of the general membership. De-registration of a Union is rare and may occur only on the request of the Union, or if the registration was obtained by fraud or mistake, or the Union has wilfully violated the law, or the Union is literally dead. In any case before de- registration is effected, the Union must be given an opportunity to make representations and there is a right of appeal to the Industrial Relations Court.

2.3 Wage Setting and Collective Bargaining

Wage setting in Zambia is conducted largely through the process of collective bargaining under the auspices of the Industrial and Labour Relations Act. Every employer employing not less than twenty five (25) employees and the trade union to which his employees belong are required to enter into a recognition agreement. Under this agreement, the employer does not simply acknowledge the existence of such trade union, but more importantly undertakes to accept the Union as a bargaining partner. The agreement is a pre-requisite for regulating the collective relationship of the employer and the trade union. Similar relationships are required to be established between the employer's organizations and the trade unions as may exist.

Following the establishment of plural trade unionism in 1997 and the emergence of competing trade unions, the question of criteria for recognition has been topical and has been discussed at various tripartite fora. The law has so far not given guidance on the matter leading to difficulties in certain sectors. In many cases however the principle of "most representative" has been the standard.

Collective bargaining as a means of establishing minimum wages and conditions of employment has permeated the greater part of the workplace including the public service arising from tremendous growth in the institutions of industrial relations namely trade unions and employer's organizations. It can be safely estimated that over 50% of the workforce in the formal sector are covered or affected by collective bargaining processes either directly or indirectly.

Collective bargaining takes place at both enterprise and industry levels. In the recent past however industry level bargaining has tended to be shunned in favour of enterprise level bargaining which is considered more realistic as it tends to take full account of enterprise capacity. Industrial bargaining has been abandoned in the motor trade, banks and other financial institutions during the last decade.

Generally the Government does not interfere in the contents of collective agreements. The major determinant is capacity of the employer and negotiating skills of the Union. Provided an agreement is not contrary to any written law, the Minister will direct the registration of the agreement. Upon registration by the Labour Commissioner a collective agreement assumes legal effect and is binding on the parties.

In spite of the bias for collective bargaining enshrined in the Act, it is recognized that State intervention in the regulation of wages and other conditions of employment is necessary and inevitable in those areas or sectors where collective bargaining is not possible or is ineffective. To this effect, the Minimum Wages and Conditions of Employment Act enacted in 1982 provides the State with residual power to determine minimum wages and other conditions of employment. This power may be exercised only in circumstances where collective bargaining is not possible or effective. It should be noted that there is a requirement that in exercising the power, the Minister must consult and involve the social partners. In practice the Minister determines the terms on the basis of recommendations made to him and emanating from consultations with trade unions and employers organizations including their central organizations. There are two statutory wages determinations made under the Minimum Wages and Conditions of Employment Act covering shop workers (Statutory Instrument No. 3 of 2002), and a general determination (Statutory Instrument No. 2 of 2002). The general determination covers all employees except employees of the Government, local Councils, household domestic service, and more importantly employees in occupations where terms are regulated through the process of collective bargaining under the Act.

Senior and professional personnel are largely engaged on terms individually negotiated with the employer for renewable short term periods

ranging up to five years. Over the last decade, following the economic restructuring programme and establishment of new employers, the phenomenon of short term renewable contract employment as opposed to the so called “permanent and pensionable employment,” has become common place and extended to cover a larger scope including lower ranking employees. This development has riled trade unions which have viewed this as depriving them of potential membership and influence.

2.4 Dispute Resolution and the Right to Strike

In any system of industrial relations there must ultimately be a third party to assist the parties resolve their differences or to umpire in both individual or collective disputes. The maintenance of industrial peace is therefore a matter which any responsible Government must be concerned with. In Zambia this responsibility reposes in the Ministry of Labour and Social Security. The Ministry however appreciates that an approach based primarily on an attitude of waiting for events to happen is inadequate. The Labour Commissioner directly or through his field staff maintains close and continuous touch with both trade union leaders and employers on an informal basis to lend support and counsel to the negotiation process and assure satisfactory conclusion. It should be noted that though, the Commissioner has no specific legal power to intervene in collective negotiations, more often he is asked to intervene by one or both parties and both trade unions and employers have learnt to look upon this type of intervention with confidence and to welcome the opportunity which it provides to get out of difficulties.

2.4.1 LEGAL SITUATION

The legal provisions dealing with dispute resolution are largely contained in Part IX of the Industrial and Labour Relations Act. These provisions are in addition to the internal grievance procedures required to be contained in the Recognition Agreement for each undertaking. The grievance procedure should describe each of the stages for dealing with disputes in the undertaking from when an issue is first raised on the shop floor until it is referred to outside conciliation or arbitration. Time limit is usually given for moving from one stage to another. Apart from this and in terms of section 64 of the Employment Act, Labour Officers are empowered to intervene particularly in individual disputes.

In respect of collective disputes, the Act requires that such disputes, provided they are not in an essential service, to be referred to a conciliator or a board of conciliation jointly appointed by the parties to the dispute or

appointed by the Minister from a panel of conciliators established in consultation with employers and trade unions. If conciliation fails, the dispute must be referred to the Court for arbitration as in the case of essential service or the aggrieved party may conduct a strike or lockout ballot which may then commence ten days thereafter. Before the commencement of the strike or lockout the Minister of Labour may intervene to try and settle the dispute. Even after commencement of industrial action, the Minister may, after consultation with the Tripartite Consultative Labour Council apply to the Court for a declaration that the continuance of the strike or lockout, is not in the public interest. If the Court makes such declaration, the strike or lockout must cease forthwith and the matter in dispute will go to compulsory arbitration by the Court. Where the dispute involves essential service, such dispute must be referred directly and immediately to the Industrial Relations Court for arbitration. It is important to observe and note that although the law has provided for strike action; such action ought to be resorted to only if other avenues fail because of the disruptive nature of strike action to both the workers and employers. Furthermore such action must emanate from disputes “relating to terms and conditions of or affecting employment.” It is also important to note that industrial action is particularly proscribed in essential services. The essential services are as defined by the ILO and include hospital or medical services, electricity generation and supply, supply and distribution of water, sewerage, fire brigade and certain services in the mines. Alternative Dispute Resolution (ADR) encompassing private voluntary arbitration is also available particularly for individual employment disputes.

2.4.2 THE RIGHT TO STRIKE

Strikes and indeed lockouts are both recognized as legitimate actions that may be undertaken by workers or employers in furtherance of their dispute. However, such actions become lawful only if they are resorted to after due process and only if they do not involve “essential services” as previously defined. It is important to note that the right to strike is strictly limited to parties to the dispute. This means that sympathy strikes over political matters are not legitimate under the law. It is also important to note that no strike may take place after the Industrial Relations Court has given a decision.

Certain protective provisions have been incorporated in the Industrial Relations Act. These include the right of an employee not to do work normally done by an employee who is lawfully on strike or who is locked out, unless such work constitutes an essential service, and where a lawful strike or lockout, takes place, the existing recognition and collective agreement, if any, between the parties may not be deemed to have been breached by reason only of such action or the contract of employment of

each employee involved in the strike or lockout may not be deemed to have been breached only by such action.

In spite of the legal limitations on the right to strike, large scale strikes and many spontaneous work stoppages of short duration at enterprise level have nevertheless occurred designed to draw attention to poor working conditions and set in motion negotiations or conciliation.

In the recent past, the public service has been rocked by spontaneous strikes over failure by the Government to implement terms of a concluded collective agreement on payment of housing allowance. The matter has since been referred to the Industrial Relations Court.

2.4.3 INDUSTRIAL RELATIONS COURT

The Industrial Relations Court established under the Act is an extension of the dispute settlement procedure. The Court has original and exclusive jurisdiction in industrial relations matters and appeals to decisions of the Court lie to the Supreme Court on any point of law or any point of mixed law and fact. The Court has responsibility to do substantial justice to all matters before it and is therefore relatively free from technicalities that abound in ordinary courts. Subject to appeal, any decisions of the Court are binding on the parties to the matter and on any parties affected.

2.4.4 OBSERVATIONS ON DISPUTE SETTLEMENT PROCESS

It is often suggested that the legal framework for resolving disputes in Zambia is wieldy and therefore contributes to unrest. It is also suggested that because of increased work load which has multiplied since the dismantling of the parastatal sector was embarked upon in the early 1990s, settlement of disputes by the Court is inordinately delayed. It is further suggested that the delays in the Court are worsened by the involvement of legal practitioners. Whilst it is true that the workload at the Court increased noticeably following the dismantling of the large parastatal sector, the criticisms are largely without basis. Assiduous application to due process by all concerned can favourably mitigate the delays, whilst the training in the preparation, analysis and presentation of material by legal practitioners can contribute to a reduction in the time consumed in dealing with matters before the Court. Perhaps it's the attitude of the people involved rather than the procedures in place and institutions that have been created which cause difficulties. Furthermore the introduction of court driven mediation in 2002 is expected to reduce the workload of the Court allowing it to hasten the dispute resolution tempo. According to available statistics at the Court between September 2002 and October 2003 over 100 cases were successfully settled through mediation whilst 280 were pending.

2.5 Workers Participation at Shop Floor Level

The essence of worker participation at the shop floor level is to afford workers and employers at the level of the undertaking to consult on matters of mutual concern particularly relative to work and outside the scope of collective bargaining in order to engender cooperation and commitment in the interests of efficiency and good industrial relations. Prior to 1993, the Industrial Relations Act provided for the establishment of works councils in line with the political ideology of the period. The councils which were composed of representative of management and workers were founded on the basis of cooperation, collaboration and mutuality of interests and were to be distinguished from collective bargaining mechanism which is conflictual in nature. However in practice the roles of the two were blurred largely because of insufficient sensitization. Following the political developments that occurred in 1991, the works councils, and indeed party committees at places of work, were subsequently phased out. Today collective bargaining remains the major cornerstone of workers participation in Zambia. In some sectors, such as the financial sector, institutional consultative mechanisms have been established at enterprise level for purposes of consultations on matters of mutual concern falling outside the ambit of bargaining.

2.6 Trade Unions Representation in Tripartite and other Consultative Structures

At national level employers' and the workers' organizations through their national centres take part in a variety of consultative organs designed to advise the Government on economic development matters relating to determination of wages policy, the elaboration of labour law and issues of social security, safety and health at the workplace, vocational training etc. These organs include the Tripartite Consultative Labour Council and the National Economic Advisory Council. The social partners are also represented on various other organs such as the Boards of national social security institutions, the Technical Education and Vocational and Entrepreneurship Training Authority (TEVETA), the Privatisation Agency, etc.

The Tripartite Consultative Labour Council has been established under section 79 of the Industrial and Labour Relations Act. The Council is the most significant institution through which the tripartite partners discuss labour market issues and other issues of a social and economic nature particularly impacting on employment. The mandate of the Council as prescribed under the Act is "to advise the Government on all issues

relating to labour matters, manpower development and utilization and any other matter referred to the Council by the Government. It should be emphasized that the role of the Council is purely advisory. The Government is not bound by the decisions of the Council. This situation has been a bone of contention in the Council where the workers representatives have demanded that the role of the Council should go beyond being advisory. They have demanded that decisions taken by the Council should be binding on the tripartite parties. Whilst the law states that the Council shall advise the Government on matters referred to it by the Government, the Rules of Procedure as adopted by the Council make it possible for the Council to deliberate on matters emanating from the social partners. In this connection the Council has dealt with many issues impacting on labour whether directly or indirectly.

The Tripartite Consultative Labour Council is made up of an equal number of representatives of the Government, employers and workers. The members representing the workers and employers are nominated by the registered trade unions and employers organizations respectively. The Government representatives are nominated by the Minister of Labour who is the Chairperson of the Council. Three vice Chairpersons assist the chair person. Two of these Vice Chairpersons are nominated by the employers and workers respectively whilst the third vice chairperson is the Deputy Minister of Labour who is also the leader of the Government delegation. The Chairperson is empowered to invite officials from various Government departments, which deal with any issues before it. The social partners are also entitled to invite their advisors who may participate in debates but will not take part in final decision-making.

The Council is required to meet at least twice a year. For various reasons however sometimes the Council has failed to meet as required. The failure to meet regularly has been a major source of complaint by the social partners.

The Council has played a critical role in the process of reviewing labour laws and has generally afforded the social partners an opportunity to discuss many issues of mutual importance related to employment policy and its implementation. Early this year the council considered various proposed changes to the Industrial and Labour Relations Act and the Employment Act. These changes are likely to be presented to Parliament in the near future. The Council, through one of its subcommittees has also been involved in determining statutory minimum wages and other conditions of employment.

As regards the National Economic Advisory Council, this Council is a policy analysis forum and provides advice to the Government. The Council

is broad-based and provides a flexible forum with capacity to influence public policy and development issues. Both the Zambia Congress of Trade Unions and the Zambia Federation of Employers are represented and take part in the activities of the Council by high ranking officials.

Although the trade unions were and continue to be represented on the Privatization Agency, which is charged with overseeing the privatization process, it was evident that such representation had little impact in favour of the workers as these appear to have shouldered the brunt of the effect of privatization through loss of many jobs and livelihood.

3. TRADE UNION PROFILE

3.1 Trade Union History

Since its inception in the 1930s the trade union movement in Zambia has been instrumental in bringing about change. Its history stems well before the birth of African nationalist political parties. The two major industrial actions (strikes) it organised in 1935 and 1940 on the Copperbelt commenced a forceful struggle against industrial exploitation on the one hand and colonialism on the other.

When political parties emerged in the 1940s and 1950s they grew in tandem with the trade union movement and fought colonial exploitation together. Despite the many challenges that they encountered in their fight for emancipation, colonialism was defeated in October 1964. The labour movement had decided even before independence to work with progressive political parties in their struggle for improved working and living conditions; and above all their struggle for emancipation from the oppressive colonial regime.

Throughout the United National Independence Party (UNIP) regime, which in 1972 had decided to adopt a one party system of rule, the labour movement remained a viable force in the fight against repressive tendencies of the regime. This fight widened the gap between the ruling part and the labour movement as labour leaders were considered as threats by the ruling party. Therefore victimisation of labour leaders grew and most of them were arrested on trumped up charges in the 1980s following political upheavals. This however did not water down trade union determination to bring about change in the system. A number of industrial actions were taken following the continuing decline in the standards of living as the economy collapsed due to alleged mismanagement and decline in world copper prices.

The worsening economic situation and the dictatorial tendencies of the UNIP government towards the end of the 1980s forced the labour movement to play an instrumental role in the struggle for the return to multiparty democracy. The decision to spearhead the campaign for the reintroduction of multiparty political system was made at the December 30th, 1989 National Executive Council meeting. The decision culminated in the election of the then ZCTU Chairman General, Mr. Frederick Chiluba, in October 1991 as the second republican president. Mr. Chiluba's government embarked on a wide range of reforms under the IMF / World Bank Structural Adjustment Programmes (SAPs).

Before liberalisation, the Zambia Congress of Trade Unions enjoyed the monopoly of being the sole trade union federation, with the legal framework prescribing it to function as such. Before then, only 17 trade unions existed as the *on- industry-one union principle* guided the organisation of trade unions. Though this legislative provision facilitated the orderly conduct of industrial relations, it violated the ILO principle on Freedom of Association ; Convention 87 in Particular – which provide for the freedom of workers to form and join trade unions of their choice.

The ratification of ILO Convention 87 in 1996 necessitated the 1997 amendment of labour law in order to keep up with the provisions of the convention. This opened up the possibility of workers joining and forming trade unions of their own liking. The timing of this action was suspected to have just been aimed at weakening the labour movement as it came when trade unions resisted SAPs, due to their negative social effects and resistance to the regimes departure from the tenets of democracy. The opening up of the legislation is said to have given rise to the birth of splinter unions which later formed a trade union federation known as, Federation of Free Trade Unions of Zambia (FFTUZ) following differences after quadrennial congress elections.

In recent years, the labour movement has tried to reposition itself in order to be able to face the challenges of globalisation. Their structures, approach to issues, and policies have changed to conform to the changing labour market situation.

3.2. Membership Development and Union Density

Declining economic activities in the late 1980s and economic adjustment policies of the 1990s contributed significantly to the decline in employment levels in all sectors. CSO reports that formal sector employment declined from 543,300 in 1990 to about 476,347 in 2000 (CSO,2002).

Trade union membership has thus been on a downward trend. For instance, between 1990 and 1995, ZCTU membership dwindled from

477,000 to 274,000 or by 43%, due to neo Liberal policies. The drastic decline has been attributed to the privatization, liquidation and restructuring of public enterprises, and public service reform programmes which entailed the shading off of workers. The restructuring and consequent privatization of the mining conglomerate, Zambia consolidated copper mines (ZCCM), contributed significantly to the fall in trade union membership towards the end of the 1990s. The mineworkers Union of Zambia (MUZ), which was the largest ZCTU, affiliate lost membership from 38,000 in 1998 to 24,245 in 2002 (ZCTU, 2002).

Recruitment efforts of both new and old trade unions have not had much impact as the total number of jobs lost has been far much higher than those that have been created. Most sectors like manufacturing and mining are no longer vibrant. Agriculture which provided a lot of jobs for the formal sector, on the other hand declined significantly due to poor policy implementation and bad climatic conditions.

The HIV/AIDS, which in the 1990s had a prevalence rate of 20% in the adult population also contributed and continues to do so, to the downfall of the trade union membership. The teaching service, medical personnel, banking and transport sectors are among the worst affected.

The decline in formal employment has resulted the fall in the trade union density from between 70 and 80% in the 1980s to barely above 50% in the 1990s and thereafter. The fall in union density is attributed to changing employment practices to temporal/casual jobs, which do not fall under the legal requirement for unionisation.

The liberalization of the economy adversely affected women who occupied less paying low skill jobs. On the other hand youth unemployment has been on the increase as very few of the youth entering the labour force are able to find jobs in the dwindling formal sector. It is estimated that only 30% of tertiary education graduates manage to get employed in the formal sector in the first year after graduation. Employment creation has not been able to keep up with the rate of growth of the labour force. There has therefore not been any significant growth in women and youth participation in trade union activities. For the 26 ZCTU affiliates, only five have a female membership of more than 50%, and these are in the female dominated sectors (ZCTU, 2002).

With the decline in the mining and manufacturing sectors, the public service has become the stronghold of the labour movement. It boasts of more than 49% of the total trade union membership and the largest number of unions all together. The financial services sector has continued to decline due to among other factors, the introduction of new technologies, which are replacing labour.

3.3 Trade Union Structure

3.3.1 TRADE UNION CENTRES

The neo liberal policies which led to the liberalization of the labour market resulted in the creation of new and various structures. Splinter unions formed their own federation, FFTUZ. The FFTUZ had difficulties in registering as they had to fulfil a number of conditions that were required for them to be registered. Though FFTUZ was formed in 1994, it was not until 1998 that it managed to register as the second trade union federation. Of the five national unions that had disaffiliated from the ZCTU after the 1994 quadrennial elections, only one did not return by 1998. The ZCTU is the largest of the two federations with about 90% of the total trade union membership base.

The FFTUZ draws most of its members from unions that for various reasons chose to disaffiliate or break away from ZCTU affiliates. A number of these unions have been formed due to among others things, dissatisfaction with the services provided by original unions, political interference and selfishness among trade union leaders.

Generally the labour movement in Zambia is autonomous. Their general practice has been to work with any political party in powers. No trade union organization has any direct links with any political party, though individual members are free to belong to parties of their choice.

The federations have established offices with full-time and part-time workers. The ZCTU has its head offices in Kitwe with one regional office in Lusaka. FFTUZ only has an office in Lusaka. They both have regional or grass-root structures which, however, have no established offices due mainly to financial constraints. The location of the ZCTU head office in Kitwe has some historical explanation as the labour movement was born on the Copperbelt and had most of its members there in the early days. However, the increasing need for the trade unions to interact with government and other cooperating organisations (most of whom are in Lusaka) has made it expensive for the national centre in terms of travel costs. Though the Executive Board and other higher bodies have decided that the head office move to Lusaka, this has not been done due to lack of an office building and high accommodation costs for members of staff in Lusaka.

National unions or affiliates in most cases have head offices with regional officers in provisional centres. All the trade union centres have

established their activities along the line of rail, which stretches from Livingstone, in Southern Province to Chililabombwe on the Copperbelt. The railway line was established in pre-colonial days to serve as the export route for copper and import route for raw material. Major economic activities evolved along this line. Therefore most workers are found in regions along this line and this justifies the concentration of trade unions along this line.

There has been increased collaboration between the two federations, especially in tripartite consultations. Affiliates also collaborate at various occasions and in collective bargaining as indicated in the earlier mentioned case of public sector unions, which formed an alliance in fighting for improved conditions of service.

3.3.2 INDIVIDUAL UNIONS

The Civil Servants and Allied Workers Union of Zambia (C S A W U Z) is the largest trade union with a membership of about 35,000 in 2002. This union organizes its members in most public service institutions which include government ministry head offices, provincial and district offices health and semi-autonomous government institutions. Other big public service unions have an average membership of more than 15,000.

Professional workers unions form the smallest unions as only a few professionals are unionised because most of them are in middle-management and have rather gone without unions. The other contributing factor is the fact that trade unions are perceived as organisations for the less educated by most professionals. The average membership therefore among professionals is about 200. The Zambia Union of Financial Institutions and Allied Workers (ZUFIAW), which is the biggest affiliate of FFTUZ has however about 5,000 members most of whom work in banks.

Public sector Unions are the well organized and stronger than those operating in the private sector. This is due mainly to the large size of the work force in the sector and the existence of similar structures. Private sectors unions have had a tough going especially after the liberalization of the economy, which saw the coming in of new investors, most of whom have practiced anti-union tactics. Organisers have confessed of facing the hardest resistance in the private sector, as most owners of capital are more profit oriented and view unions as a hindrance to its drive.

The difficult economic situation that most unions are in has prevented them from employing full-time employees, as they cannot afford to maintain a work force of any size. Most unions are run by some of the elected officials such as the General Secretary and his/her deputies. At enterprise level shop stewards are responsible for trade unions activities.

The small unions though do not have offices, as their incomes are too low to sustain even the cheapest offices.

3.3.3 RELATIONSHIP BETWEEN TRADE UNIONS AND AFFILIATES

The general practice in terms of relationship has been the autonomous existence of affiliates. Federations in most cases are not directly involved in the running or decision making structures of their affiliates. National centres mainly provide advisory, training and reconciliatory services to their members. And when need arises, especially during quadrennial conferences, provide them with financial support.

Since affiliates are the 'owners' of national centres, they provide the financial, leadership and institutional support. Their ability to do so has however been reduced by the reduction of their membership which is their main source of income.

3.4 Internal Organisation and Finance

3.4.1 DECISION MAKING STRUKTURES

Trade union organizations in Zambia have similar organizational structures. They in general have a congress as the highest decision making organ which meets every after four years. This is where top leadership is elected and constitutional and strategic decisions are made. Usually this organ is comprised of selected unions leaders of various union structures.

The quadrennial organ is followed by other executive bodies in the hierarchy, which are responsible for the running of specific union activities for specified regular periods shorter than four years. In most cases, these executive bodies meet more than once in a year, as specified in Constitutions of individual unions. However, the day-to-day running of union activities is usually in the hands of the General Secretary/Executive Secretary with two or more of his/her elected assistants. Most decisions are made by these people though here is a provision for decision making by officials at lower structures to a limit extent.

Each individual union's constitution specifies the role of each organ and the frequency of its meetings. There is generally strict adherence to the provisions of constitutors especially when it comes to the frequency of meetings. This is only hindered by the scarcity of financial resources. Important decisions are made by the central authorities but there is little or no room for personalisation of decision making as leaders account for their decisions at meetings of executive organs. Usually no critical decisions are made by smaller organs.

Though the number of women in top leadership has not grown significantly, some part of the leadership structure. The majority of women in trade union decision making structures occupy positions with less responsibility. In the ZCTU Executive Board of 10 elected officials, for instance, only 2 are women and both are trustees. The FFTUZ has however got a woman as president, though the executive is also dominated by men. Only two national unions, the Zambia Union of Financial Institutions and Allied Workers (ZUFIAW) and the Hotel Catering and Allied Workers Union of Zambia (HCAWUZ) have female General Secretaries. The trade union movement has however come up with women structures which, known as *Women Committees*, seek to narrow the gender imbalance. The FFTUZ on the other hand has realised the under representation of the youth in trade unions and have thus come up with a Youth Committee which like the women committee is responsible for the integration of youths in trade union structures.

3.4.2 STATE OF INTERNAL DEMOCRACY

The trade union movement in Zambia provides one of the good examples of democratic institutions in the country. Elections are generally held on a regular basis, in a free and fair manner with little or no reports of malpractices and external influence. The 1990s which gave rise to the birth of splinter unions, though had problems of malpractices as external forces tried to control the internal operations of unions. Decision making is also usually done through consensus; with the majority taking the day.

3.4.3 ORGANISATIONAL STRENGTHS AND WEAKNESS

Not many trade union organisations have the capacity to sustain their day-to-day activities, better still the engagement of full-time staff. The ZCTU and some of its major affiliates, nevertheless, have a strong composition of full-time staff who assist in the delivery of services to members. When need arises external consultants and academics are used.

The organisational strength of trade unions therefore is the existence of a base of qualified personnel and its ability to collaborate with other institution with personnel of other disciplines than those of union staff. The biggest weakness has been the lack of resources to attract and retain highly qualified and experienced personnel, like lawyers. This in some cases results in the payment of high fees when external consultants are engaged; and sometimes lack of provision of some services to members due to lack of personnel.

3.4.4 FINANCIAL RESOURCES

Falling total union membership as a result of declining economic activities, retrenchments and HIV/AIDS have in turn contributed to the fall in trade union incomes. Many trade unions have had more than a 30%, some up to 60% decline in their incomes. This has equally contributed to the decline in the total number of services provided to members.

Membership subscriptions remain the main source of income for most unions, including national centre. Though the proportion may have declined due to economic factors, subscriptions are still an important source of income. Trade union members generally subscribe about 1 to 2 % of their monthly incomes. Between 70% – 80% of the total subscriptions go to national unions and rest is usually remitted to the trade union centres or federation.

External support from cooperating organisations such as the FES, ACILS, LO-Norway, FNV, FGTB, SASK, CTUC to name but a few, has sustained some of the activities of trade unions which could have collapsed with the fall in income from subscriptions. Very few trade unions have alternative viable sources of income generating ventures due to the lack of initial capital to set up such ventures.

The liberation of the labour market affected the due shop order system. Employers do not automatically remit union dues to trade unions, as was the case in the past, but unions have to do the collection. Most trade unions therefore spend a lot of their resources collecting the dues. This has contributed to the increased cost of collecting dues and has contributed the lowering of the real value of the total collection.

The dawn of democratic governance with emphasis on transparency, in the trade union movement, has contributed to improvement in the financial management of trade union funds. The current system obliges union officials to account regularly for all the funds and to be prepared to reveal the accounts to the general membership. On the other hand, reputable external auditors audit the accounts. This has minimised or wiped out fraudulent financial management practices. Cases of mismanagement of union are sternly dealt with and have in most cases resulted in loss of union positions by leaders found wanting. On the other hand, the Industrial and Labour Relations Act obligates trade unions to submit their audited accounts to Ministry of Labour for the monitoring of the management of financial resources. In the past trade union were also obliged to notify government of any requests made for external support but since the liberalisation of the economy, this is no longer the case.

3.5 Services Provided

3.5.1 INDIVIDUAL UNIONS

Within their mandate, individual trade union organisation provide a wide range of services, though this has been hampered by numerous internal and external factors.

The services that unions provide to their members include:

- Negotiation for improved working and living conditions through collective bargaining
- Advocacy and campaigns against violation of labour and human rights, and bad governance, etc.
- Representation at various levels in numerous organs such as works committee, constitutional review commissions, etc.
- Training of members in a number of social, economic, political and trade union issues
- Provisional of social services such as skills development for informal economy workers, through relevant structures set up such as the Concept for Informal Sector Employment Promotion (CISEP).
- Workers' education
- HIV/AIDS training

Limited resources have hampered the capacity of trade unions to provide adequate services to their members, as they have to divide the little resources between competing needs. In certain cases, for instance, they have to rely on external resources to formulate a position through consultants. Lack of such resources sometimes evaporates trade union position on certain issues in policies, as they cannot always afford to engage consultants.

3.5.2 TRADE UNION CENTRES

The trade union national centres are dogged by similar problems as those of individual unions or their affiliates. Because they rely on their affiliates for subscriptions, trade union centres have equally been affected by falling membership levels which in turn has affected the provision of services to the general membership. The ZCTU therefore, rely on cooperating partner's resources for service provision. In the recent past, there has also been an there has been increased cooperation between employers and workers' organisation particularly in the training of workers. An example is the joint HIV/AIDS training programme being run in close collaboration between employers and trade unions.

The programmes run with support from cooperating partners include:

- Budget analysis

- PRSP and domestic and global socio-economic policy
- Gender mainstreaming and child labour
- Research training
- Occupational health, safety and environment
- Organisation and recruitment
- Industrial and labour relations
- Collective bargaining and negotiation skills
- Lobbying skills
- Governance and democracy
- Information and public relations
- International labour standards and labour legislation
- HIV/AIDS
- Leadership skills etc

These programmes are meant to strengthen the capacity of trade unions in engaging with other stakeholders on issues of concern. The ZCTU uses both its members of staff and consultants in conducting these training programmes.

National centres also provide other services to their affiliates, which among other things include representation of workers interests at various levels. They sometimes participate in bargaining for improved working conditions, job creation, programme, campaigns against violations of workers rights, etc.

The ZCTU's services extend beyond those that are in formal employment. To this end, an informal sector intervention wing (Concept for Informal sector Employment Promotion – CISEP) was formed in 1998 with support from FES and STEP-IN. The approach used by CISEP to reach the informal economy include among other things:

- Creating general awareness before and after retrenchment
- Creating essential business awareness
- Facilitating psychological/behavioural change pre and after retirement
- Creating initiatives, developing creativity and responsibility
- Re-skilling, retraining and imparting new skills, etc.
- Providing training in basic business management
- Facilitating formation of association
- Providing coaching and counselling, etc.

Currently CISEP has three offices: Lusaka, Kitwe, and Chingola. The Kitwe office, which is based at ZCTU head office, received further support from DED which seconded one of its experts, Dr. Georg Heidenreich, to serve as Retrenchee Advisor.

ZUFIAW, an affiliate of FFTUZ, uses a different approach in reaching out to the informal economy. It has established an informal economy desk which registers former members who are in the informal economy and through brochures, publicise their activities/products to current union members and other workers, thus creating a market for their products.

3.6 Government-Trade Union Relations

The trade unions in Zambia are independent and free from direct government interference. The general policy of trade unions is to support or work with any political party or government in power. However, they play a significant role in the political system of the country. As earlier mentioned, they offer checks and balances to the government.

The labour movement also offer advisory and reconciliatory functions between the ruling party and the opposition. There has been good collaboration between the trade union and opposition groups. A typical example is the formation of the Oasis forum, in which trade unions actively participated. This forum was formed to oppose the Chiluba government from amending the constitution to allow for third Term for incumbent President. The trade union has, on the other hand, worked with government on issues of national importance such as acceptance to serve on the Constitutional Review Commission and participate in the National Convention when other parties refused to be part of the process. Their justification for participating has been the need to have worker's views taken on board.

Though the trade unions have been allowed to operate freely, their relationship with government is not always without confrontation and intimidation. The poor working conditions in the public service and unfavourable labour laws are always a source of conflict between the two parties. The recent public service strikes, for instance, contributed significantly to the difference between government and unions. Government viewed trade unions as being unrealistic when it failed to honour the payment of housing allowance as agreed in the Collective Agreement. Therefore a lot of intimidation of trade unions leaders and threats of deregistration if they continued their industrial action as it was considered illegal.

Trade union organisations in Zambia have managed to remain independent and are able to voice out their position against government because they don't receive any funding from government. They earn their resources through membership subscription and cooperating partner support. In the 1990s though, it was suspected that in order to weaken the labour movement, government was behind the formation of splinter unions

and some of the internal problems of trade unions. This allegation cannot however be proved.

The Zambian government generally has a neutral attitude towards trade unions and sometimes side with them in times of conflict with employers. However, this attitude and support, is not guaranteed when government is the culprit or it is their preferred investor in conflict with workers. The government sided with employer even when the employer was wrong by not paying worker services charge as prescribed in the law of the land. Government, usually threaten unions with deregistration if it feels it cannot meet their demands

3.7 The Role and Importance of International Cooperation

The labour movement in Zambia owe a lot of appreciation to genuine international cooperating partners who have through the years continued to offer material and technical support. The decline in trade union incomes that followed the fall in membership following the privatisation, liquidation and restructuring under structural Adjustment Programmes, would have led to the paralysis of the labour movement in Zambia. However, international cooperation has kept the labour movement fully alive and able to provide vital services to its members.

ZCTU's external cooperating organisations include:

- Norwegian Confederation of Trade Unions (LO-Norway)
- Friedrich Ebert Stiftung (FES)
- American Centre for International Labour Solidarity (ACILS)
- Japanese International Labour Foundation
- Netherlands Federation of trade Unions (FNV)
- International Labour Organisation (ILO)
- International Confederation of Free Trade Unions (ICFTU)
- Commonwealth Trade Union Council (CTUC)

Almost all programmes that the ZCTU offer are supported by external cooperating organisations through North-South trade union and other bilateral support. These programmes include:

- i) Administrative and organisation support - LO-Norway
- ii) Child Labour – LO IPEC
- iii) Economic Literacy / Budget analysis – FES /ACILS
- iv) Globalisation /NEPAD / PRSP – FES / LO-Norway / ICFTU-
AFRO
- v) Industrial Relations - FES

- vi) HIV/AIDS – ICFTU-AFRO/FES/JILAF-RENGO
- vii) Research Training –ICFTU-AFRO
- viii) Gender – FES, ILO, FNV etc.

The outlined programmes continue to contribute to the strengthening of the trade union movement in Zambia. The programmes are mainly aimed at enhancing the aptitude of trade union officials in order for them to effectively represent the general membership and participate in various national and international fora.

International cooperation therefore has positively impacted the trade union movement as it is able to provide some of the services that it would not have provided had it had no external funding considering the decline in resources. Training programmes have helped in the widening of trade union scope of understanding, interpreting and engagement in different fora, even well beyond trade union horizons. Similarly, external exposure has enabled trade union officials to share experiences and come up with joint programmes aimed at addressing common programmes.

The only weakness with international cooperation is that it is usually not well coordinated, thus leading to duplication of activities. The cooperating organisations do not consult each other on which aspect of trade union activities to support leading to certain activities receiving more support while others, which may not be donor priorities, are left unattended. Some donors dictate where their resources are to be directed. This also contributed to lack of focus on priority issues on the part of trade union organisations.

FFTUZ's external cooperating organisations include:

- WSM of Belgium through the World Confederation of Labour WCL
- Democratic Organisation of African Workers Trade Unions (DOAWTU) based in Lome, Togo
- International Labour Organisation (Strengthening Labour Administration in Southern Afrika, SLASA)

The programmes supported by the above organisations include:

- i. Collective Bargaining – ILO SLASA
- ii. Sensitisation of membership – DOAWTU
- iii. ILO Norms – DOAWTU
- iv. Capacity Building WSM
- v. Mediation – ILO SLASA

4. PROBLEMS AND PROSPECTS

4.1 Internal Organisational Problems and Trade Union Response

The rapidly changing labour market environment has brought a number of challenges to the labour movement. The liberalisation of the economy coupled with privatisation resulted in a substantial decline in trade union membership. This weakened the labour movement's strength and financial capacity as it draws most of its income from membership subscriptions. The lack of sufficient resources limited or reduced the number of services that trade unions are capable of providing to the general membership.

In the same vein, very few unions have been in a position to attract and retain well-qualified personnel, who can assist in the formulation of viable responses to policy issues. The political authority is usually overloaded with a lot of work and thus don't find time to draft union positions and policies. Therefore very few unions has policies on issues that affect their members such as labour policies, HIV/AIDS, Social security etc.

Due to lack of sufficient resources also, small trade unions like the United House and Domestic Workers' Union of Zambia (UHDWUZ), Airways and Allied Workers Union of Zambia (AAWUZA), Bankers Union of Zambia (BUZ) etc have difficulties to afford office space or engage full-time technocrats. This makes it even more difficult to contact these unions as they rely on individual officials' phones and workplace addresses. They are not just there sometimes. It is also difficult for some of the unions to regularly call for constitutional meetings as they do not have the resources to do so. Others delay the holding of elections and are only bailed out by grants from the federations.

The birth of splinter unions has also weakened trade union solidarity as they sometimes make conflicting demands or statements. Due to this fragmentation, calls for industrial action sometimes do not yield favourable results as not all members will participate because they belong to different trade union organisation. Attempts to amalgamate the fragmented small unions, especially those in the same industry, have not been fruitful as some trade union leaders are scared of losing positions. They would rather struggle as small entities. This is personalisation of organisations. The smaller unions have thus no capacity to deliver services other than just representing workers at work places

Growing anti-trade union tendencies and divide-and-rule tactics by employers have also resulted in the weakening of trade unions as some employers promise those workers who do not join trade unions good conditions of service. As a result, some do not see the reason for being unionised. Then there are those that just enjoy being free-riders or benefiting from efforts of their colleagues without being trade union members.

The gender gap in trade union membership and leadership is another great challenge that unions need to address. Statistics show that women are under represented in trade union structures. Though efforts to address this problem (like establishment of Women's Committees) have been put in place, there is still need to address the gender problem through affirmative or deliberate action of co-opting women into the trade union leadership structure.

4.2. External Challenges and Trade Union Response

Most of the challenges of the labour movement in Zambia are a result of external factors; which are caused by among other things:

- ***Unfavourable Labour Laws***

The amended labour laws do not adequately protect workers from violations of their rights from employers. One of the reasons for amending the Laws was to make them conform to the dictates of a liberal system. This has given employers, especially new investors, a leverage to violate workers' rights at will. Some of the new employers have taken advantage of loopholes in the labour laws by running away from the obligations that go with long-term employment by using casual labours. And because the law no longer makes it an obligation for employers to recognise trade unions, there has been growing anti-union tendencies among new investors, some of whom are on record of abandoning workers without paying them terminal benefits on repatriation or closure.

The current labour laws are also weak on the engagement of expatriate staff by new investors and the differences between their incomes and those of local staff. Most new investors have taken advantage of the situation by recruiting their nationals in management positions and paying them heftily, compared to local experts of similar qualifications and experience.

- ***Loss of Membership through Retrenchments and Redundancies***

As alluded to in section 3.4, trade union strength has been affected by the reduction in membership numbers due to neo liberal economic policies. The strength of a trade union lies in numbers; therefore reduction in membership means that trade unions have little impact in terms of action to force out their demands from employers. Their diminished resource base also means that their capacity to offer comprehensive services has been constrained, and therefore have to rely on external support to offer even the basic services.

- ***HIV / AIDS***

The high HIV / AIDS infection rates among the productive age groups have impacted negatively on labour in terms of productivity and medical costs. For the trade union, the challenge lies in the resulting loss of membership through the death from the pandemic. On the other hand, trade union resources are wasted when they lose leaders to the disease in whom they invest a lot of resources in terms of training.

- ***Growing Informal Economy***

The growing informal economy as a result of shrinking formal economy employment continues to pose a great challenge to the labour movement which has to find ways or means of intervening. The informal economy is diverse and has numerous problems such as rising reports of violation of workers' rights which requires the trade union movement to extend its coverage to include informal economy workers. Regrettably, the current legislation on provides for formal employment workers to join trade unions and most constitutions of trade unions have similar restrictions. On the other hand, there is need for the trade union movement to participate in providing retrenched workers with services such as skills training. All these require extra resources, but coincide with the general fall in resources.

- ***Lack of National Policy on Employment***

The lack of a national policy to help direct the activities of the labour market has also posed a great challenge to the labour movement. This lack of policy makes it difficult for trade unions to follow up government on a number of labour issues as things are done unsystematically or without aiming to achieve any goal. Monitoring and evaluation of labour market performance is a near impossible thing with no guiding policy.

- ***Economic and Social Policy and the Attendant Policy Measures***

Most national policies have little content of the safe guard of jobs or their creation. Restructuring of the public service, for instance, accounts for more job losses than those created. The PRSP on the other hand has no comprehensive outline on how more jobs are to be created. It is only hoped that the policy measures it contains will also lead to employment creation.

- ***Lack of Genuine Consultation among Social Partners***

Though institutions of social dialogue exist, such as the Tripartite Consultative Labour Council (TCLC), the resolutions of the council are not legally binding. Therefore social partners do not usually feel obliged to adhere to the recommendations. Government is on record of having changed the contents of the recommendations some Statutory Instruments from the TCLC. This and other similar actions have brought the credibility of the Council in to question (Fashoyin, 2002).

In their reaction to these and other challenges, trade unions have undertaken a number of measures aimed at protecting their members. Some of the measures include capacity building programmes through education and training of trade union officials and members in labour and other issues; research on socio-economic issues for policy response and alternative submissions; campaigns for social justice; social dialogue to name but a few (ZCTU, 2002).

The trade union movement also works together on issues of common concern. Public service workers for instance formed a loose alliance in pressing for improved working conditions which declared an all round public service strike in August 2003. Such alliances though viable are not a promise of amalgamation as a number of issues such as leadership; policy issues etc. have to be tackled.

4.3. Prospects

Despite the ever-mounting challenges as a result of globalisation and accompanying neo-liberal policies that trade unions have to put up with, they still have a vital role to play on the labour market. There is however need to reposition themselves if they have to score some success.

The prospects for trade union effective representation are bright with the current review of labour legislation, which is going on through wide consultations with stakeholders. It is only hoped that stakeholders' inputs will be taken seriously and adopted so that there could be strong labour laws. On the other hand, the restructuring of the Ministry of Labour, if followed by improved funding will contribute to the strengthening of the institutional and legal enforcement framework of the labour market. It is likely that these will contribute to the reduction in the number of violations

of workers' rights and anti trade union tendencies. However, these measures alone will not guarantee trade unions a smooth ride, especially if they don't undertake internal steps to keep up with the challenges. These should include:

- ***Capacity building***

Trade unions need to strengthen further their capacity to understand and undertake long-term social economic policy response measures.

- ***Intensive Recruitment and Organising***

The unionisation density is still low for the formal sector. There is therefore great need for trade unions to reach the un-reached workers by allocating a lot of resources to recruitment and organising of new members. This will not only help build their numbers but their financial capacity also.

- ***Democratisation of Trade Union Structures and Prudent Management of Resources***

There is need for trade unions to increase the wide participation of their members in the activities in order to build wide ownership of their organisations. The available resources should be managed prudently in order to gain the confidence of the general membership and cooperating partners.

- ***Amalgamation / Mergers of Trade Unions***

In order to gain the lost strength, small unions should be encouraged to merge in order to come up with viable unions which can counteract employers' coercion.

- ***Networking / Unity of Purpose***

Trade unions need to work together by networking and sharing of experiences on how they are tackling their difficulties. There is great need for rival unions to work together in the fight against victimisation and for improved working conditions of service.

The labour movement in Zambia has bright prospects for the future, they only need to be focused in their work and ensure that they do not compromise their autonomy.

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ANNEX

1. Socio-Economic Data

Year	1997	1999	2000
Population (census 2000)			10.285,631
GDP constant 1994 prices, ZK billions)	2,405		2,492
GDP (US \$)			
GDP per capita (ZK)	245,975		231,352
GDP per capita (US\$)			
Formal sector employment			
Central Government	129,200	112,345	101,300
Local Government	15,100	12,900	12,500
Parastatal	73,900	65,300	65,700
Private	256,900	286,963	296,847
Total	475,100	477,508	476,347
Informal Sector Employment (estimate)	3,265,000	3,679,000	
Unemployment rate		10.3	

Source: Ministry of Finance, Economic Reports (various)

vi. Summary of Labour Legislation

1. Employment Act, Cap 268

Establishes minimum contractual age for employment, enforcement of contracts of service, protection of wages and welfare of employees.

2. Industrial and Labour Relations Act, Cap 269

Provides for the establishment, organization and management of workers' and employers' organizations, collective bargaining, settlement of collective disputes, and consultative mechanisms.

3. Employment (Special Provisions) Act, Cap. 270

Ensures security of employment and regulates terms and conditions of employment during state of emergency.

4. Workers Compensation Act, Cap 271

Provides insurance cover for occupational accidents and disability.

5. **Zambia National Provident Fund act, Cap 273**

Establishes a contributory provident fund for workers.

6. **Employment of Young Persons and Children Act, Cap 274**

Protects young persons and proscribes the employment of young persons in occupations that are hazardous or injurious to their health, safety and development.

7. **Minimum Wages and Conditions of Employment Act Cap 276**

Empowers the Minister to prescribe minimum wages and other conditions of employment.

8. **Factories Act, Cap 441**

Ensures occupational safety and health in workplaces.

9. **Preferential Claim and Bankruptcy Act No. 9 of 1995**

Gives effect to the ILO Convention No. 173 concerning protection of workers claims in the event of insolvency of the employer.

10. **Pension Scheme Regulation Act, Act No. 28 of 1996**

Ensures prudential regulation and supervision of private pension schemes.

11. **National Pension Scheme Act No. 40 of 1996**

Establishes a national pension scheme and replaces the Zambia National Provident Fund

12 **Zambia Institute of Human Resources Management Act No. 11 of 1997**

Establishes the Zambia Institute of Human Resources Management designed to improve on human resources management by laying down standards or practice and qualifications.

3. Trade Unionism in figures

Unionization Rate (% of formal sector employees)	52%
Collective bargaining coverage (% of formal sector employees covered by CA)	
Number of trade union members, (year)	230,503 (2002)
--- Female (in % of total)	30 %
% of women in leadership function in trade unions (in % of total leadership)	18 %
Number of trade unions, (year)	29 (2002)
Number of national centres (year)	2 (2002)
Number of unions affiliated to major national centres,	29 (2002)
Sectors that tend to have sector unions	Public service, education, transport, mining, agriculture, financial services
Strikes and lock-outs (man-days lost in wage-related strikes) (year)	

4. National trade union centres (all national centres)

Name: Zambia Congress of Trade Unions (ZCTU)	
Number of affiliates (year)	26 (2002)
Membership (year)	212375 (2002)
Political orientation	Independent
International trade union affiliation	ICFTU
Regional & sub-regional affiliations	OATUU, SATUCC, ICFTU-AFRO,
Name of President	Mr. Leonard Hikaumba
Name of Secretary General	Mr. Sylvester Tembo
Name: Federation of Free Trade Unions of Zambia (FFTUZ)	
Number of affiliates (year)	10 (2003)
Membership (year)	35,000 (2003)

Political orientation	Independent
International trade union affiliation	World Confederation of Labour /WCL)
Regional & sub-regional affiliations	Democratic Organisation of African Workers Trade Unions (DOAWTU)
Name of President	Ms. Joyce Nonde
Name of Secretary General	Mr. Sam Lungu

5. Most important unions (affiliated to national centres or independent)

Name (and Acronym)	Sectors Organised	Membership (year)	National affiliation (or independent)	Intern. affiliation
Civil Servants and Allied Workers Union of Zambia (CSAWUZ)	Public service	34,973 (2002)	ZCTU	PSI
Mineworkers Union of Zambia (MUZ)	Mining	24,245 (2002)	ZCTU	ICEM
Zambia National Union of Teachers (ZNUT)	Teaching	33,380 (2002)	ZCTU	EI, PSI
National Union of Plantation and Agricultural Workers (NUPAW)	Agriculture	17,000 (2002)	ZCTU	
National Union of Public Service Workers (NUPSW)	Public service	11,711 (2002)	ZCTU	PSI
National Union of Commercial and Industrial Workers (NUCIW)	Commerce and Industry	16,270 (2002)	ZCTU	UNI
National Union of Building, Engineering and General Workers (NUBEGW)	Industry and Construction	15,463 (2002)	ZCTU	
Zambia United Local Authorities Workers Union (ZULAWU)	Local authorities	15,000 (2002)	ZCTU	
Zambia Union of Financial Institutions and Allied Workers Union	Financial	5000 (2002)	FFTUZ	
National Union of Communication Workers (NUCW)	Communication	3,980 (2002)	ZCTU	UNI
National Energy Sector and Allied Workers Union	Energy	3,980 (2002)	ZCTU	

(NESAWU)				
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