



# Giving Social Dialogue a Chance:

Review of, and Lessons Learnt from the  
Tripartite Negotiating Forum (TNF) in Zimbabwe, 1998-2021

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## 1. Introduction: Understanding the Concept of Social Dialogue

Social dialogue is a well-established instrument which has gained traction, especially amongst developed countries, and its use is being explored to deal with an array of national challenges, particularly in developing and fragile states. Social dialogue is enshrined in the ILO's Declaration of Philadelphia (1944), which states: "The war against want requires to be carried on with unrelenting vigour within each nation, and by continuous and concerted international effort in which the representatives of workers and employers, enjoying equal status with those of governments, join with them in free discussion and democratic decision with a view to the promotion of the common welfare." In this regard, social dialogue is an active decision by the nations of the world to use it to tackle economic and social challenges flowing from crises to ensure lasting peace and sustainable prosperity for everyone.

The ILO defines social dialogue (or social concertation) as: "All types of negotiation, consultation or information sharing among representatives of governments, employers and workers or between those of employers and workers on issues of common interest relating to economic and social policy" (ILO, 2013a).<sup>1</sup>

It has three major components, namely, information exchange, consultation, negotiation and dispute resolution. The most basic process of social dialogue is exchange of information, which is an important precondition for its more substantive forms. Consultation is not only a means through which social partners share information, but is also the mechanism to engage in dialogue on pertinent issues. Typically, all forms of social dialogue are either informal and ad hoc, or formal and institutionalized. However, in actual practice, social dialogue often involves a combination of both informal and formal mechanisms (see ILO, 2013a).

Three reasons are often cited to promote social dialogue as an instrument of sound governance of change, namely, (i) through information sharing, the quality of policy design and strategies for recovery can be improved; (ii) social dialogue helps build trust in and commitment to policies, making it easier for their rapid and more effective implementation; and (iii) it helps to resolve inevitable differences and avoid conflicts of interest which could delay implementation of policies and, ultimately, recovery (see for instance, Ghellab, 2009).

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<sup>1</sup> See also Ishikawa, 2003. Concertation is cooperation, as among opposing factions, aimed at effecting a unified proposal or concerted action.

Critically, social dialogue is one of the four strategic objectives for the implementation of the Decent Work Agenda.<sup>2</sup> Even though it is identified as one of the four pillars of decent work, it is also argued that social dialogue is the means for implementing decent work (see Burchell et al., 2014).<sup>3</sup> It entails the involvement of workers, employers and the government in the decision-making process on employment, workplace and other national development issues. This therefore entails the co-determination of policies, or subjecting certain policy areas (human resources development, employment and economic policies) to tripartite governance.

Moreover, social dialogue is considered as a form of governance that confers specific advantages towards the realization of sustainable development.<sup>4</sup> These advantages are associated with the inclusive nature of the process, as well as the manner in which interaction is organized. In this regard, social dialogue can complement or strengthen existing forms of governance in the context of sustainable development. For instance, participation and control at the workplace can help develop values and skills of citizenship and produce social capital.

Social dialogue has enabled countries in crisis or economic or political transitions to forge a way forward, notably in the case of South Africa during the transition from apartheid and Tunisia during the democratic transition after its revolution in 2011 and the signing of the tripartite social contract in 2013.<sup>5</sup> Tripartite social dialogue was also employed during the economic and political transitions from communist rule to democracy in the former Soviet countries in Europe such as Hungary (1988), and later Bulgaria, the Czech Republic and Poland (see Hermans et al., 2016). In the apt words of the Director-General of the International Labour Organization (ILO), Guy Ryder, "Social dialogue is a public good in that it helps society address problems in a way that is fair, inclusive and takes the edges off of inequality."<sup>6</sup> Hence, social dialogue and tripartism are at the heart of the ILO's mandate and are the means to achieve social justice.

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2 Launched by the ILO in 1999, the concept of decent work covers four strategic objectives: fundamental principles and rights at work; employment; social protection; and social dialogue (see ILO, 1999).

3 Burchell et al. argue that "...social dialogue might more appropriately be seen as a driver of Decent Work rather than part of its definition," (2014: 474).

4 Social dialogue is often seen as representing a "space of governance" which can accommodate a broad range of actors (see Hermans et al., 2016).

5 In the case of Tunisia, the tripartite Social Contract was concluded on 14 January 2013, with strong support from the ILO, and signed on the day of the second anniversary of the events that led to the Arab Spring uprisings.

6 He was speaking at the World Economic Forum's Sustainable Development Impact Summit on 18 September 2017.

## 2. Forms, Role and Functions of Social Dialogue

Social dialogue comes in different forms and types of dialogue, depending on the level (workplace, sectoral, national, regional...) and the actors (bipartite – between workers and employers, tripartite – with the direct and formal involvement of the government, or tripartite-plus). Tripartite national dialogue involves high-level policy makers, and the leadership of workers' and employers' organizations. At the tripartite level, social partners typically discuss national economic and social policies, such as labour market management and reform, employment promotion, pension reform, productivity, income distribution and poverty reduction, etc.

In an effort to gain a wider perspective, to incorporate diverse views and to build a wider consensus, the tripartite partners may choose to open the dialogue to other relevant actors in society (tripartite-plus). Opening up dialogue to other parties beyond the traditional tripartite to decision making should increase the ownership and sustainability of the processes, outputs and outcomes. While the roles of social dialogue at bipartite level are well documented, especially with respect to industrial relations, it is those at the national level (tripartite and tripartite-plus) focusing on economic policies that are less tested and documented, especially in developing countries.

Critically, social dialogue is both a means and an end. Since it requires participation and freedom of association, it is therefore an end in itself in democratic societies, as well as a means to ensure conflict resolution, social equity and effective implementation of policies. Importantly, therefore, it is a source of stability at all levels, from the enterprise to society at large (see ILO, 1999). It can therefore be used as a means to reach agreement on matters of common concern, as well as for the peaceful settlement of matters of contention and for conflict management.

The ILO has also promoted a social dialogue approach to crisis responses, including in relation to topics such as fundamental principles and rights at work, informal economy, gender equality and labour migration. Accordingly, the ILO has argued that "...successful social dialogue structures and processes have the potential to resolve important economic and social issues, encourage good governance, advance social and industrial peace and stability and boost economic progress" (Buckley & Casale, 2006: 19).

As further elaborated in the ILO Declaration on Social Justice for a Fair Globalization of 2008, social dialogue and tripartism need to be promoted as the most adequate methods to achieve the following:

- Adapt the implementation of the four strategic objectives to the context of each country;
- Promote social cohesion, translating economic development into social progress, and vice versa;
- Facilitate consensus building on policies which have an impact on employment and decent work strategies or programmes; and

- Make labour law and institutions effective in terms of (among other things) respect for employment relationship recognition, promotion of positive industrial relations, and promotion of effective labour inspection systems.

The Consultation (Industrial and National Levels) Recommendation No. 113 of 1960 states that such consultation and cooperation "...should aim, in particular, at joint consideration of matters of mutual concern with a view to arriving, to the fullest possible extent, at agreed solutions", and that it must cover a broad range of issues including "... the preparation of laws and regulations ... and the elaboration and implementation of plans of economic and social development."

Social dialogue typically results in tangible outputs that include collective bargaining agreements and social pacts. Such outputs are the product of negotiations or cooperation between government and social partners (tripartite), or between social partners (bipartite). This approach is fundamentally different from unilateral decisions by government or conflict strategies such as protests, strikes, or lock-ins and lock-outs. The four pillars of the Decent Work Agenda – social dialogue, social protection, rights at work and employment – are increasingly seen as essential building blocks of sustainable development which should be at the centre of policies that promote strong, sustainable and inclusive growth and human development.

It has been argued that well-executed social dialogue contributes to sustainable development as it aligns with, and reinforces, three core principles of the Development Effectiveness Agenda (Busan Partnership for Effective Development Co-operation), namely, democratic ownership, inclusiveness and accountability (see Hermans et al., 2016).<sup>7</sup> By way of these three development effectiveness principles, social dialogue offers both an instrument and a form of governance that contributes to the attainment of social and economic development objectives.<sup>8</sup>

In a nutshell, when working conditions and socio-economic policies are determined, monitored and implemented by way of a negotiated and transparent process that includes social partners and government, the three development effectiveness principles are at play at the same time such that the governance process (i) is inclusive and tackles collective action problems,<sup>9</sup> avoiding a race to the bottom associated with competitive pressures; (ii) creates ownership of the social dialogue actors; and (iii) the different stakeholders hold each other accountable (see Hermans et al., 2016).

<sup>7</sup> The Busan declaration of 2011 is the outcome of the fourth high-level forum on development effectiveness. It represents the gradual expansion in thematic scope (from "aid" to "development") and the range of stakeholders engaged (from the traditional bilateral OECD-DAC aid community, to emerging economies, the private sector and civil society).

<sup>8</sup> It is argued that social dialogue offers concrete and tested tools for bringing the key principles of the development effectiveness agenda into practice, particularly through its attention to democratic ownership, inclusiveness and accountability (see Hermans et al., 2016).

<sup>9</sup> Collective action problems cover a wide range of topics, ranging from climate change, to ending the race to the bottom on working conditions and tax competition, and curbing corruption. The dilemma arising from these types of problems is illustrated as the problem of standing up at football matches: "if everyone sits down, they could all see just as well, but how do you get everyone to sit down?"

Social dialogue promotes inclusiveness when representative and independent workers' and employers' organizations and government seek solutions to identified issues of common concern. As representative organizations, social partners bring the voice to key stakeholders by participating in decision making processes. As such, social dialogue becomes an avenue for dealing with collective action problems, which traditional development programmes fail to resolve. A collective action problem occurs in situations where members of a group do not act together to achieve an outcome with greatest potential to benefit the group.

In this respect, social dialogue has proven effective in solving collective action problems in such areas as decent work by facilitating solutions beyond pure market logic that avoid environmental damage or loss of jobs. In such instances, social dialogue sets common standards or wage levels at sector or regional level which removes downward competition to reduce labour and environmental conditions. In the case of dialogue with other groups of civil society, as with tripartite-plus, this allows the inclusion of broader perspectives and the attainment of consensus on issues that go beyond the labour agenda.

Through its main processes of information sharing, consultation, negotiation and joint decision making, social dialogue enables social partners to share views and influence policies that affect them, thereby promoting democracy and democratic ownership that fosters effective implementation by public authorities and social partners (ILO, 2013a; Buckley & Casale, 2006; Hermans et al., 2016). Furthermore, social dialogue provides opportunities to strengthen transparency and accountability among the social partners. In some instances, government has to provide feedback to the social partners on the follow-up. This helps to counterbalance asymmetric social relations that range from participation to social dialogue processes. Hence social dialogue is increasingly seen as an instrument to promote democracy and "good" governance at all levels of society (Hermans et al., 2016).

### 3. Preconditions for Effective Social Dialogue

Evidence suggests that the extent to which social dialogue is effective is influenced by the context (see ILO, 2017).<sup>10</sup> However, as universally acknowledged in the literature, the generic preconditions necessary for effective social dialogue include the following:

- Strong independent workers' and employers' organizations with the technical capacity and access to the relevant information to participate in social dialogue;<sup>11</sup>
- Political will and commitment to engage in social dialogue on the part of all the parties;<sup>12</sup>
- Respect for the fundamental rights of freedom of association and collective bargaining; and
- Appropriate institutional support, including through funding and well-defined legal mandates to ensure continuity of operations during political change, (Buckley & Casale, 2006: 18).<sup>13 14</sup>

Hermans et al. (2016) provide additional preconditions for social dialogue to contribute to broader sustainable development issues beyond the narrow labour agenda. This is important, since even in settings generally conducive to social dialogue, social partners might not at the same time be directly involved in, or contribute to, broader sustainable development issues. Hermans et al. (2016) identify at least three contextual factors that determine whether social dialogue is able to effectively contribute to the broader sustainable development agenda, beyond labour issues. Firstly, social dialogue actors should have societal legitimacy for them to be engaged in such issues, a politico-ideological consideration.

Secondly, the issues on the agenda should be "within the reach" of tripartite structures of social dialogue. Finally, social dialogue actors should have the skills and expertise to engage in a credible and effective manner in broader socio-economic aspects of sustainable development. In this regard, capacity building of stakeholders as well as partnership building is considered critical. In the case of the former Yugoslav Republic of Macedonia, the social partners undertook a study tour of Ireland to observe functional labour dispute mechanisms in practice, which proved a particularly valuable aspect of their project on "Improved Dispute Settlement".

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10 The challenges of implementing projects in a fragile state environment have been underscored. Critically, the importance of existing experience in tripartite social dialogue and cooperation among constituents is emphasized (see for instance ILO, 2017).

11 In many developing economies, low unionization levels amongst informal economy workers seriously limits the coverage of existing social dialogue processes (see ILO, 2013a; Buckley and Casale, 2006).

12 The proactive and standing involvement of all tripartite partners was identified as an important success factor in projects "promoting social dialogue", thereby underlining the significance of an accommodating context for social dialogue to work well (see ILO, 2017).

13 To these, ILO (2013c) adds: (i) the availability of experience in nurturing trust as well as negotiation and cooperation skills; and (ii) accurate information and sound information exchange. ILO (2017) identified key enabling factors in the field of social dialogue interventions as including: (a) access to knowledge and knowledge sharing, as well as dissemination; (b) a certain degree of agreement, coordination and organizational capacity of the social partners; (c) trust, both internal and among social partner organizations, as well as with the relevant public authorities; (d) political stability; and (e) an accommodating institutional context (see also Grimshaw et al., 2017).

14 Labour Research and Policy Institute Ghana (2015) found that lack of institutionalization of the multi-stakeholder dialogues results in weak outcomes, with few structural opportunities for social partners to influence and contribute to policy development and implementation, and hence limited ownership.

Evaluations by the ILO identified capacity-building and training activities targeting constituents as key factors linked to the sustainability of interventions in the social dialogue domain, introducing a new culture of industrial relations, providing examples and opportunities of social dialogue. The importance of disseminating information about the project and social dialogue to a wider audience to promote awareness has also been stressed (see ILO, 2017). Lastly, the existence of tripartite functional bodies provides powerful mechanisms to achieve results and trigger changes in areas of interest to the tripartite constituents. A related issue is the local presence of the ILO in-country, as well as its special tripartite status and its reputation of having a positive impact in generating trust and bringing the partners together at the national level.

Project evaluations suggest the need to institutionalize the participation of social partners to ensure sustainability. Formalization of social dialogue enhances the chances that the resulting agreements and recommendations are translated into specific policies which are implemented (see Hermans et al., 2016). The often cited example is the case of the National Economic Development and Labour Council (NEDLAC) of South Africa, an inclusive, independent statutory body established in 1994 to facilitate consensus and cooperation between government, labour, business and the community in dealing with the country's socio-economic challenges. Through NEDLAC, government, labour, business and community organizations seek to cooperate through problem-solving and negotiation, in four broad areas (chambers): (i) public finance and monetary policy; (ii) labour market policy; (iii) trade and industrial policy; and (iv) development policy. Accordingly, "...stronger social partners and a well-functioning Economic and Social Council contribute to economic and social development of the country" (ILO, 2017: 67).

These nuggets are aptly summarized by the ILO as follows:

*"...the evidence available suggests that the success of social dialogue involving social partners also relies on the context in which it operates. The ILO has highlighted the importance of trust between national governments and social partners, noting that political instability has hindered the recovering of social dialogue in some countries following the crisis. While social partners can be well organized and equipped to engage in social dialogue, it is critical that their views are noted and taken seriously. An accommodating institutional context is, therefore, key for successful social dialogue. In sum, the existence of clear social partner mandates and organizational capacity to engage in complex policy debates and good relations with public authorities are all key factors in ensuring that social dialogue yields effective outcomes," (2017: 73).<sup>15</sup>*

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15 The projects developed in Colombia to build the capacity of the tripartite partners and promotion of tripartite dialogue suggest the importance of a favourable context aligned with the design of the projects. In particular, greater political will of government on the issue of social dialogue is critical. In the case of Colombia, the context was considered still far from ideal because of the violence against trade unionists (see ILO, 2017).

Critically, when several of these preconditions are missing, especially in times of crisis and in most developing countries, the effectiveness of any social dialogue process is undermined. The evidence adduced in ILO (2017) identifies a number of effective practices employed to support social dialogue, especially in the aftermath of the 2008 economic crisis. Effective measures employed included social summits and conferences, ad hoc bipartite and tripartite meetings, and national social dialogue institutions that helped shape new social and economic contracts. Globally, innovation and communication technologies are facilitating the emergence of an active citizenry and a rethinking of political engagement and pressure for more inclusive social contracts.

To avoid governance crises, there is greater pressure to deliver economic and social policies that promote economic growth and reduce inequality for political legitimacy (see Carrillo-Rodriguez, 2012). The long-standing debate on the role of social dialogue in business growth has gained momentum following the 2008 economic crisis (Grimshaw et al., 2017). This position is exemplified in the UN's 2030 Agenda for Sustainable Development and its SDGs which see social dialogue as critical for achieving decent work [for goals 8, and also 1 (ending poverty), 5 (achieving gender equality), 10 (reducing inequality) and 16 (peace, justice and strong institutions)].<sup>16</sup>

The EU's New Start for Social Dialogue reinforces social dialogue as a pillar of Europe's social market economy, as well as the Global Deal, a multi-stakeholder partnership initiated by the Swedish Government and launched at the UN Headquarters in New York on 21 September 2016. The Global Deal seeks to enhance social dialogue around the world to promote decent work, greater equality and inclusive growth.<sup>17</sup>

Studies suggest that effective social dialogue can produce net positive outcomes for businesses. At the firm, sectoral and national levels, social dialogue has the potential to stabilize industrial relations and support productivity growth. For developed countries, studies suggest that social dialogue has contributed to economic stability, prosperity and long-term business success. In low and middle income countries, social dialogue is playing a key role in promoting the transition to democratic, more equitable and sustainable political and economic systems (see Grimshaw et al., 2017). More generally, social dialogue contributes to improved productivity and economic growth, and is found to stimulate innovation as it levels the playing field for firms, enabling them to compete on the basis of innovation and growth as opposed to forms of competition that result in the erosion of social and ecological standards.

In addition, both bipartite and tripartite social dialogue helps to address market failures in skills development through pooled funds which obviates the fears of individual companies losing out through the poaching of trained staff. This way, firms are pushed away from "low-route strategies" towards growth and innovation-oriented "high-route strategies" of competition. Furthermore, social dialogue as a governance instrument helps to avoid elite capture of macroeconomic policies in developing countries. By shifting industrial relations disputes from the enterprise to the national level, social dialogue creates social stability at the firm level and room for more cooperative and innovative strategies.

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<sup>16</sup> SDG 8 seeks to promote inclusive and sustainable economic growth, employment and decent work for all.

<sup>17</sup> Clearly, latest development frameworks advocate for social dialogue as a core element of the development agenda.



In terms of the development effectiveness agenda, social dialogue promotes sustainability, especially through its inclusiveness and its ability to resolve collective action problems (see Hermans et al., 2016).

Empirical evidence confirms the positive business effects of works councils in Germany at different organizational levels and with respect to different issues, with sharply higher labour productivity and lower labour turnover.<sup>18</sup> In addition, companies with works councils were more likely to have family-friendly policies as well as company-financed training. At a broader social and economic level, works councils are found to have contributed to social peace, compliance with regulations which would otherwise have to be assumed by the state or other institutions, as well as having a positive effect on employment growth (see for instance Hübler, 2015; Grimshaw et al., 2017). Social dialogue at the national, as well as at the company level, is a functioning part of the European Social Model.

To prevent or mitigate potential adverse human rights impacts (and the associated reputational risks), MNEs are encouraged to engage in meaningful consultations with potentially affected groups and other relevant stakeholders and social partners under the ILO MNE Declaration. Likewise, the OECD Guidelines for Multinational Enterprises recognize social dialogue as a pillar of responsible business conduct. The guidelines also engage in and support social dialogue on responsible supply chain management (see Grimshaw et al., 2017).

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<sup>18</sup> In Germany, 'co-determination,' is a process whereby workers have an active and participatory role in the management of a firm. Established in Germany in 1951 through the Cooperative Management Law and amended in 1976 through the Co-determination Act, the Act established parity co-determination for firms with over 2,000 employees. As such, the Co-determination Act is the foundation of German industrial policy based on the principles of equality and cooperation of capital and labour, democratization of the economy and social development.

## 4. Social Dialogue and Global Financial and Economic Crises

The practice on the ground suggests that the relationship between economic conditions and social dialogue is non-linear. Quite often, economic crises are associated with restricted room for manoeuvre and reduced time for reaching compromises.<sup>19</sup> On the other hand, however, periods of economic crisis may raise the incentive for governments to negotiate incomes and implement other policies in an effort to reduce social tensions and conflict. Examples of positive experiences under crisis include Spain in the early 1980s, Ireland in the mid-1980s, Italy in the early 1990s and Germany in the early 2000s (see Molina & Guardiancich, 2017).

The ILO is promoting a social dialogue approach to crisis responses, particularly in fragmented societies where social dialogue can contribute towards reconciliation and confidence building (see ILO, 2017; Hermans et al., 2016). The strategy is such that the crisis “should not be wasted” as it is an opportunity to build on the need for solidarity and cooperation and also the need for sharing costs and responsibilities (see Hyman, 2010).

Ghellab (2009) argues that crises cannot be addressed by public authorities acting alone. Such events present an opportunity for tripartite cooperation between governments and the social partners to achieve sustainable and effective negotiated solutions. In contexts of crises, social dialogue is therefore expected to play a crucial role in promoting inclusive and sustainable recovery and to help design policies in line with national priorities. It also helps in the rebuilding of trust between the social partners and governments, which may have been eroded during the crisis (see Molina & Guardiancich, 2017). Instructively, “In past crises, social dialogue has proved irreplaceable as a tool of balanced crisis management and a key governance instrument with regard to change” (Ghellab, 2009: 1).

Guardiancich and Molina show how, following the financial crisis of 2008, in those European countries where tripartite social dialogue was maintained during and after the crisis, it produced positive outcomes, “...promoting a return to positive economic growth, ensuring social and industrial peace, sustaining competitiveness and employment, and contributing to an increase in productivity and wages” (2017: vi).<sup>20</sup> By creating space and giving a voice in decision making to those affected by policies, social dialogue becomes highly effective in rebuilding citizens’ confidence in the government and facilitate broad support for the necessary policy reforms.

Evidence suggests that those countries where social dialogue proved most resilient were better equipped to weather the crisis (see Molina & Guardiancich, 2017). An example of the role of social dialogue during crises is also provided by the experiences of East Asia during the crippling financial crisis of 1997. Tripartite “deliberation councils” were established to facilitate consultation and information sharing between government and social partners.

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19 This is also the case when external international financial institutions are involved in the bailout packages as was the case in Greece. Of the eight European countries that requested international financial assistance, five were part of the Eurozone (Cyprus, Greece, Ireland, Portugal and Spain) and three were outside it (Hungary, Latvia and Romania) (see Molina & Guardiancich, 2017).

20 Evidence clearly suggests that those countries where social dialogue has proven most resilient have also done better in weathering the crisis. National social dialogue institutions have shone, not only from the standpoint of them being forums for discussion, but more importantly, “...in helping to devise creative policy proposals for building a sustainable economic and jobs recovery, around which different interest groups can coalesce” (Guardiancich and Molina, 2017: viii).

It has been observed that since the financial and economic crisis of 2008, interest in the inequality-reducing impact of social dialogue has grown, particularly in developed countries (see Hermans et al., 2016). The ILO led the way in this regard as the social partners unanimously adopted a Global Jobs Pact at its June 2009 International Labour Conference, making employment creation central to economic recovery. The Global Jobs Pact emphasized that: “Social dialogue is ... a strong basis for building the commitment of employers and workers to the joint action with governments needed to overcome the crisis and for a sustainable recovery” (ILO, 2009a: 5). Hence, social dialogue, which has often been a response to economic crisis and recession in the past, in some instances resulted in formal “social pacts” involving government, trade unions and employers.

Company-level Pacts for Employment and Competitiveness (PECs) were negotiated to complement the spread of national social pacts in the 1990s. PECs, which were viewed as positive-sum or “integrative” bargaining, arose from the common interest in enhancing competitiveness between management and workers arising from economic adversity. Table 1 summarizes some of the countries that used national social dialogue to deal with economic crises and recessions.

**Table 1: A summary of successful country experiences with national social dialogue**

Country	Success Stories
Belgium	Belgium is often cited as a model of democratic corporatism given that socio-economic policy is developed through a centralized national system of social dialogue where employers' and workers' organizations participate in the formulation and implementation of national policy. Even though high levels of polarization occur at times, to the extent that dialogue does not always result in compromise, the institutional framework remains intact within a context of relative social peace. Its coordinated bargaining system and policy concertation constitute important national institutional pillars.
El Salvador	Social Dialogue has been an important contributor to the peace progress / process.
Indonesia	Since June 1998, broad tripartite consultations have worked towards reshaping the country's labour laws in line with ILO standards.
Ireland	"Tripartite plus" pacts have contributed to developing a cooperative labour relations climate, a healthy economic growth and low unemployment. Before the 2008 crisis, Ireland had enjoyed a 25-year economic boom, which was used by successive Irish Governments to cut income taxes and increase public spending, which underpinned the national tax-based income policies of seven centralized wage agreements negotiated between the Irish Congress of Trade Unions (ICTU), the Irish Business and Employers' Confederation (IBEC) and senior civil servants in the Prime Minister's Office. This "social partnership" framework has been widely credited as the reason behind Ireland's "Celtic Tiger" economy since 1987. However, in the post-crisis period of adjustment, a qualitative shift occurred away from national tripartite social dialogue toward bipartite public sector agreements.
The Netherlands	The Netherlands has a long and fruitful history of social dialogue under the acclaimed Dutch system of consensus-based economic and social policy making called the "Polder Model". This has formalized tripartite cooperation between employers' organizations, labour unions and the government at the national level. The Social and Economic Council (SER) serves as the central forum to discuss labour issues and has a long tradition of consensus building. Effective social dialogue marked the turning point in the fight against economic misery and unemployment in the 1970s and early 1980s. The process resulted in a positive impact in the recovery of the labour market and employment performance in the late 1980s and 1990s, and collective bargaining and industrial relations in general. The Polder Model has however shown great resilience in the post-2008 crisis period, accommodating some substantial reforms, without significant change to the institutions.
Republic of Korea	Tripartite consultations have helped to cushion some of the shocks of the economic crisis.
South Africa	The National Economic Development and Labour Council (NEDLAC), with its "tripartite plus", has helped build consensus around changes in policy and law on a wide range of issues.
West Africa	With support from the ILO technical cooperation project funded by Belgium, the five countries that make up the Entente (Benin, Burkina Faso, Cote d'Ivoire, Niger and Togo) have reawakened social dialogue as a means of attacking economic as well as social problems.

Source: Adapted from the Report of the Director General, International Labour Conference, 87th Session, 1999 and others.<sup>21</sup>

21 Guardiancich and Molina (2017) provide detailed analysis of social dialogue in the post-2008 crisis period covering 11 European countries (Belgium, Finland, France, Germany, Ireland, Lithuania, The Netherlands, Slovakia, Slovenia, Spain and Sweden). This article was produced under the "Post-Crisis Social Dialogue: Best and Innovative Practices in the EU 28" project, a partnership agreement between the ILO and the European Commission. While the use of the term "post-crisis" may be premature in countries still experiencing low or negative growth rates, it is used to refer to the period following the most intense years of recession across Europe, from 2013 until the end of 2015.

Countries with experiences of social partnership and well established social dialogue institutions reacted more rapidly and efficiently to the 2008-09 financial and economic crisis. The experiences of countries such as Ireland, Mauritius, Singapore and Barbados in the 1990s highlight the importance and value of social dialogue as a mechanism for developing and implementing measures to address economic and social difficulties. In the case of the Barbados, the tripartite partners focused on improving competitiveness and productivity, and even accepted wage freezes until the corresponding productivity gains were achieved.

South Africa provides an important example of a country that brought together social partners to design and implement policy responses to the global crisis. Following the long-standing national tradition of tripartite policy making, the government and the social partners decided to develop a coordinated response to the crisis. The consultation process began in October 2008 and resulted in the “Framework for South Africa’s response to the international economic crisis” in February 2009. This national framework agreement identified six priorities for developing the response to the crisis: investment in public infrastructure, macroeconomic policy, industrial and trade policy, employment and social measures, global coordination and social partnership. In 2011, the South African government, business, labour and CSOs signed a Green Economy Accord, described as one of the most comprehensive social partnerships on “green economy” in the world. This accord, which was a part of South Africa’s New Economic Growth Path sought to create five million new jobs by 2020.<sup>22</sup>

In Germany, the Federal Chancellor convened a tripartite summit in December 2008 to discuss the impact of the crisis on the economy and outline the government’s second stimulus package. At the summit, the social partners scrutinized the government’s proposals and also came up with counter-proposals which fed into the package of measures implemented by the government in January 2009. Similar approaches were undertaken in, for instance, Brazil, the Czech Republic, India, Nigeria and Turkey.

In the case of Brazil, the crisis interrupted a strong period of economic growth as GDP declined in 2009 for the first time in almost 20 years. A consultative council in 2008 presented a series of recommendations that included increasing employment protection and raising public investment. Furthermore, in 2009, a tripartite council approved the extension of unemployment benefits and adopted a programme which allowed employers to temporarily lay off workers, provided that vocational training was offered during the period. Unemployment quickly returned to pre-crisis levels. This shows that countries with experiences in social partnership, with well-established social dialogue institutions, were able to formulate rapid and effective tripartite solutions to challenges emanating from the crisis, as highlighted by the examples of The Netherlands and South Africa.

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22 The South African Green Economy Accord was modelled around the Green Jobs Initiative, a partnership established in 2007 between the United Nations Environment Programme, the International Labour Organization and the International Trade Union Confederation to assess, analyse and promote the creation of decent jobs as a consequence of the needed environmental policies to address the global environmental challenges, among others, climate change. The International Organization of Employers joined the Initiative in 2008. As a result of this partnership, the report “Green Jobs: Towards decent work in a sustainable, low-carbon world” was launched in 2008.

The experiences also suggest that even where the industrial relations system is adversarial, as in France, the presence of political will and commitment helped the tripartite partners come together and reach compromises on targeted measures to assist those most affected by the crisis.

The African Charter for Popular Participation in Development and Transformation, adopted in Arusha in February, 1990, highlighted the central importance of social dialogue in Africa's socio-economic development: "We affirm that nations cannot be built without the popular support and full participation of the people, nor can the economic crisis be resolved and the human and economic conditions improved without the full and effective contribution, creativity and popular enthusiasm of the vast majority of the people. After all, it is to the people that the very benefits of development should and must accrue. We are convinced that neither can Africa's perpetual economic crisis be overcome, nor can a bright future for Africa and its people see the light of day unless the structures, pattern and political context of the process of socio-economic development are appropriately altered" (Paragraph 7).

More recently, the African Union "Agenda 2063: The Africa We Want" has also underlined the role of social dialogue, contending that: "In this new and noble initiative, past plans and commitments have been reviewed, and we pledge to take into account lessons from them as we implement Agenda 2063. These include: mobilization of the people and their ownership of continental programmes at the core; the principle of self-reliance and Africa financing its own development; the importance of capable, inclusive and accountable states and institutions at all levels and in all spheres ..." (Paragraph 2). It highlights the importance of "Critical Enablers for Africa's Transformation", noting that: "The determination, participation, self-reliance and solidarity of Africa's peoples and leadership are preconditions for success and we therefore recognize the following as critical enablers of continental transformation: a. The People's ownership and mobilisation: The continuous mobilisation of the African people and the diaspora in various formations, effective communication and outreach, and sustained and inclusive social dialogue on Agenda 2063" (Paragraph 74).

In 2003, SADC adopted a Charter on Fundamental Social Rights which obliges member states to create an enabling environment, consistent with ILO core conventions. One of the objectives of this Charter is to ensure the retention of the tripartite structure of the three social partners. The SADC Industrialisation Strategy and Roadmap, 2015-2063 makes a strong case for stakeholder consultation and participation: "Given the multi-faceted challenges of industrialization in the 21st century, a strong alliance between governments, the private sector and civil society is essential" (2015: 33). The Strategy insists that industrialization should hold more promise for women and youth, contending that: "Women and youth participation in industrialization and structural transformation is an important ingredient of the Strategy" (2015: 34).

The SADC Employment and Labour Protocol notes that social dialogue has not been effective in most regional countries due to the restricted mandate of social dialogue institutions. In this regard, consultations are limited to labour and employment matters to the exclusion of negotiations on broad national social and economic policies. Furthermore, the social dialogue platforms are not inclusive and participatory; nor do they take into account the interests of key stakeholders, such as social partners. It obligates regional countries to have fully functional social dialogue structures which can assist with coordination and follow-up of various policies and strategies as well as their harmonization.

The resurgence in the concept of “developmental states” and their relevance and application to Africa in the post-cold war era has gathered momentum (see Mkandawire, 2001; Edigheji, 2005 and 2010; Evans, 2008; Gumede, 2009; Kanyenze et al., 2017). This literature argues that while the 20th century developmental states of East Asia were autocratic, those of the twenty-first century have to be democratic given the emphasis on governance and the changing post-cold war development context. An important characteristic of “developmental states” is that the developmental agenda is translated into a “hegemonic project”, enticing key stakeholders to embrace it voluntarily. Critically, a developmental state uses its autonomy to consult, negotiate and build consensus with social partners (“inclusive embeddedness”), at the same time building capacity to effectively implement transformative economic policies. Hence, “...the democratic developmental state is one that forges broad-based alliances with society and ensures popular participation in the governance and transformation processes,” (Edigheji, 2005).<sup>23</sup>

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<sup>23</sup> Botswana and Mauritius are often cited as good examples of countries with a “developmentalist” thrust on the African continent (see Mkandawire, 2001).

## 5. Social Dialogue and the Tripartite Negotiating Forum (TNF) in Zimbabwe

Since independence, the Government of Zimbabwe has put in place several consultative and advisory bodies to facilitate tripartite and bipartite consultations. These structures were set up to deal with specific employment issues relating to minimum wage fixing (the tripartite Wages and Salaries Advisory Board),<sup>24</sup> retrenchments (the tripartite Retrenchment Board), occupational safety and health (the tripartite Zimbabwe Occupational Health & Safety Council) and the determination of terms and conditions of employment at the sectoral level through bipartite National Employment Councils. However, the mandate of these structures is fairly narrow and restricted to specific aspects of the labour market to the extent that they do not deal with broader economic challenges facing the country.

Zimbabwe has ratified 26 International Labour Conventions, including the following that promote social dialogue:

- Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87);
- Right to Organise and Collective Bargaining Convention, 1949 (No. 98);
- Workers Representatives Convention, 1971 (No.135);
- Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144); and
- Labour Administration Convention, 1978 (No.150) (see TNF, 2006: 13).

Interestingly, some of the provisions of these Conventions have been domesticated into the Labour Act which include, inter alia, the right to establish employers' organizations and trade unions and for these organizations to represent the interests of their members (see TNF, 2006: 13). While the preceding discussion has explored the literature on social dialogue at all levels, this section looks at national tripartite social dialogue in Zimbabwe, focusing on the Tripartite Negotiating Forum (TNF). It examines the experiences of the TNF, its successes and failures, analyzes the causes of its lacklustre performance, drawing on the conditions for successful social dialogue outlined above, and provides the way forward.

### 5.1 The Genesis of the Tripartite Negotiating Forum (TNF)

The escalation of social dialogue beyond workplace and sectoral issues in Zimbabwe is associated with the experiences with the Economic Structural Adjustment Programme (ESAP) which was imposed without any meaningful dialogue between government and national stakeholders. In its review of ESAP in 1995, the ZCTU proposed the establishment of an institutional framework for national dialogue, the Zimbabwe Economic Development Council (ZEDC) (see ZCTU, 1996).

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<sup>24</sup> This ad hoc tripartite body sets minimum conditions of service in sectors that are not covered by collective bargaining agreements, notably, the domestic and "unclassified" sectors outside the scope of collective bargaining agreements negotiated by National Employment Councils.



As a follow-up to this proposal, and with support from the ILO, a tripartite delegation visited the National Economic Development and Labour Council of South Africa in October 1996 to draw lessons from its experiences for Zimbabwe. Following this study visit, the social partners began working towards the creation of a similar institutional structure in Zimbabwe, with proposals to establish the Zimbabwe Economic Development and Labour Council (ZEDLAC).<sup>25</sup>

In the meantime, a parallel process was unfolding at the same time along similar lines. The Commonwealth countries, under the Commonwealth Partnership for Technology Management, were promoting “smart partnership dialogues”, notably under the Langkawi International Dialogues that commenced with the International Smart Partnership Dialogue held at Langkawi Island in Malaysia in July 1995. Impressed by these dialogues, the Government of Zimbabwe sought to emulate this experience by creating its own forum to facilitate broad consultations as a basis to “remove the suspicion on both sides that had characterised the interaction between government and the private sector in the 1980s.”<sup>26</sup> When the Office of the President and Cabinet was introduced to the ZCTU initiative, it decided to merge these in order to avoid duplication of effort and to foster greater efficiency and effectiveness as well as providing centralized coordination and guidance.

The culmination of this process was marked by the launch of the National Economic Consultative Forum (NECF) in July 1997 at the Parliament of Zimbabwe. The NECF is constituted as “...a voluntary association of citizens desirous to act in common purpose in pursuit of achieving Zimbabwe’s socioeconomic development goals.” It is seen as “...an innovative mechanism of cooperative governance through dialogue and consensus building between Government, the private sector, labour, academia and civil society.”<sup>27</sup> The logic behind the creation of the NECF was “...based on the assumption that no particular one sector of a group of individuals has a monopoly of skills or competencies to grow and develop the economy.” As such, “[i]t is imperative to pool the resources, skills and capacities of the various entities and individuals in a win-win manner in order to enhance the developmental process and to create wealth and prosperity for all.”<sup>28 29</sup>

However, it is the voluntary and individual structure that led to the withdrawal of the ZCTU from the body following the announcement by the President at the launch that participation was on an individual and not institutional (constituency) basis.<sup>30</sup> The ZCTU argued that the government had unilaterally reviewed the structure of the NECF, yet the understanding had been that organizations would participate in a representative (mandate-driven) capacity. The NECF therefore proceeded bereft of organized workers’ representation and voice. Deprived of one of the most vociferous social partners, labour, the NECF has therefore been a platform for public-private consultation on socio-economic policy issues.

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25 This proposal was reached at a working technical retreat of the social partners at the African Regional Labour Administration Centre (ARLAC) under the coordination of Professor Lloyd Sachikonye, then of the Zimbabwe Institute of Development Studies.

26 <http://www.necf.org.zw/index.php/about-us/27-necf-mandate> downloaded on 4 December 2018.

27 NECF was therefore created to “facilitate the building of a strong, stable, united, democratic and prosperous Zimbabwean nation.”

28 <http://www.necf.org.zw/index.php/about-us/27-necf-mandate> downloaded on 4 December 2018.

29 The launch of the NECF was preceded by a long-drawn-out consultative process, with no less than 39 consultative meetings mainly in 1996-97 that embraced key stakeholders such as the Confederation of Zimbabwe Industries, Zimbabwe National Chamber of Commerce, Zimbabwe Congress of Trade Unions, Bankers Association of Zimbabwe, and individual academics and business entrepreneurs.

30 See TNF (2006: 14), footnote 1.

The specific mandate of the NECF includes the following:

- “To create a smart partnership amongst key economic players, namely, government, private sector, labour, civil society, academia and other stakeholders in order to enhance the socio-economic development process of Zimbabwe;
- To provide a broad participating framework in the formulation of national economic policy through an interchange of ideas and experiences among government, private sector, labour, academia and civil society;
- To facilitate the coordination, monitoring and evaluation of national economic policy implementation;
- To provide a platform for forging national consensus on a shared vision for national economic development;
- To inculcate a culture of consultation and consensus building in policy formulation through dialogue; and
- To provide a forum for national debate on topical economic issues and recommend well considered views and policy options to enhance the growth of the economy.”<sup>31</sup>

NECF is a quasi-public body with a full time secretariat that is funded by government. The State President is its Patron, with a nine-member board of trustees co-chaired since inception by Dr. Misheck Sibanda, Chief Secretary in the Office of the President and Cabinet, and Dr. Robbie Mupawose, from the private sector. Beyond the funding, it is therefore clear that the NECF is under the direction of the Office of the President and Cabinet, with two of its first Chief Executive Officers recruited directly from the OPC, with the current one a former senior official in the Ministry of Industry and Commerce.

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31 <http://www.necf.org.zw/index.php/about-us/27-necf-mandate> downloaded on 4 December 2018.

### **Box 1: Thumbnail Summary of the Work of the NECF**

Even though this paper is not focusing on the NECF, as a platform for national social dialogue, its activities are relevant to the discussion. Since its establishment in 1997, the NECF remained an active and visible player.

Amongst its notable accomplishments, the NECF has produced an Industrial Policy Framework for Zimbabwe, and a comprehensive study on the brain drain and its economic impact on the country, as well as developing the Zimbabwe Millennium Economic Recovery Plan.

Its flagship programme is the annual International Business Conference, which it hosts at the Zimbabwe International Trade Fair. At this event, captains of industry, cabinet ministers and other stakeholders engage in policy dialogue. The NECF has consistently undertaken studies and convened public-private sector conferences and dialogues on current socio-economic issues. In 2015, it produced the first National Competitiveness Report which stands as the baseline of information on the country's competitiveness, an annual "dashboard" for measuring improvements in competitiveness.

The second such report was issued in October 2016, and highlighted the high cost of doing business in Zimbabwe. However, in spite of its visibility and incessant work, it failed to reverse the economic decline and resolve the economic crises.

Critically, the context in which national social dialogue emerged was characterized by confrontational and conflictual relationships amongst the social partners, notably between the state and labour, which had resisted attempts at establishing a one-party state in the late 1980s, and had relentlessly resisted ESAP. In the latter part of the 1990s, the ZCTU had started mobilizing its constituency, going beyond workplace issues and reaching out to broader civil society to form an anti-ESAP social movement. Hence the 1990s were largely seen as a "defining watershed in Zimbabwe's political economy" (Matombo and Sachikonye, 2010: 113) or as "a decade of unprecedented industrial and social action" (Bond and Saunders, 2005: 45).

The crisis unravelled further when war veterans, who had also been protesting against their alleged neglect, reached an agreement with the President in November 1997 for each of the former freedom fighters to be paid a gratuity of Z\$50,000 (US\$4,167) by 31 December 1997, and a monthly pension of Z\$2,000 (US\$140) beginning in January 1998.<sup>32</sup> Government sought to finance the unbudgeted package through a levy, a position that led the ZCTU to organize demonstrations on 9 December 1997 against the implied tax burden.

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<sup>32</sup> The war veterans had disrupted court sessions, interrupted the President's speech at the Heroes Acre in August 1997 and besieged State House.

A controversial scheme by the government to resettle poor black farmers on white-owned farmland without compensation in November 1997 became the sticking point in the release of US\$53m and US\$176m IMF stand-by facility to prop up the economy.<sup>33</sup> As a result of the unbudgeted package, and in particular its impact on the budget deficit, the World Bank and International Monetary Fund withdrew multilateral aid from the country, with other international donor agencies following suit. External investors lost confidence in the currency, resulting in the Zimbabwe dollar losing 71.5% of its value against the US dollar on 14 November 1997 and the stock market crashed, wiping off 46% from the value of shares in what has become known as Black Friday. As generally agreed, events around Black Friday plunged the economy into the decade-long crisis (1997-2008).

The massive depreciation of the Z\$ raised input costs, undermining the viability of producers, who demanded a review of the producer price of maize. Millers in response raised prices by 24% in January 1998. The increase in the price of maize meal triggered spontaneous and violent nationwide riots which started in Harare during the last week of January 1998. Police and security forces were called upon to quell the demonstrations after damage to goods and property. This was the beginning of the involvement of the military in dealing with discontent, a development that would intensify in the new millennium as the crisis escalated (see Sachikonye, 2011). Government immediately introduced price controls, targeting all basic commodities, and fixed the exchange rate at Z\$38 to the US\$.

The ZCTU organized a two-day stayaway in March 1998, calling for the removal of the increase in sales tax by 2.5% to fund the war veterans' package and the development levy. The entry of Zimbabwe into the DRC war in support of the beleaguered Government of Laurent Kabila in August 1998 at an estimated cost of US\$33m per month worsened matters as the economic crisis deepened.

As the ZCTU pressed government to arrest the emerging crisis through further mass action, the employer representatives approached government to resolve the matter through social dialogue, resulting in the convening of the first tripartite meeting between the state, business and labour. At the meeting on 4 September 1998, the ZCTU, the Employers' Confederation of Zimbabwe (EMCOZ) and government reached a landmark agreement as follows:

- Removal of the development levy with effect from 1 January 1999;
- Removal of the 2.5% increase in sales tax with effect from 1 November 1998;
- The deferment of taxation on pension funds of 15% to allow for a comprehensive study;
- Increase in the tax threshold to Z\$2,000 per month; and
- Increase in the tax free bonus from Z\$1,100 to Z\$2,000 with effect from 1 November 1998.

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<sup>33</sup> Buigut (2015) argues that in the absence of a clear strategy on how this was going to be financed, the plan alarmed investors and strained relations with the World Bank and the IMF.

This agreement marked the birth of the Tripartite Negotiating Forum (TNF). However, no sooner had the agreement been reached than the government unilaterally increased the price of fuel by 67% in the same month. In response, the ZCTU argued that the benefits it had achieved through the agreement had been wiped away and organized stayaways in protest. Government in turn responded by banning stayaways on 27 November 1998 in terms of the Presidential Powers (Temporary Measures) (Labour Relations) Regulations, 1998 (SI 368A of 1998). Critically, these regulations gave powers to the Minister of Labour to cancel the registration of a union that organized stayaways, as well as imposing civil and criminal penalties on trade union leaders who participated in such activities. Thus, the TNF received baptism of fire in the immediate aftermath of its birth, testing its very essence and sustainability.

## 5.2 Composition, Structure and Objectives of the TNF

The TNF emerged as a platform to negotiate socio-economic issues identified by the tripartite social partners, implying that it goes beyond the narrow focus of the NECF on consultation and promoting smart partnership. The structure and functions of the TNF were later outlined in the “Founding Principles of the Tripartite Negotiating Forum” of 2001, the first agreement between government, organized business and organized labour since the September 1998 agreement.

The founding principles define the TNF as a voluntary non-legislated body which negotiates on “critical socio-economic issues”. Its specific terms of reference include: (i) to negotiate and recommend to Cabinet critical socio-economic challenges that face the country; (ii) to build confidence and portray a positive image of the country; and (iii) to monitor the implementation of agreed positions ratified by Cabinet. Issues for negotiation are jointly identified, with the agreements referred as recommendations to Cabinet for final approval and implementation. Clearly, therefore, the TNF enjoys only an advisory role to Cabinet.<sup>34</sup>

The method of work is such that a Tripartite Agenda Setting Committee comprising the Permanent Secretary in the Ministry of Labour, the ZCTU Secretary General and the EMCOZ Executive Director meet to set the agenda, which drives the business of the Technical Tripartite Committee comprising Permanent Secretaries from relevant government ministries and the executive wing of both the participating business and labour organizations. TNF meetings are usually preceded by detailed technical work, including commissioned research and studies by the Technical Tripartite Committee.

The draft agreement(s) is discussed and adopted by the Principals (ministers, and presidents from business and labour). The Ministry of Public Service, Labour and Social Welfare is the Secretariat. While the TNF Technical Committee is chaired by the Senior Secretary for administration in the OPC, the Principals are chaired by the Minister of Public Service, Labour and Social Welfare, in line with ILO Convention No. 144 of 1976 on Tripartite Consultations.

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<sup>34</sup> While the TNF is not a decision-making body, it however can conclude binding protocols based on good faith and trust among the social partners.

It is quite instructive that a high number of cabinet ministers (13) ordinarily participate in the TNF, with others coming in as and when issues within their jurisdiction are under discussion, reflecting the broad mandate of the TNF. Business is represented by the seven business organizations under the coordination of the Employers' Confederation of Zimbabwe.<sup>35</sup> Organized labour is represented by the ZCTU, ZFTU and the Apex Council,<sup>36</sup> ensuring that both private and public sector workers are covered. Participation is also extended in an observer status to the Consumer Council of Zimbabwe to represent the interests of consumers and the NECF in recognition of the obvious linkages between the two national social dialogue bodies.

### 5.3 The TNF at Work: Entangled Social Dialogue, 1999-2018<sup>37</sup>

The nature and scope of national social dialogue through the medium of the TNF follows distinct phases over the crisis period (1999-2008), the Inclusive Government period (2009-2013), and the post-Inclusive Government period (2013-2018). The analysis of national social dialogue is therefore organized around these phases or epochs.

#### 5.3.1 *The Crisis Period (the "lost decade"), 1999-2008*

The crisis period was the most intense in terms of developments on all fronts – political, economic and social – and in terms of attempts at national social dialogue and concertation. This period was the most turbulent since independence; no country outside a war situation has gone through such a sustained downturn.

As indicated above, the signing of the September 1998 agreement marked the launch of the TNF. However, this was followed by the unilateral raising of fuel prices that resulted in the ZCTU organizing stayaways in November 1998, which were in turn followed by the government clamping down on protest action. The emergence of a militant civil society movement under the coordination of the ZCTU during the second half of the 1990s made it difficult for government to continue with neoliberal policies which had become politically unsustainable. As a result, the government implemented ad hoc knee-jerk policies, including resorting to price controls and the rhetoric of patriotic history.

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35 It includes the Confederation of Zimbabwe Industries, Zimbabwe National Chamber of Commerce, Zimbabwe Chamber of Mines, Bankers Association of Zimbabwe, Commercial Farmers Union, Zimbabwe Farmers Union and the Zimbabwe Council of Tourism.

36 The Apex Council includes the Civil Service Staff Associations, Zimbabwe Teachers Association and the Zimbabwe Nurses Association.

37 The chronological developments in the TNF are pieced together from information gleaned from ZCTU TNF files, Mtapuri (2006) and Parakokwa (2017) as well as the author's notes since he has participated in the TNF processes and activities since its inception. The assistance from two interns at LEDRIZ, Tendai Madava and Audacious Manjeza in painstakingly harvesting information from the ZCTU TNF files is gratefully acknowledged. The work and views of Mtapuri (2006) and Parakokwa (2017) are most interesting as both worked for the Ministry of Labour and were part of the TNF processes.

Land invasions resumed as restless villagers sought redress of the land question, culminating in the donor land conference of 9-11 September 1998 which agreed to proceed on the basis of a two-year Inception Phase based on “learning by doing”. Meanwhile, in 1997, civil society groups created a lobby group, the National Constitutional Assembly, comprising labour movements, student and youth groups, women’s groups, churches, business groups and human rights organizations, which pressed for the adoption of a new constitution.

As the budget deficits worsened following unbudgeted expenditures, these had to be funded through domestic borrowing. As a result, interest payable on the rapidly rising debt grew such that it exceeded expenditure on health and education combined by the end of the 1990s. While inflation had been moderate, averaging 12% during the first decade of independence, and rising to 26.6% during the ESAP period, it rose sharply from 18.9% in 1997 to 31.7% in 1998 and 58.5% by 1999. Economic growth declined from an annual average rate of 4.6% (1986-90) to 2.8% (1991-96) to -0.7% (1997-99).

When Zimbabwe defaulted on its repayments to the IMF in 1999 and accumulated arrears on its foreign debt repayments of US\$109m, the country’s credit rating took a huge knock which made it very difficult to secure loans, putting the economy under severe strain. The relationship between Zimbabwe and its development partners deteriorated during the latter half of the 1990s earning the country a high-risk profile, resulting in the acute shortage of foreign currency. As a result, a thriving parallel market emerged, which became virtually the only port of call for foreign currency seekers. All economic indicators turned negative in 1999, reflecting rapidly deteriorating macroeconomic conditions.

In the meantime, as it became clear that social dialogue was not helping in arresting the deteriorating economic situation, and that instead the government’s response was to resort to authoritarian measures and repression, the ZCTU, NCA and more than 40 other civil society groups organized a National Working People’s Convention held in Harare from 26-28 February 1999 where they agreed to form “...a broad-based movement for change,” which culminated in the formation of the Movement for Democratic Change (MDC) in September 1999. Henceforth, the emergence of a labour-backed opposition party would create an acrimonious relationship between the state and the ZCTU.

In an attempt to address the deteriorating economy, the TNF social partners agreed to negotiate a comprehensive “social contract” in September 1999. Against this difficult background, a tripartite technical committee was set up in October 1999 to draft a Declaration of Intent Towards a Social Contract. The Declaration was a basis for the negotiation and conclusion of protocols on specific socio-economic issues under a “Social Contract”. Its objectives included the following:

- To create a conducive and tolerant environment for the negotiation and conclusion of a Social Contract;
- to overcome stakeholder differences and work towards a common goal guided by a shared vision for national development; and
- to promote confidence among social partners and generate commitment towards the sustainability of social dialogue in the spirit of smart partnership and tripartism.

Most importantly, the Declaration provided guiding values and principles for negotiating a Social Contract, including:

- Cultivating a culture of tolerance and restraint;
- sharing a common vision regarding the future development of the country;
- negotiating in good faith;
- ensuring that social partners are accountable to each other;
- subordinating sectoral interests to national interests;
- promoting a mutually beneficial environment (a win-win situation);
- adopting a flexible approach to negotiations that allows for adjustment to cater for new and unforeseen developments; and
- ensuring strict confidentiality of the issues under negotiation.

The turn of the millennium saw an unprecedented recourse to violence and state repression to deal with the threat to the ruling party's hegemony. The year 2000 started on a difficult note when the alliance between ZCTU, NCA and MDC mobilised strongly for a "no" vote on the proposed new constitution during the referendum of 12-13 February 2000, which prevailed with 54.7% of Zimbabweans voting against it. As the first major political defeat of the ruling party, this provided ample evidence of its waning support base and provided a real threat to its political hegemony ahead of the June 2000 parliamentary elections.

In the immediate aftermath of the referendum, some war veterans started invading white-owned farms with the tacit approval of security operatives. As the occupation of commercial farms gathered momentum, the Fast Track Land Reform Programme (FTLRP) was launched on 15 July 2000 to speed up the process of land acquisition and resettlement. The period after 2000 also witnessed violent political contestations between ZANU (PF) and the MDC, starting with the June 2000 parliamentary elections. Clearly, there was no room for national social dialogue as the priorities had shifted elsewhere, with political contestation uppermost.

It was only in October 2000 that the technical committee of the TNF was reconvened to review the draft Declaration of Intent. On 19 January 2001, the social partners signed the Draft Declaration of Intent Towards a Social Contract. The Declaration provided a general framework for the negotiation and conclusion of protocols covering specific socio-economic issues, including prices and incomes, economic stabilisation, productivity enhancement, empowerment, urban transport, environmental management, health and safety at work, skills development, public confidence and image promotion, fuel pricing, privatization, budget performance, national health insurance scheme, anti-corruption, and labour law reform.

However, shortly thereafter, the ZCTU withdrew from the negotiations, citing continued violence. The 70% increase in fuel prices of June 2001 prompted the ZCTU to organize a two-day stayaway in July 2001, which resulted in the reconvening of the TNF. The parties negotiated and agreed on national minimum wages for agriculture, industry and commerce, and agroindustry (including



horticulture) in line with the June 2001 Poverty Datum Levels of Z\$4,181.38, Z\$8,925.96, and Z\$7,902.54 respectively.<sup>38</sup> Since price controls had largely failed, they also agreed to negotiate viable prices with producers. However, as the negotiations were going on, government imposed price controls on all basic commodities. As was the case with the price controls introduced in 1998, these failed to control prices and created shortages.

At the TNF meeting held on 20 August 2001, the social partners agreed to address the totality of the macroeconomic problems, including the country risk factor. By November 2001, a technical team from the TNF had consolidated the position papers of the social partners into a draft Kadoma Declaration: Towards a Shared National Economic and Social Vision.<sup>39</sup> The Declaration defined country risk factors and their causes, their impact on the economy and society at large, solutions and implementation modalities, outlining the role of each of the three social partners.<sup>40</sup>

The Declaration exhorted each of the social partners, including the media, to think and act in the national interest. It identified the causes of the high country risk factors as, among others, (i) failure by institutions of governance to function effectively; (ii) mismatch between policy and action; (iii) delay in policy implementation; (iv) the overall spread of wealth in the country and continued racial imbalance in the ownership of the means of production; and (v) lack of political tolerance and lack of respect for human rights. On the way forward, the Declaration outlined the respective roles of each of the tripartite partners, including (i) de-politicization of workplaces; (ii) commitment to implement policies; (iii) democratization of the economic landscape and implementation of policies of social equity; (iv) prioritization of macroeconomic stabilization; (v) desisting from acts of violence, and timely resolution of disputes; and (vi) respect for trade union rights, and ensuring good governance.

The social partners agreed to urgently set up an implementation and monitoring mechanism for the Declaration as well as to press for more ILO technical support on the strengthening of social dialogue; through, for example, support to the TNF reform process, establishment of an independent TNF secretariat and labour law reform. However, the Declaration was not signed because of misunderstandings between government and labour over continued violence, and especially the facilitation of a rival trade union body, the Zimbabwe Federation of Trade Unions (ZFTU) by government. In the meantime, the distortionary interventionist policies continued against the background of presidential elections due in March 2002.

As inflation increased from 55.9% in 2000 to 365% by 2003, the TNF prioritized the management of incomes and prices as opposed to the use of controls. Late in 2002, the TNF's focus was on the Prices and Incomes Stabilisation Protocol as the basis for the management of the prices and incomes in an unstable macroeconomic environment. The Protocol was signed on 30 January

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38 To effect the minimum wages, government promulgated the Labour Relations (Specification of Minimum Wages) Amendment Notice (No.6), SI 307A of 2001 following negotiations in the TNF.

39 This consolidation process through the technical team commenced on 20 August 2001 in the town of Kadoma, hence the reference to the Kadoma Declaration.

40 Country risk was defined as the "...premium that is attached by nationals, residents, foreigners and international bodies on residing in, visiting and/or doing business with a particular country" (page 2).

2003. Article 4 of the Protocol specifically required that prices of basic commodities such as mealie meal, cooking oil, salt, milk, sugar and bread would be managed via a tripartite structure under the TNF. Concurrently, the parties agreed to suspend collective bargaining for wages under NECs for a period of six months, up to 30 June 2003. Government committed to reduce the budget deficit to 11% of GDP and to reduce inflation to 96% by end of 2003.

At the resumption of the TNF talks, the TNF social partners launched the Zimbabwe National Productivity Centre at the Scientific Industrial Research and Development Centre (SIRDC) on 20 February 2003. Its task is to spearhead and coordinate productivity enhancement at national and sectoral levels and promote best practices. The Productivity Centre works under a Tripartite Advisory Council comprising government, business and labour. In line with its obligations under the National Economic Revival Programme (NERP) to address fuel problems, the government increased fuel prices by 200% on 15 April 2003. Business abandoned the price management mechanisms of the Protocol, with prices escalating. The ZCTU called for mass stayaways from 23 to 25 April 2003 in protest at the fuel price hike, a position which Government characterized as politically motivated.

When government refused to reverse the fuel price increase, the ZCTU withdrew from the TNF dialogue, insisting that the other parties had acted in bad faith. Thus, the Prices and Incomes Stabilisation Protocol faltered after being in existence for only two months. A bipartite meeting between government and business was held on 24 April 2003 on new national minimum wages which had been discussed by the Sub-Committee on Minimum Wages.<sup>41,42</sup> It was later agreed at a meeting held in March 2004 that the TNF would only resume after an ILO workshop on social dialogue to clarify the roles and obligations of stakeholders in negotiating a Social Contract, to promote a shared understanding of the concept, bring to bear on the partners the utility of tripartite social dialogue to socio-economic development as well as exposure of the parties to global experiences and lessons for Zimbabwe. This workshop, which was scheduled to take place in July 2004, took place in July 2006 with the support of the ILO and UNDP.

One of the most direct affronts to citizens' liberties occurred when the government conducted a military-style Operation Restore Order / Murambatsvina (clean up), under the guise of urban renewal starting on 19 May 2005, soon after the harmonized elections. The justification for this heinous operation was that the informal economy was harbouring criminals and promoting unhygienic practises that soiled the image of the towns. Following public outcry, the UN sent a special envoy on Human Settlements, Mrs. Anna Kajumulo Tibaijuka to assess the impact of the operation on 26 June 2005. The UN (Tibaijuka) report roundly condemned the operation as insensitive as it had directly affected 700,000 people in cities across the country who lost their homes and sources of livelihood, and 2.4m people indirectly.

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41 At this meeting, which coincided with the ZCTU stayaway on 24 April 2003, labour was only represented by Mr. Mabande, the then CEO of ZIMTA.

42 These minimum wages were to be effected from 1 July 2003 as follows: for agriculture, Z\$23,070; for industry and commerce, Z\$47,696, and for agro-industry & horticulture, Z\$42,168 in line with the Prices and Incomes Stabilisation Protocol.

As the Report observed, “Economically, substantial housing stock has been destroyed, and the informal economy has been virtually wiped out, rendering individuals and households destitute. Local municipalities that used to collect taxes from informal traders have now lost this source of income. In political terms, the Operation has exacerbated an already tense and polarized climate characterized by mistrust and fear. It has resulted in a virtual breakdown in dialogue between Government and civil society...” (Tibaijuka, 2005: 31).

The TNF resumed in December 2005, after almost three years of dormancy over the period 2003-05.<sup>43</sup> This period also coincided with the worsening of relations between government and the ZCTU, with the latter reporting the government to the ILO for undermining trade union and human rights. At the time of the resumption of TNF talks in December 2005, the government appointed an investigator to look into the financial affairs of the ZCTU, a development which was criticized by the ILO. The entry of the ZFTU into the TNF dialogue worsened the trust deficit that already existed between government and the ZCTU.

The TNF immediately set out to review its founding principles, the Prices and Incomes Stabilisation Protocol and the Kadoma Declaration against a deteriorating economy. While there was consensus on all the documents, there remained some sticking-points with regard to clause 6 of the Protocol, which sought to allow employers and workers to negotiate PDL-linked minimum wages. The employers were resolute that this would not work in the unstable macroeconomic context, while labour insisted that it was an important way of protecting workers’ welfare.

The promulgation of draconian laws such as the Public Order and Security Act (POSA) in 2002 and the Access to Information and Protection of Privacy Act (AIPPA) in 2003 showed how the state was hell-bent on reining in oppositional forces, including trade unionists. No public meeting could be held without police permission, messages that instigate violence or demonize the head of state were criminalized, and law enforcement agencies were to have access to the gatherings. After the courts found that POSA contradicted the basic right to freedom of assembly, the government introduced the Criminal Codification Act (2006) to tighten control over civil rights and liberties. The worst case of repression involved the torture of the ZCTU leadership in September 2006 for participating in a nationwide demonstration against the government’s economic policies.<sup>44</sup>

As discussed above, in 2005 the government and its social partners agreed that it was necessary to enhance and strengthen social dialogue as a priority area of the Decent Work Country Programme. As a result, a Tripartite Preparatory Committee was established in May 2006 to develop a Concept Paper on a National Tripartite Workshop on Social Dialogue and to put the logistics in place. The Concept Paper highlighted the social, economic and political challenges facing the country, the legal and institutional framework within which social dialogue takes place, an overview of the challenges of social dialogue, and the workshop programme, objectives and outcomes.

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43 It was at this point that the ZFTU joined the TNF dialogue. The “Report on the Operations of the TNF in the Context of the Declaration of Intent on the Social Contract” presented at a meeting held on 20 July 2004 raised concern over delayed meetings, and concluded that in fact the TNF was dormant.

44 The repression against trade unions and oppositional groups is well-documented in Sachikonye (2018). See also Sachikonye (2011); ILO (2009).

The workshop, which was attended by 19 participants from Government, 12 from Labour and 5 from Business,<sup>45</sup> was held at Mbizi Lodge on 13 July 2006, where the following documents were shared amongst the social partners:

- Concept Paper on the National Tripartite Workshop on Social Dialogue;
- Article on “Tripartite Cooperation, Social Dialogue and National Development” (see Fashoyin, 2004);
- PowerPoint presentation on “National Level Social Dialogue: Comparative International Experiences” by Tayo Fashoyin, then Director of the ILO Sub-Regional Office in Harare, and one of the facilitators at the workshop; and
- Critical Elements of Effective Social Dialogue.

The workshop objectives included the following:

- To identify challenges relating to social dialogue in Zimbabwe;
- To assess the capacity constraints of the parties;
- To identify strategies to strengthen social dialogue in the country;
- To position social dialogue as a process to bring about socio-economic change;
- To come up with an agreed way forward.

The presentation by Tayo Fashoyin identified the role of social dialogue in national development in terms of consensus-building and democratic participation, joint problem solving, labour and social peace, substitution of adversarial relationships with social partnership, stability of economic environment that promotes investment, productivity and growth, and promotion of good governance which allows participation, ownership in policy formulation and implementation.

Instructively, the ILO also shared good practices on social dialogue from Barbados, Eastern Europe, Ireland, Kenya, Mali, Senegal, South Africa and Zambia. NEDLAC was used as an example of a good practice in terms of an institutional framework to foster national tripartite-plus dialogue. The fundamentals of successful dialogue were outlined as including trust, social inclusiveness, respect, participatory democracy, respect of freedom of association and readiness by the parties to cooperate and engage in genuine consultations. Instances of countries in economic crisis that used national social dialogue as an instrument to find solutions for socio-economic recovery were highlighted.

The various models of social dialogue were presented, such as bipartite, tripartite and tripartite-plus. It was noted that having ten ministries represented in the TNF was an advantage in that it would facilitate the discussion of broad issues and policies and made it easier for Cabinet to

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<sup>45</sup> The Concept Paper had noted that the workshop participants should not exceed 30 in number in order to facilitate deeper discussions.

understand the issues. Emphasis was placed on the need for democratic principles, governance and autonomy of workers and employers' organizations to operate freely without interference. The ILO underlined the importance of functional national structures of social dialogue as well as having a full-time secretariat, as opposed to the prevailing ad hoc arrangement.

The participants highlighted the main challenges facing social dialogue in Zimbabwe as follows:

- There is no trust or political will among the parties;
- The element of equal partnership and ownership is missing in the TNF as the environment is "intimidatory";
- There is a lot of activity in terms of policies and discussions but there are no results, due to lack of implementation;
- There is no acceptance and accommodation of divergent views;
- Parties do not negotiate in good faith;
- There is too much secrecy surrounding negotiations in the TNF;
- There is a problem of coordination of parties, especially labour;
- Deliberations in the TNF lack objectivity; and
- Some participants in the TNF lack the mandate to make decisions (see TNF, 2006: 7).

The workshop went on to discuss how these shortcomings could be addressed.<sup>46</sup> As the workshop came to a close, all social partners re-committed themselves to social dialogue and to making it work. As was highlighted in the Concept Paper: "In order for the country to succeed in bringing about the required economic turn-around, there is a need for national social dialogue and the building of consensus among the key players in economic development. This would require strengthening of the existing dialogue institutions to enable them to provide a forum where meaningful consultations on matters of socio-economic significance can take place" (TNF, 2006: 13).

Much progress was achieved following the symposium of March 2007, where the tripartite social partners recommitted themselves by signing a Communiqué on the need to conclude a Social Contract. The communiqué reinforced "...that the resolution of Zimbabwe's current socio-economic difficulties lies in the ability of Government, Business and Labour to positively work together in implementing mutually reinforcing measures."<sup>62</sup> The joint statement made a strong case for the finalization of protocols. Before the TNF were five protocols that were to be signed on 1 June 2007: the Founding Principles; the Kadoma Declaration – "Towards a Shared National Economic and Social Vision"; the Prices and Incomes Stabilisation Protocol; the Restoration of Business Viability; and the Mobilisation, Pricing and Management of Foreign Currency. While the

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<sup>46</sup> In his opening remarks, then Minister of Public Service, Labour and Social Welfare, Nicholas Goche, made it clear that "... more than ever, our economic challenges have unfortunately assumed previously unimaginable and now seemingly insurmountable proportions whose redress requires nothing short of resolute commitment on our part to collectively find sustainable solutions" (TNF, 2006: 27).

ZFTU and the Apex Council of Public Service Associations signed all five protocols, the ZCTU only signed the Prices and Incomes Stabilisation Protocol, arguing this was the one most relevant to its constituency.

The promulgation of the Presidential Powers (Temporary Measures) (Amendment of National Incomes and Pricing Commission Act and Education Act) Regulations, 2007, Statutory Instrument 159A of 2007 in September 2007 undermined the logic of negotiating a Social Contract. This Statutory Instrument introduced price and income controls under the auspices of the National Incomes and Prices Commission (NIPC) established in July 2007. While the Prices and Incomes Stabilisation Protocol had recognized NIPC as the agency to manage prices through dialogue with business, the Statutory Instrument gave it exclusive power to control prices.

As had become the pattern, the ZCTU called for stayaways from 19 to 20 September 2007, which resulted in the arrest and harassment of ZCTU officials. At the same time, a number of business executives were imprisoned for violating the price controls. By then, inflation had given way to hyperinflation, which was to reach 231.2m per cent in July 2008.<sup>47</sup> The IMF's 2009 Article IV Consultation Staff Report on Zimbabwe estimated the inflation rate at 489bn per cent by end of September 2008.

Clearly, instead of abating, the economic crisis degenerated during the period 1999-2008; GDP declined by a cumulative 51% with the steepest decline of -14.8% in 2008. Unsustainable budget deficits and unmanageable public sector debt, foreign and domestic, emerged, financed by the printing of money, which in turn resulted in uncontrolled monetary expansion. The period was characterized by multiple exchange rates, rapid dollarization and a collapsing currency. By 2008, industrial capacity utilization had dipped to below 10% as Zimbabwe went from being the second largest economy in SADC to the eleventh.

The rate of money-supply growth was such that it was decoupled from economic growth, fuelling further inflation. As a result, the value of the currency moved quickly from millions (six zeros) to billions (nine zeros), trillions (12 zeros), quadrillions (15 zeros), quintillions (18 zeros), and sextillions (21 zeros). To facilitate transacting, as well as to address the instability in IT systems in digit handling, a total of 25 zeroes were administratively removed from the ZW\$ between August 2006 and February 2009 (three on 1 August 2006, 10 on 1 August 2008, and 12 on 2 February 2009). In the chaos that ensued, the Zimbabwe Stock Exchange closed on 17 November 2008 and only reopened on 19 February 2009.

The political instability and economic collapse were only alleviated following the signing of the Global Political Agreement (GPA) by the ruling party ZANU (PF) and the two MDC formations on 15 September 2008.

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<sup>47</sup> Hyperinflation occurs when monthly inflation reaches at least 50% on a continuous basis.

### 5.3.2 *The Inclusive Government Period, 2009-2013*

Within the framework of the GPA, the Inclusive Government was established in February 2009 as a high level solution to the political crisis in Zimbabwe. The signing of the GPA, the formation of the inclusive government, as well as the adoption of multi-currencies and liberalization of prices in January and February 2009, implementation of cash budgeting and the discontinuation of quasi-fiscal operations by the RBZ, killed off hyperinflation and stabilised the economy, resulting in the availability of goods and services. As a result, the economy rebounded, growing at an average rate of 10% between 2009 and 2012.

While the GPA had foreseen the establishment of a National Economic Council (NEC) to facilitate dialogue between social partners, this was not fulfilled due to disagreements in the GNU. What was also not clear was how this body would interface with the TNF and NECF. That notwithstanding, national social dialogue during the tenure of the GNU was replaced by the dialogue amongst the Inclusive Government partners. As Parakokwa (2017) observes, this was contrary to the expectation that the labour-backed MDC would champion social dialogue in the GNU, especially as the then Prime Minister, the late Morgan Tsvangirai, was a former Secretary General of the ZCTU (1988-2001) who then championed social dialogue, and chaired the Council of Ministers. Moreover, the Minister of Public Service, Labour and Social Welfare, with responsibility for chairing the TNF, was also a former trade unionist with the ZCTU, and now with the MDC.

Since the signing of the five protocols in June 2007, there was a void of two years before the TNF reconvened in April 2009. During the tenure of the GNU, the Kadoma Declaration was re-signed by government, business and labour on 4 September 2009 and launched by President Mugabe on 26 February 2010. The social partners committed themselves to transform the TNF and rebrand it as an independent statutory body and accord publicity to the Kadoma Declaration.

In order to effect such transformation, a high level tripartite study tour of NEDLAC, South Africa, was undertaken in July 2009 under the leadership of the Minister of Public Service, Labour and Social Welfare. This was the second such tripartite study visit since October 1996. The NEDLAC experience highlighted two key principles that the Zimbabwean delegation sought to implement back home, namely, the establishment of a statutory body with an independent full-time secretariat. These efforts culminated in the drafting of a TNF Bill that seeks to re-establish the TNF as a statutory body with an independent secretariat based on the South African example.

A publicity blitz on the Kadoma Declaration was rolled out, starting with its launch by President Mugabe in February 2010, followed by four provincial campaigns covering Bulawayo Metropolitan, Manicaland, Midlands and Mashonaland West. The outstanding five provinces were not covered, owing to a lack of funds and possibly changed priorities. In recognition of its potential role in the economy, the ILO and UNDP availed resources amounting to US\$300,000 for the TNF, which was utilised in 2009 and 2010 (Parakokwa, 2017: 164). Under the aegis of the TNF, the Zimbabwe National Productivity Institute (ZNPI) was reactivated and an interim Board was put in place at the end of 2015 with a two-year mandate (2016-2017) as it had been identified as a quick win under ZimAsset. The Board comprises of representatives of EMCOZ (3), Labour Federations (3) and Government Ministries' (6) as well as the NECF and the SIRDC. An Interim Secretariat

housed in the Ministry to initiate productivity promotion programmes and undertake research on productivity issues was constituted. Following its adoption by the TNF, Cabinet approved the Zimbabwe National Employment Policy Framework (ZINEPF) in June 2010 as a basis for promoting employment creation as a cross-cutting objective.

Curiously, the main body of the TNF met only twice during the GNU period, on 4 September 2009 and 10 September 2010, with a 'special sitting' on TNF legislation and labour law reforms of 11 September 2011. When the financial support from the ILO and UNDP ended in 2010, the activities of the body tapered off (Parakokwa, 2017). The failure of social dialogue to sustainably address the economic challenges facing the country is reflected in the level of Zimbabweans living below the poverty line having declined from 75.6% in 1995 to 70.9% in 2001, and then increasing to 72.3% by 2010/11. As such, Parakokwa rightly concludes that "[t]he erratic nature of TNF engagements over this period show that the TNF route did not gain the status of a credible policy making avenue for the tripartite partners" (2017: 165). Instead, it was the elite dialogue between the principals in the GNU that took centre stage during the Inclusive Government.<sup>48</sup>

The Report of the ILO Commission of Inquiry of December 2009 which was set up by the Governing Body of the ILO in November 2008 to examine "...serious allegations of violations of basic civil liberties, including the quasi-systematic arrest, detention, harassment and intimidation of trade union leaders and members for the exercise of legitimate trade union activities" provides the most comprehensive account of the impact of state authoritarianism and repression on trade unions. This was the first time a Commission of Inquiry had arisen from simultaneous complaints from workers' and employers' delegates to the ILO Conference. The Commission undertook its full fact-finding mission to Zimbabwe in August 2009 and found the following:

- Routine infringements of workers' right to strike and demonstrate;
- Widespread arrests, detentions, assaults and torture of union officials and members;
- Intimidation and harassment of unions and their members, including teachers and farm workers;
- Patterns of interference in union affairs and anti-union discrimination;
- Obstructions to collective bargaining and social dialogue processes; and
- Failure in institutional protection of union rights.

Intriguingly, "The Commission of Inquiry concludes that there was systematic, and even systemic, violation of the Conventions in the country. It saw a clear pattern of arrests, detentions, violence and torture of trade union leaders and members by the security forces coinciding with Zimbabwe Congress of Trade Unions (ZCTU) nationwide events, indicating some centralized direction to the security forces to take such action and a clear pattern of control over ZCTU trade union gatherings through the application of the Public Order and Security Act (POSA). It noted the systematic

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48 The three principals of the GNU, Robert Mugabe of ZANU(PF) and Morgan Tsvangirai and Arthur Mutambara of the two MDC formations met every Monday during the tenure of the Inclusive Government.



targeting of ZCTU officials and members, particularly in rural areas, involving significant violence and anti-union discrimination in employment, in what appeared to be a calculated attempt to intimidate and threaten ZCTU members. It also noted with particular concern the routine use of the police and army against strikes, widespread interference in trade union affairs and the failure to guarantee judicial independence and the rule of law, resulting in a situation of impunity for those perpetrating atrocities" (ILO, 2009b: vii-viii).

What is most interesting is that the Commission of Inquiry noted that, "...by and large, it found little disagreement between the complainants and the Government of Zimbabwe in relation to many of the allegations. The Government of Zimbabwe accepted that 'things' had happened, that they were regrettable and that it was important to ensure that such 'things' did not happen again" (Ibid.: vii).

The ILO Commission of Inquiry highlights the context in which TNF partners had to operate, and hence it is no surprise that social dialogue was neither a serious option nor a priority for the government. Within government, the role of the security forces comes out most clearly in undermining civil rights and creating a context inimical to national social dialogue. Even though the GPA required the Inclusive Government to implement security sector reforms, this proved difficult, and remains an outstanding issue.

### *5.3.3 The Post-Inclusive Government Period, 2013-2021*

#### ***An Unfolding Economic Crisis***

The national elections of 31 July 2013 that brought the GNU to an end were resoundingly won by ZANU-PF. Post-elections, the splintering opposition removed the existential threat that had united ZANU-PF, resulting in the ruling party descending into intense succession fighting involving one faction led by Vice President Joice Mujuru, and another led by Justice Minister Emmerson Mnangagwa. Following threats of violence against her, Vice President Mujuru boycotted the 6th elective ZANU-PF Congress held from 2-7 December 2014. Together with eight ministers accused with her of seeking to topple President Mugabe from power, Joice Mujuru was fired from her position as Vice President on 8 December 2014. Emmerson Mnangagwa and Phelekezela Mphoko were appointed to the positions of Vice Presidents and Second Secretaries of ZANU-PF, and became Vice Presidents of Zimbabwe on 11 December 2014.

No sooner had these changes been effected than a new phase of factionalism emerged, fuelled by growing uncertainty around the ageing president's health and lack of a succession plan. This time the fighting pitted a faction allegedly led by VP Emmerson Mnangagwa, 'Team Lacoste', against the other, 'Generation 40 or G40,' which coalesced around First Lady Grace Mugabe, and included VP Phelekezela Mphoko. As the ruling party imploded, on 6 November 2017, President Mugabe fired VP Emmerson Mnangagwa for 'consistently and persistently exhibiting traits of disloyalty, disrespect, deceitfulness and unreliability.' Fearing for his life, Mnangagwa secretly left the country on 7 November 2017. He would only return back to the country following the 'military intervention' of 14-15 November 2017, and after Mugabe's resignation as impeachment

proceedings were initiated in a joint sitting of Parliament on 21 November 2017. Mnangagwa was eventually sworn in as the new President on 24 November 2017.

Poignantly, during the intervening period between the end of the GNU following national elections of 31 July 2013 and Mugabe's resignation, succession-related factionalism dominated the national discourse at the expense of the weakening economy. Soon after ZANU-PF won the July 2013 elections, it replaced the Medium Term Plan which was supposed to run between 2011 and 2015, with the Zimbabwe Agenda for Sustainable Socio-Economic Transformation (ZimAsset) (October 2013-December 2018). ZimAsset emerged from the ruling party with little broad-based consultation.

The post-GNU period witnessed the re-emergence of low growth, fiscal indiscipline and budget deficits. Having averaged 13.9% during the period 2009-12, growth declined to an annual average of 2.7% during the period 2013-18, -6.1% in 2019, -5.3% in 2020 and a projected 7.8% in 2021, against the ZimAsset target of 7.3% (2013-18) and that of 6.3% for 2018, 9.0% for 2019 and 9.7% for 2020 projected under the Transitional Stabilization Programme (September 2018-December 2020).

On account of falling revenues, then Minister of Finance Patrick Chinamasa informed the press on 13 April 2015 in the company of his Information counterpart, Jonathan Moyo, and Information secretary George Charamba, that civil servants' bonuses would be suspended for 2015 and 2016 and reviewed in 2017. Addressing the Independence Day commemorations on 18 August 2015, President Mugabe stated that what the Minister of Finance had announced was not Government's policy as he and his Vice Presidents had not been consulted. Left with no other option, Treasury struggled to pay the bonuses, which were staggered into 2016.

December 2015 salary payment arrears of US\$119.4 million, and bonus payments for 2015 of US\$177.8 million, employment costs constituted 91.7% of total revenues in 2016. A similar development emerged in 2016 overlapping into 2017. Over the period September 2013 to December 2016, the Budget accumulated US\$180.9 million payment arrears related to employer contributions to the National Social Security Authority, which had to be covered through issuance of Treasury Bills in the 2017 Budget. Such an unsustainable expenditure mix tilted towards employment costs left little room for operational and capital expenditures, and reliance on external partners to support key social sectors of the economy.

As Government lived beyond its means, the budget deficit increased from -0.9% in 2015 to -5.9% in 2016 and -9.2% in both 2017 and 2018. The large cumulative deficit is due to unbudgeted expenditures involving employment costs, support to agriculture, and some capital expenditure. The deficit was financed by issuance of treasury bills and recourse to the overdraft facility at the Reserve Bank. Issuance of treasury bills to finance the fiscal gap quadrupled from US\$2.1bn in 2016 to a cumulative US\$7.6bn by end of August 2018. While the ratio of treasury bills to GDP was at 4.4% in 2014, it increased sharply to 36.5% by end of August 2018. Such a level of treasury bills resulted in a disparity between the high levels of virtual money (RTGS) against

available US dollars and bond notes.<sup>49</sup> This resulted in an inflationary practice where multiple (four) exchange rates emerged between the bond note, the RTGS, electronic transfers and mobile money against the US dollar.

At US\$2.3bn as at end of August 2018, Government's overdraft facility at the Reserve Bank that was called upon to finance the deficit was three times the statutory limit of US\$762.8m. Rapid fiscal expansion resulted in government debt to the banking sector rising steeply after 2015, culminating in a prolonged financial crisis that severely limited credit and resulted in cash shortages, prompting banks to limit cash withdrawals and import payments. The introduction of new bond notes in November 2016 could not ease the liquidity shortages. Furthermore, the economy was saddled with a high debt overhang, with an estimated public debt of US\$17.69bn as at the end of August 2018, of which domestic debt accounted for 54%, up from 49%, while external debt declined from 51% to 46%. What is particularly surprising is how domestic debt emerged from as low as US\$275.8m in 2012 to US\$9.5bn at August 2018.

To deal with the economic crisis after the July 2018 elections, the government abandoned ZimAsset, and adopted the Transitional Stabilisation Programme (TSP), October 2018 to December 2020. In the joint monetary and fiscal policy measures announced on 1 October 2018, banks were required to separate Nostro Foreign Currency Accounts and RTGS in order to encourage exports, diaspora remittances, banking of foreign currency into the Nostro FCAs. To reduce the risk of a higher budget deficit for 2018 and 2019, the government introduced a 2% intermediated money transfer tax, with effect from 13 October 2018. While the RBZ insisted that the exchange rate between the two remained 1:1, to the public this sent a signal that this was not necessarily the case. In the context of foreign currency shortages, the premium between the US\$ and RTGS on the parallel market shot up by 600% in the aftermath of the announcement, before stabilising at 200-300%.<sup>50</sup> Significantly, annual inflation, which had slumped into a deflation at -0.2% in 2014 before rising to 0.9% in 2017, increased sharply from 5.4% in September 2018 to 20.9% in October, 31.0% in November and 42.1% in December 2018. Fuel shortages re-emerged amidst rampant price hikes.

At the meetings of the IMF and World Bank held in Bali on 12-14 October, 2018, Professor Ncube indicated that Government had agreed on an arrears clearance strategy prioritising the US\$2.4 billion owed to the creditors of choice as follows: US\$680 million to the AfDB; US\$1.4 billion to the World Bank; and US\$308 million to the European Investment Bank. The arrears were to be cleared in 12 months. However, as happened to his predecessor, Patrick Chinamasa, who in October 2015 had also agreed with the IFIs in Lima, Peru to clear arrears – then amounting to US\$1.8 billion to multilateral institutions, only arrears to the IMF of US\$107.9 million were paid off on October 20, 2016 through an off-set arrangement. Government reneged on its commitment as the economy continued to deteriorate.

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49 Bond notes are locally tradable currency initially backed by a US\$200million facility from the Afreximbank that was introduced by the government as an incentive to exporters and remittances as well as to provide liquidity to the market. Until the monetary policy of February 2019, they were officially traded at an exchange rate of 1:1 to the US Dollar.

50 Rising prices were driven mainly by growth in money supply arising from monetisation of the budget deficit, as well as foreign exchange rate premiums emanating from the mis-match between electronic bank balances and available foreign exchange. These distortions created a thriving parallel market for foreign exchange, where premiums for hard currency emerged from the huge demand to meet external obligations, including imports

On the eve of his departure on a state visit to Russia, Belarus, Kazakhstan, Azerbaijan and the World Economic Forum at Davos in Switzerland on the evening of 12 January 2019, President Mnangagwa announced a 150% increase in fuel prices. This announcement sparked violent protests and riots across the major towns and cities of Zimbabwe from Monday 14 to Wednesday 16 January 2019. People stayed at home as roads were barricaded and shops looted. These protests came as doctors ended a 40-day strike. Government's responded swiftly as security forces (mainly police and army) descended onto the streets and suburbs to quell the riots. A partial internet shutdown was imposed, as at least 12 people lost their lives and 78 were reportedly treated for gun-shot wounds as many others were injured and arrested. Government blamed the main opposition party, the MDC, the ZCTU and other civil society organisations for organising and inciting the riots. The crackdown by Government attracted widespread condemnation, including Amnesty International, the Office of the United Nations High Commissioner for Human Rights, the European Union, the British government among others.

In the Monetary Policy Statement of 20 February 2019, the 1:1 exchange rate between RTGS and USD was removed and replaced by an inter-bank foreign exchange market, a development which created an official exchange rate for the local currency. In addition, the country adopted a Staff Monitored Programme (SMP) approved by the IMF to run for the ten-month period 15 May 2019 to 15 March 2020. The SMP required the country to implement structural reforms that entailed restructuring state-owned enterprises, enhancing governance, including procurement and revenue administration, and improving the business environment. However, the SMP was declared off-track following the conclusion of Article IV consultations on 24 February 2020 owing to policy mis-steps. These involved lack of effective fiscal-monetary-forex policy co-ordination and significant quasi-fiscal activities by the Central Bank, which undermined de-dollarisation and resulted in a rapid depreciation of the local currency as well as high inflationary pressures (IMF, 2020).

The exchange rate depreciated from the pegged trading level of ZWL2.5 to the USD on February 25, 2019 to ZWL16.8 to the USD on the interbank foreign currency market by 31st December 2019 (a 572% depreciation) and to ZWL25 to the USD by 22 June 2020, the day before the introduction of the Dutch Auction system (see below). The pegging of prices on the parallel market exchange rate, which experienced a steeper depreciation of the local currency triggered an inflationary spiral. Inflation increased sharply from 5.4% in September to 20.9% in October, 31.0% in November, 42.1% in December 2018, and 175.7% in June 2019; against a SADC macro-economic convergence target of inflation of 3-7%. When the Minister of Finance and Economic Development, Professor Mthuli Ncube abolished the multi-currency regime and adopted a mono-currency regime, the Zimbabwe dollar on 24 June 2019, it was already being eroded through rising prices. The introduction of the Zimbabwe dollar was therefore mistimed as the necessary macroeconomic fundamentals were not yet in place, including external reserves of at least six months of import cover, and price stability.

In order to reduce exchange rate instability and anchor inflation, Government introduced the foreign exchange Dutch Auction system on Tuesday, 23 June 2020. The relative stability in foreign exchange it created, coupled with reserve money targeting and fiscal consolidation saw inflation declining from the peak of 837.5% in July 2020, easing to 50.2% by August 2021. However, distortions in this auction system resulted in a backlog in allotting winning bids, as well as a

runaway parallel foreign currency market. This resulted in a reversal of the downward trend in inflation and an upward trajectory emerged. Inflation increased to 51.6% in September and had reached 60.7% by December 2021. Meanwhile, the country remained in debt distress, with total public debt reaching US\$13.7 billion as at end September 2021, comprising US\$13.2 billion public external debt, and domestic debt of US\$532 million, representing 86.4% of GDP.<sup>51</sup>

The social impact of austerity was not surprising. Critically, while prices were rated against the inter-bank exchange rate, and even the parallel market rate, incomes were not, resulting in disproportionate prejudice and loss of value on the part of the working people and those on fixed incomes, in particular pensioners. Rapidly rising inflation since October 2018 effectively eroded purchasing power. In fact, by the time the Zimbabwe dollar was re-introduced, inflation had reached 176% by June 2019, which implied the new currency could not adequately fulfil the basic functions of money, namely, as a medium of exchange, unit of account, store of value (purchasing power), and standard of deferred payment. It is not therefore surprising that the economy started redollarising, despite government efforts to suggest otherwise.

Meanwhile, Minister of Finance Mthuli Ncube argued that while in the past fiscal indiscipline on the part of Government was driving the volatility of the exchange rate, since September 2018, Government was in fact running surpluses on its fiscal account. However, critics questioned the narrative of 'running surpluses' at a time Government was failing to honour its debt obligations, and social services, especially health care, were in a dilapidated state. It was questioned how a large supplementary budget of ZWL\$10.85 billion (against the original ZWL\$7.77 billion as announced in the Mid-Term Budget Statement of 1 August 2019) could co-exist with 'surpluses'. Of noteworthy is that the 'surpluses' were also largely attributable to the 2% electronic transactional tax introduced in October 2018.

Talk of 'surpluses' created tensions between government as employer and its employees, who declared themselves incapacitated by the introduction of the ZWL\$. Notably, junior doctors went on strike on 3 September 2019, claiming that they were too incapacitated to go to work due to low salaries and the lack of equipment in state hospitals, adding to their argument that they 'could not save lives' when there was no medication, and with inadequate equipment. They demanded that their salaries be pegged to the interbank exchange rate. As Government fired 435 junior doctors over the nationwide strike that had paralysed hospitals, senior doctors joined the industrial action on 26 November 2019.

The outbreak of Covid-19 in March 2020 worsened an already unravelling crisis, exacerbated by the austerity measures, and premature reintroduction of the local currency that was rapidly depreciating. The public social protection measures were already overburdened and thus unable to deal with the scale of the social distress.

While the 2019 Labour Force and Child Labour Survey indicated that informal employment accounted for 75.6% of total employment, by the fourth quarter of 2021, it had risen to 86%.

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51 This level of debt is unsustainable as it is way above the Public Debt Management Act threshold of 70% of GDP.

The proportion of the population living in extreme poverty increased from 23% (3 million) in 2011 to 30% (4.6 million) in 2017, to an estimated 42% (6.6 million) by end of 2019, and to 49% (7.9 million people) by end of 2020. Sadly, only half of those living in extreme poverty were able to access at least one type of social protection intervention, including humanitarian assistance, in April/May 2019, and the amounts paid out were also seen to be inadequate (see ZimStat, Zimref and World Bank Group, 2021; World Bank, 2021a, b & c). The level of inequality as measured by the Gini coefficient worsened from 0.45 in 2017 to 0.50 in April-May 2019, making the country among the most unequal in Sub-Saharan Africa.<sup>52</sup>

### ***Long-drawn and Inconclusive Dialogue on Labour Law Reform and Anti-Union Practices***

The most intriguing development following the GNU is the absence of national dialogue, and the invisibility of the TNF. The period up to the military intervention that led to the resignation of President Mugabe, was mainly characterised by factional fighting within the ruling party and the government. Within such a fractured state, the thrust of the TNF was on labour law reform. Consultations and discussions to amend the Labour Act [Chapter 28:01] started way back in 2010 after the ILO Commission of Inquiry's report which was accepted by the Government on 20 April 2010.

This process was characterized by parties digging in on sectarian positions. For instance, as he presented the 2014 National Budget to Parliament on the 19th of December 2013, then Minister of Finance and Economic Development, Patrick Chinamasa blamed the labour laws for overprotecting workers without taking into account the need for productivity and capacity to pay. The budget thrust was towards labour market flexibility and linking wages to productivity, a position resisted by the trade unions who protested to the Minister of Labour against Government unilaterally making pronouncements on such sensitive issues.

The controversy around the direction of labour law reform was worsened following the adoption of the principles for the harmonization of labour laws and the legislation of the TNF on 4 August 2014, which principles were approved by Cabinet on 1 December 2014. However, on 22 December 2014, then Minister of Industry and Commerce Mike Bimha announced that Government had agreed on labour law reforms that would introduce productivity-linked wages. The Minister of Finance and the Governor of the Reserve Bank of Zimbabwe also issued statements to the effect that wage increases in 2014 were 'unsustainable and short-sighted' in the context of a depressed economy. They stated that Government and the private sector could not afford the increases and advised that strike action that was being mooted by trade unions was ill-advised. The ZCTU in particular objected that at an average of US\$246 per month, wages were way below the poverty datum line (PDL) of US\$500, and complained that chief executive officers in the private sector were paying themselves obscene salaries.

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<sup>52</sup> According to the ZimStat 2019 Mini-PICES, only 12 other countries in the world have a higher Gini index.

Lack of transparency and accountability amongst the social partners created a most toxic relationship. After the *Newsday* of 16 December 2014 carried a headline ‘Cabinet adopts 12 labour law reform principles,’ the Acting Secretary General of ZCTU, Gideon Shoko wrote a protest letter to then Permanent Secretary to the Ministry of Public Service, Labour and Social Welfare, Ngoni Masoka on 16 December 2014 indicating that what was reported in the *Newsday* differed from what the social partners had agreed to, and requested for the Cabinet approved document. In a follow-up letter dated 6 February 2015, the Acting ZCTU Secretary General demanded a meeting with the Permanent Secretary and Minister. In its petition of 11 March 2015, signed by its President George Nkiwane and Secretary General Japhet Moyo, the ZCTU complained that; “Furthermore, we have noted with displeasure efforts by the government to amend the Labour Act removing all what was agreed to by social partners,” (page 4). The ZCTU demanded that the TNF be reconvened to deal with the issues affecting the economy.

Again, in a letter dated 28 July 2015 addressed to then Permanent Secretary at the Ministry of Public Service, Labour and Social Welfare, Ngoni Masoka, the ZCTU Secretary General further complained that; “We would like to register our displeasure over the unilateral changes and deviations from agreed principles in the draft. Some important principles adopted by the tripartite partners at Pandhari Lodge in Harare on 4 August 2014 were omitted despite the assurances from your office that no changes were done by government on the adopted principles. This shows that our government partner is not negotiating in good faith.” The ZCTU went on to highlight where the draft differed from the agreed principles, flagging out 30 areas of disagreement.<sup>53</sup>

Probably the most controversial development related to the judgement by the Labour Court delivered on 28 March 2014 (*Nyamande and Donga v Zuva Petroleum (Pvt.) Ltd*) allowing either party to terminate an employment contract by simply giving notice. Following this ruling, the ZCTU Secretary General, Japhet Moyo, wrote a letter to then Minister of Public Service, Labour and Social Welfare, Prisca Mupfumira on 5 May 2015, complaining that employers were now terminating employment contracts on notice. ZCTU noted that employers were no longer following the retrenchment procedures that also required the approval of the Minister of Labour, such that workers were being terminated without any retrenchment package. The labour body appealed to the Minister to intervene as well as amend the Labour Act to protect workers. On appeal, the Supreme Court upheld the ruling on 17 July 2015, validating employers’ right to terminate employment contracts on notice under common law.

On 26 August 2015, the government gazetted the Labour Amendment Act 5 of 2015, which insisted on payment of compensation amounting to two weeks’ pay or wages for each year served where a contract of employment is terminated on notice. The law would apply retroactively to 17 July 2015 to provide relief to workers who lost their jobs after the Zuva judgment. While the ZCTU welcomed and applauded Government for restoring the rights of workers that had been eroded by the Supreme Court judgement of 17 July 2015, the labour body continued with its critique around areas that had not been agreed to. In its 15-page critique, the ZCTU argued that: “Although consultations with social partners were done, some inputs agreed to were deliberately omitted like the right to strike, maternity leave and strengthening the labour court to enforce its decisions and those of arbitrators among others,” (page 1). The ZCTU also wanted the severance package improved beyond the two weeks for each year served.

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<sup>53</sup> The new provisions were criticized by the Committee of Experts on the Application of Conventions and Recommendations in its 2016 Report, which culminated in the discussion of Zimbabwe in the 2016 ILC conference where Government committed itself to implement the conclusions.

In a letter dated 19 August 2015 addressed to then Minister Mupfumira, the ZCTU Secretary General made it clear; “However, honourable Minister we were shocked to find out that some provisions in the bill are unconstitutional and violates international labour standards while some were not discussed in our engagement with government and EMCOZ over the past five and half years. Of particular concern is the amendment that is giving the Minister and the registrar excessive powers to interfere in the administration and management of trade unions, employers’ organisation and employment councils. Honourable Minister, we would like to draw your attention to the ILO Commission of Inquiry Report, 2009 which analysed our legislation and practice. The provisions of this bill seek to ignore the ILO comments and provisions of our own constitution on the right to freedom of association.”

Equally, the employers were angered by this amendment, with EMCOZ lodging a High Court application on 28 September 2015 seeking invalidation of the law, and especially its retrospective application. Attempts at reconvening the TNF were snubbed by EMCOZ on the basis that the matter was sub judice. The bypassing of the TNF effectively reflected the lack of faith in its efficacy in resolving sticking issues, especially when the government was alleged to be acting unilaterally.

Following a meeting of the TNF principals on 29 January 2016, a Tripartite Labour Law Reform Advisory Council was established to reconcile the positions of government, business and labour on labour law reform. The Council was given three months within which to finalise comprehensive principles for the amendment of the Labour Act; this was not achieved. EMCOZ snubbed the TNF meeting of 21 July 2016, citing the short notice served. Government and labour continued with the meeting to discuss how to reverse termination of employment on notice. However, Cabinet turned down the proposals, arguing instead for the amendment of the Labour Act through Parliament. The ZCTU protested against the impact of the Zuva judgment, and organized street demonstrations on 8 August 2016 that were stopped by police, with several ZCTU leaders being arrested. The ZCTU in turn reported the issue to the ILO as well as Government’s unilateralism in formulating laws to deal with the Supreme Court ruling.

In the meantime, there were also other contentious issues before the tripartite partners. In November 2015, the social partners were also requested to comment on the TNF Bill, and in February 2016, they were also being requested to comment on proposals to set up a National Health Insurance Scheme (NHIS). In its response dated 2 March 2016, while it welcomed the idea of setting up the NHIS, the ZCTU however expressed concern that this would also require overtaxed workers’ contributions. The ZCTU therefore expressed misgivings on the timing of the proposed NHIS given the economic environment, and advised that Government conducts feasibility studies and extensive stakeholder consultations before implementing the idea.

In its press release dated 28 November 2016 signed by ZCTU Secretary General Japhet Moyo, with the heading “Workers not ready for the National Health Insurance Scheme,” the labour body indicated that it “...has learnt with surprise that Cabinet has approved the setting up of a National Health Insurance Scheme (NHIS), despite our reservations to the move. While noting that the idea is noble, the ZCTU believes the timing is wrong given that in the scheme was mooted more than ten years ago and conditions on the ground have since changed. Currently, workers are already burdened with high income tax as well as AIDS Levy and the new scheme would further worsen



their plight as it will be funded through further taxation of workers.” The ZCTU also indicated its disapproval of the proposal to have this scheme administered by NSSA on the basis that workers had not benefitted meaningfully from the other schemes it was running, and that it the workers had informed ZCTU that given a choice, they would rather withdraw from NSSA altogether given the way the organization was run. The ZCTU insisted on wide consultations before the NHIS is implemented.

Another high profile stand-off among the social partners related to attempts to remove the labour law from applying in the proposed Special Economic Zones (SEZs) (Clause 56 of the Bill). While the Bill had been passed by Parliament on 16 June 2016, ZCTU lobbied for the application of the labour law in the SEZ, taking up the fight to the ILO conference in Geneva in June 2016 and to the State President through a letter dated 24 June 2016. In a follow-up letter to the Minister of 12 August 2016, the ZCTU indicated that demonstrations against the Bill had been organized in Harare, Bulawayo, Mutare, Masvingo, Gweru and Chinhoyi for 20 August 2016. The pressure helped as President Mugabe declined to assent to the Bill and referred it back to Parliament. The President only assented on 30 October 2016 after the inclusion of the labour law.

However, as ZCTU pointed out, despite the removal of the clause that directly barred the application of the Labour Act in the Special Economic Zones, the Act does not guarantee the freedom of the parties to engage in collective bargaining. The public authority enjoys the power to set conditions of service with the right to collective bargaining to be enjoyed only at the discretion of the Minister responsible for Labour.

The mooted TNF Bill designed to launch the institution as an independent statutory body was another arena of contestations. The process followed a similar pattern that lacked trust, transparency and accountability on the part of the social partners. While the Ministry had written social partners soliciting for their comments on the draft TNF Bill on 9 November 2015, owing to disagreements, the social partners were later on (18 March 2017) requested to nominate a Consultant to examine the Bill.<sup>54</sup> In a letter dated 6 April 2017, the ZCTU lamented that the process of harmonizing labour laws and the legislation of the TNF that started in 2010, was still incomplete seven years later.<sup>55</sup>

With specific reference to the TNF Bill, in a letter of 27 April 2017, the ZCTU objected to the manner the TNF Bill was being handled, observing that in letters dated 27 November 2015 and 17 August 2016, the organization had submitted its comments, but no substantive changes were made, only for the Ministry to raise another letter dated 12 April 2017, requesting for comments for the third time. Nonetheless, the TNF Bill was passed by Parliament on 24 May 2019. Interestingly, as the TNF Act was to be launched on 5 June 2019, the ZCTU wrote Minister Sekai Nzenza on 4 June

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54 A meeting of the TNF technical committee of 17 August 2016 meant to finalize the labour law reform and TNF Bill did not achieve the set goal.

55 In its input to the ILO High Level Mission of February 2017, the ZCTU made it clear that: “There is now a period of 7 years of promises after the Commission of Inquiry’s recommendations to amend the Labour Act, Public Service Act and POSA and up to now, there is no tangible result save for drafts after drafts.” [See <https://www.ituc-africa.org/ZCTU-Submission-to-the-ILO-High-Level-Mission-on-the-Status-of-Implementation.html>].

2019, requesting to see the TNF Bill that was to be assented to by the President, and whether their concerns had been incorporated. The ZCTU feared participating at the launch without having sight of the law. On a positive note, the TNF Act was commissioned by the President, Emmerson Mnangagwa, at a function attended by leaders from Trade Unions, Employers' Organizations, and the ILO.

The issue of appointments to the NSSA Board created tensions, especially following the removal of the ZCTU President, Peter Mutasa from the Board on allegations of misconduct. In a letter dated 3 May 2017, Minister Mupfumira requested the labour body to submit three nominees for selection to fill the vacant position. The ZCTU expressed shock at the decision to remove its President from the Board, without the courtesy of being informed of the alleged misconduct. It refused to submit new names until the alleged case of misconduct was heard, indicating that Peter Mutasa was being victimized for questioning some of NSSA's investment decisions as well as calling for the reduction of board sitting allowances by 30% from the fixed US\$2,000 per quarter and US\$490 sitting allowance for sub-committees and US\$600 per sitting in general board meetings.

Through a letter of 9 February 2018, the ZCTU challenged an internal letter from the General Manager of NSSA, Elizabeth Chitiga awarding a discretionary bonus to management which was 3.6 times their salaries while the rest of staff were only granted a 13th cheque.<sup>56</sup> Things did not change with a new Minister at the helm as again Minister Sekai Nzenza informed the ZCTU in a letter of 10 February 2019 that its nominee to the NSSA Board did not succeed. The ZCTU refused to submit three new nominees as requested until it was informed of the shortcomings of its other nominees.

Meanwhile, the prolonged processes around the labour law reforms continued. After the CAS 2016 conclusions, tripartite meetings were held to discuss again the principles to guide the amendment of the Labour Act chapter 28:01. The Principles were agreed on 31 August 2016 with minor issues remaining especially on the period of notice for embarking on strike.<sup>57</sup> Since then, there was silence on the part of government to have the principles adopted by Cabinet and the drafting of the bill. However, as the ILO Mission dates drew, government called for a tripartite meeting on 9 February 2017 to give feedback on progress where it promised that the draft bill would be ready by the 10th of February 2017.

As an ILO High Level Mission was visiting the country in February 2017, a draft Labour Bill was produced by a Consultant hired by Government. In a statement issued on 23 February 2017, the ZCTU rejected the draft Bill, insisting that "...it has nothing personal about the consultant, but feels that other partners should have been involved in the selection process. The ZCTU will not regard the draft labour bill as a working document until all parties are agreed." Later on, further requests for comments to the zero draft of the Labour Bill were extended to the social partners on 30 May 2017, and to the 1st draft on 6 September 2017.

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<sup>56</sup> The bonus was not based on individual performance, but had apparently been approved by the Ministry of Labour.

<sup>57</sup> While the negotiations or consultations for the amendment of the Public Service Act were initially held together with those of the Labour Act since 2010, after the CAS Conclusions of 2016, government adopted a divide and rule approach in which it elected to have a bipartite discussion with its employees' association. The ZCTU felt side-lined as Government just informed the other social partners at a meeting on the 9th of February 2017 that there was progress and the draft principles were before Cabinet for approval.

Exasperated by the long drawn process, in its comments to the 2nd draft of the Labour Bill of 14 November 2017, the ZCTU complained that their inputs on aligning the Bill to the ILO Conventions 87 and 98 as per the ILO supervisory bodies observations were ignored. In its letter of 30 August 2018 on inputs to Article 22 Reports of the ILO requested by the Ministry, the ZCTU pointed out that there were no legislative changes as recommended by the ILO Commission of 2009, High Level missions of 2014 and February 2017. It concluded that the Government was not interested in complying as the draft Labour Bill ignored these recommendations of the ILO supervisory bodies. EMCOZ had its own issues, making it clear that; “On the Labour Amendment Bill, we note with concern that some of the provisions will make us less competitive on the global market. Examples are payment of compensation to one terminated for misconduct, short-term contracts turned into permanent contracts, maternity benefits with no limit and qualification provisions.”<sup>58</sup>

In a follow-up letter to the new Permanent Secretary, Judith Kateera of 11 December 2018 on the Harmonization of the Labour Act and the Public Service Act to the Constitution and ILO standards, the ZCTU regretted that the last engagement on the matter was in December 2017 when they met to discuss the draft from the Attorney General’s Office. A draft that was produced by the Attorney General on 11 June 2019 was shared with the social partners for further inputs and comments. At the Tripartite Consensus workshop on the Labour Amendment Bill held in Masvingo on 9-10 September 2019, the Attorney General’s office took the social partners through the draft. While a consensus emerged on the draft Bill, ZCTU maintains that the version before Parliament does not reflect the agreed position.

In its Article 22 reports for 2021 on C105 – Abolition of Forced Labour Convention, 1957; and C87 – Freedom of Association and Protection of the Right to Organize Convention, 1948, Government conceded that the lack of progress was a result of counter-proposals each time a draft Bill was produced.<sup>59</sup> It indicated that the Bill had therefore to be presented to Cabinet as it was and social partners were encouraged to engage the Parliamentary Legal Committee and the Parliamentary Portfolio Committee on Public Service, Labour and Social Welfare, as well as through the public consultations of Parliament.<sup>60</sup> Government also indicated that the social partners had been provided with a copy of the Bill during tripartite consensus building meeting of 5-6 October 2021.

In a letter dated 8 November 2021 from Permanent Secretary Simon Masanga, the reasons for the prolonged labour law reform process were articulated as follows: “However, the forum has been faced with some challenges that have impacted negatively on the work of the TNF. These challenges include trust issues amongst the tripartite partners, and lack of confidence in government intentions and interventions,” which was repeated verbatim in the letter of 9 November from the Permanent Secretary to the ZCTU Secretary General, and in the letter of 10 November 2021 from Minister Mavima to the ZCTU President, Florence Taruvinga.

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58 See Opening remarks presented by the EMCOZ first Vice President, Farai Dube at the TNF Social Dialogue Retreat held at Victoria Falls, 10 December 2021 (page 5).

59 The reports covered the period 1 June to 1 September 2021.

60 Cabinet approved the Labour Amendment Bill on 28 October 2021, and is now before Parliament.

The observations of the Committee on Freedom of Association and Protection of the Right to Organize Convention on labour law reform and harmonization, are most revealing, that, “In its previous comments, the Committee noted with concern that, despite its numerous requests, some of which predate the 2009 Commission of Inquiry, there was no concrete progress in amending the Labour Act so as to bring it into conformity with the Convention. Noting that the social partners were concerned that the legislative reform was slow and haphazard, leading to the perception of a lack of political will to carry it out, the Committee expected that the labour law review would be concluded in full consultation with the social partners, without further delay. The Committee notes the ZCTU’s recent submission that no legislative changes have occurred and that the fourth version of the draft Labour Bill does not address the requests made by the Commission of Inquiry nor by this Committee. The Committee notes that at its meeting in June 2019, the Committee on Freedom of Association urged the Government to amend the Labour Act without further delay in consultation with the social partners.”<sup>61</sup>

The period since the 30 July 2018 national elections was characterized by a hostile and conflictual relationship between the Government and ZCTU in particular. After delays in the release of the presidential election results by the Zimbabwe Electoral Commission, protests erupted in Harare on the 1st of August 2018. The army which was deployed to deal with the protests used live ammunition to disperse the protesters in Harare. Unfortunately, bullets fired by the army shattered glasses at the ZCTU offices in Harare resulting in the ZCTU Legal Advisor and a security officer being injured. Despite the recommendations of the Commission of inquiry into the 1st of August 2018 post-election violence under the Chairmanship of the former South African President, Kgalema Motlanthe for all victims of the violence and the dependents of the deceased to be compensated, the issue of compensation for damages to the ZCTU offices and the injured personnel remains unresolved.<sup>62</sup>

In an attempt to stop planned protest marches called by the ZCTU across all cities in Zimbabwe against austerity measures (including the 2% transaction tax), from taking off in Harare on 11 October 2018, police surrounded the offices of the ZCTU, beating up and arresting its President, Peter Mutasa and Secretary General, Japhet Moyo. Nineteen protesting workers were arrested in Mutare and 13 in Masvingo. Furthermore, following the mass demonstrations on 14-16 January 2019 against increases in fuel prices, the President of ZCTU, Peter Mutasa was arrested for recording and circulating a video calling on workers to take part in the general strike. The Secretary General, Japhet Moyo, who was not in the country at the time, was arrested at the airport upon his return to the country on 22 January 2019 and charged with subversion. Both were charged with treason for allegedly trying to remove a constitutionally-elected government. The President of the Amalgamated Rural Teachers Union of Zimbabwe, Obert Masaraure, was abducted, tortured and imprisoned.

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61 Tellingly, “The Committee is bound to note with deep regret the lack of progress in the labour law reform. It urges the Government, in consultation with the social partners, to take the necessary steps towards completing the reform and bringing the Labour Act into full conformity with the Convention.” [See Observation (CEACR) - Adoption: 2020, Publication: 109th CIT meeting (2021), Convention on trade union freedom and trade union right protection, 1948 (núm. 87) - Zimbabwe (Ratification: 2003). Follow-up to the recommendations of the Commission of Inquiry appointed under article 26 of the Constitution of the ILO, and Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 108th Session, June 2019)].

62 In a letter to Permanent Secretary Masanga dated 4 December 2020, ZCTU demanded compensation for its injured staff as well as repairs to its offices, claiming full compensation of ZWL\$295,000 for the pain, suffering and medical expenses as awarded by the Magistrate Court Mashonaland Province (Re: case No. 10703/19).

During their prolonged trial, the ZCTU Secretary General, Japhet Moyo and President Peter Mutasa had to appear before judges no less than 19 times,<sup>63</sup> in what became referred to as 'judicial harassment'.<sup>64</sup> However, since the case was removed from the court roll to enable the state to finalize its investigations, the matter can still proceed through summons.<sup>65</sup> The context was well summed up by Sharan Burrow, the International Trade Union Confederation (ITUC) General Secretary as follows: "From violent repression to prolonged legal harassment, the government's aim remains to intimidate, discourage and sap the energy of the trade union movement. Their refusal to engage constructively and take on board the interests of working people in decision-making is driving profound distrust across society in Zimbabwe. It seems that the government hasn't yet realised that, as well as the freedom of trade unions, these cases are putting its own reputation amongst the international community on trial.] It is never too late to change course: unions remain committed to a dialogue that respects people's freedom of association and of assembly and to ensuring that the government governs for the people."

In the apt words of Florence Taruvinga, ZCTU Vice-President; "The ability of working people to have a fair representation is truly undermined. If the government dedicated even half the resources they are using in attempts to shut trade unions down, to actually engage them positively, we would be able to make real progress. The fact that women and youth members, groups that are under-represented, are also facing trial highlights the depth of the disregard the government is showing to an inclusive approach."<sup>66</sup>

A related issue emanating from these events is the alleged infringement on fundamental principles and rights at work, including freedom of association and right to organize. ZCTU regularly raised the issue of behaviour and conduct of police and other law enforcement agents. The Ministry responded that it prioritized the observance of fundamental principles and rights at work, and indicated its willingness to keep prioritizing continuous training and engagement of law enforcement agencies on these matters. It reported that training on freedom of association had been mainstreamed in the police training manuals.

However, it became apparent that while Sections 15, 19 and 21 of POSA had been repealed, corresponding provisions were incorporated in Sections 31, 33 and 37 of the Criminal Law Code. Sections 25-27 of POSA on failure to notify the authority of intention to hold public gatherings, and violation of the prohibition of public gatherings or public demonstrations were reproduced in

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63 For example, the court case set for 24 June 2019 was postponed to 8 July, to 20 August 2019, and the application for refusal of further remand was dismissed. In the meantime, those charged were under strict release conditions, including being banned from travelling and forced to check regularly at the police station.

64 In its assessment, ITUC noted that, "...the government of Zimbabwe began its judicial harassment of the Zimbabwe Congress of Trade Unions (ZCTU). This signalled a change of the government's tactics, from violent repression to an approach of prolonged harassment of trade unionists and other human rights defenders. By repeatedly pursuing trade unionists with fabricated criminal charges and allowing the threat of heavy sentences to linger with repeatedly postponed trials, the government has been undertaking a relentless campaign to discourage workers from defending their interests." [See <https://www.ituc-csi.org/Zimbabwe-Solidarity-2020>, Zimbabwe Solidarity Actions – 4 February 2020].

65 Nineteen of the 28 trade unionists on trial following the 2018 call for a peaceful work-stoppage in response to escalating living costs were also subjected to this tactic of long-drawn-out trials, judicial repression.

66 <https://www.ituc-csi.org/FreeTheZim28> "Zimbabwe: government's international reputation in the balance as it puts workers' rights defenders on trial."

Sections 7(5) and 8(11) of the Maintenance of Peace and Order Act (MOPA) [Chapter 11:23] with sanctions of imprisonment which involve compulsory prison labour.

The end of mission statement by the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association on his visit to Zimbabwe in September 2019 observed that the MOPO Bill did not propose significant amendments targeted to address the main problems prevailing in POSA. The statement was categorical that; “The Bill has worrying similarities to the POSA revealing a common scope in which the exercise of the right to peaceful assembly is not fully guaranteed. Instead the MOPO Bill continues to give law enforcement agencies broad regulatory discretion and powers.” ZCTU highlighted that the issue of compulsory labour as a punishment for expression of views opposed to the established political, social and economic system based on Section 76(1) of the Prisons Act (Cap. 7:11) and Section 66(1) of the Prisons (General) Regulations, 1996 was contrary to the Abolition of Forced Labour Convention, 1957 (No.105) whose ratification was registered in 1998.

The ZCTU also took issue with what it perceived to be anti-union practices. In its submissions to the ILO High Level Mission of February 2017 on the Status of Implementation of the Committee of Application of Standards (CAS) Conclusions of 2016, ZCTU indicated that it had submitted cases of anti-union discrimination to Government in June 2016. These included the case of the Zimbabwe Revenue Authority (ZIMRA) that dismissed the entire 12 union executive members in November 2010 under spurious charges that were dismissed by the criminal courts. ZCTU alleged that the real issue was of the formation of the Zimbabwe Revenue Authority Trade Union (ZIMRATU) on 10 September 2010. The issue of the dismissal had been heard in various courts on appeal by the employer for 6 years, and on 4 July 2016, the Supreme Court ordered the proceedings to start afresh at company level. Expectedly, the ILO High Level Mission of February 2017 observed as follows on the subject matter: “The Committee noted with disappointment the Government’s failure to provide statistical information on cases of anti-union discrimination as requested by the Committee of Experts in its 2016 observation.”

Furthermore, in a letter dated 5 April 2018, the labour body complained about victimization of unionists at the Zimbabwe Electricity Transmission and Distribution Company (ZETDC), a subsidiary of the Zimbabwe Electricity Supply Authority (ZESA) where eight union members, including its first Vice President, Florence Taruvunga and 2nd Deputy Secretary General, Thomas Masvingwe were suspended without salaries and benefits on 6 March 2018 for participating in ‘illegal’ demonstrations at the ZESA Head Office on 21 December 2017.<sup>67</sup>

The demonstrations were against alleged corruption in the award of tenders to controversial persons such as Wicknell Chivayo, then ZANU-PF Highfield West Member of Parliament Psychology Maziwisa and former ZBC news anchor, Oscar Pambuka. The workers wanted the Zimbabwe Anti-Corruption Commission (ZACC) to take action.<sup>68</sup> Other examples of anti-union action cited

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<sup>67</sup> The suspended union members were from the Energy Sector Workers Union of Zimbabwe (ESWUZ), including its General Secretary, Gibson Mushunje. ZCTU argued that the demonstration had been cleared by the police, and efforts by ZESA to apply for a Show Cause Order were unsuccessful as the matter was scrapped off the roll by Judge Manyangadze at the Labour Court.

<sup>68</sup> See The Herald of 15 March 2018, ‘ZESA suspends eight workers over demo.’

include the suspension without pay of the ZCTU Vice President John Chirenda from the Zimbabwe Revenue Authority (ZIMRA) on 10 April 2019 for alleged insubordination after the latter had indicated that all workers were corrupt.<sup>69</sup>

The demonstration was also caused by the reluctance by ZETDC to comply with the 2012 Collective Bargaining Agreement that had the effect of increasing the minimum basic salary of its employees to US\$275. In a statement issued on 13 March 2018, the ZCTU raised concerns that, “The action by ZETDC is nothing but pure victimization of trade unionists which is unacceptable under the Labour Act. More so, the ZCTU views this as a clear intimidation tactic by the employer to silence the voice of workers. By targeting the leadership of the union, the management want to instil fear in the hearts of all workers at ZESA. The Constitution of Zimbabwe is very clear on the right of workers to demonstrate and ZETDC cannot be seen to be working against the Zimbabwean constitution.” The ZCTU escalated the issue to the ILO’s Committee on Freedom of Association accusing the government of anti-trade union discrimination on the basis that ZESA is state-owned.

The protests by more than 100 women in October 2013 at the state-controlled Hwange Colliery coal mine where many mineworkers had gone for almost a year without pay exposed a growing and worrying trend where the right to be paid for one’s work was being violated in both the private and public sectors.<sup>70</sup> This prompted the ZCTU and Solidarity Centre to commission a study on the magnitude of ‘wage theft’ in Zimbabwe and the impact this widespread practice had on workers and their families. This ‘wage theft’ survey was undertaken by the Labour and Economic Development Research Institute of Zimbabwe (LEDRIZ) in 2015 and revealed that an estimated 80,000 workers had not received their wages and benefits on time, and yet were still expected to come to work without fail.<sup>71</sup> Meanwhile, in 2013 and 2014, ZCTU undertook surveys that showed the extent to which top executives were earning exorbitant salaries, while pleading inability to pay at the lower end.<sup>72</sup>

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69 Again, ZCTU wrote Minister Sekai Nzenza a protest letter on 23 May 2019 protesting against the suspension of its Vice President without any substantive charges preferred against him.

70 In the case of the National Railways of Zimbabwe (NRZ), the parastatal owed its employees’ wages and salaries close to US\$90million for 14 months. It took a unilateral decision to slash salaries by 20-30% in 2014, and by 50% in 2016, a move that created divisions between the unions and the members as some accepted while others were against. The Parliament of Zimbabwe’s Portfolio Committee on Public Service Labour and Social Welfare Report on ‘The Working Conditions at Hwange Colliery Company limited, National Railways of Zimbabwe and Dete Refractories’ revealed that 3000 workers at Hwange Colliery company were owed 25 months’ salaries amounting to US\$45million, NRZ as of June owed US\$78,9 million, Dete Refractories had resorted to paying wages in kind in the form of bricks and tiles, and ZISCO Steel Company which had collapsed had not paid its workers for almost 5 years. Government was also failing to pay salaries and bonuses on time since November 2016. For those employees still being paid, they had difficulty accessing their salaries as the banks had no money and where it was available, it was limited to between \$50-100 bond notes per day. Moreover, the imposition of a surrogate currency, the bond note, pegged at par with the US\$ was fictitious in that it was only usable locally, and later traded on the parallel market at a discounted rate. This context did not spare trade unions as subscriptions to unions were severely curtailed, crippling their operations.

71 See LEDRIZ (2016) Working without pay: wage theft in Zimbabwe, ZCTU and Solidarity Centre, June.

72 LEDRIZ (2016) Wage Structure and Labour Costs in Zimbabwe: An Analysis of Flexibility, Competitiveness and Equity, USAID Strategic Economic Research And Analysis – Zimbabwe (SERA) PROGRAM, February.

Of particular significance is that the conflict between the ZCTU and Government attracted international attention as the issues often spilt into the ILO International Labour Conferences. As the 19 of 28 trade unionists still on trial were set to appear before courts across the country on 4 February 2020,<sup>73</sup> ITUC took a very strong position, declaring that; “This year, the attacks have not gone away and trade unions across the world will show that they will stand by fellow workers in Zimbabwe until the government respects their right to genuine and independent representation. Those on trial on 4 February hail from across the trade union movement, including the women and youth sections. The generalised criminalisation of trade union activity will not be tolerated. The government must stop its campaign of systematic judicial harassment, drop the charges against trade unionists who undertook peaceful protests and establish genuine dialogue in which the interests of working people are taken on board in policy-making.”<sup>74</sup>

Delegations from ITUC and the Southern Africa Trade Union Coordination Council (SATUCC) visited the country during the period 26-27 February 2019 in order to appreciate the local operating environment. Another SATUCC delegation visited during the period 13-14 March 2019 to have an appreciation of the operating environment. High Level missions of the ILO also visited the country in 2014 and February 2017 to assess the implementation of the findings and recommendations of the 2009 ILO Commission of Inquiry and the Committee of Application of Standards (CAS) Conclusions of 2016. In a letter dated 10 July 2019 to the Minister, the ZCTU accused Government of refusing to accept a direct contact mission of the ILO to further assess the implementation of the conclusions of the Committee on the Application of Standards. The Government’s position is that the direct contact mission scheduled for May 2020 was postponed due to COVID-19 and will be undertaken at mutually suitable dates in 2022.

Be that as it may, we may conclude with Parakokwa that “Overall, it appears that apart from considering issues on labour legislation, there is no substantive TNF agenda that is aimed at socio-economic policy making and implementation at the moment. This, by all means, speaks huge volumes to the effect that the TNF’s potential and credibility as a forum for finding solutions to the country’s socio-economic problems has been seriously depreciated over time” (2017: 168). Poignantly, the work on labour law reform has been characterised by animosity and alienation amongst social partners, as is well documented by Parakokwa (2017).<sup>75</sup> Sadly, the promulgation of the TNF Act on 5 June 2019 did not speed up the reforms as had been hoped for.<sup>76</sup>

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73 Before this hearing, these 19 ZCTU members had appeared before the courts for more than 15 times.

74 <https://www.ituc-csi.org/Zimbabwe-Solidarity-2020>, Zimbabwe Solidarity Actions – 4 February 2020.

75 For an excellent extensive discussion of these issues, see Mtintema (2018).

76 *In its wisdom*, “The Committee notes that the Tripartite Negotiating Forum (TNF) Act was enacted and that the TNF was launched on 5 June 2019. The Committee expects this to begin a new era for social dialogue in Zimbabwe, which would allow for pending legislative amendments and labour law reform and public service legislation harmonization to be concluded without further delay, in the spirit of a genuine, effective and sustained dialogue.” [See Follow-up to the recommendations of the Commission of Inquiry appointed under article 26 of the Constitution of the ILO, and Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 108th Session, June 2019)].



## ***Dialogue on Broader Economic Issues***

In its response to a request by the Ministry for social partners to hold discussions to adopt a social contract to address the broader challenges facing the economy, in its letter of 6 April 2017, the ZCTU would only refer to the past experiences as follows: “The brief history of social contract outlined above point to the fact that government has not learnt the mistakes that undermine social contract over the years. There is still no political will to implement agreements. This is the source of the problem,” (page 2).

On 24 May 2017, TNF Social partners agreed to undertake a comprehensive review of all social contracts before negotiating new ones.<sup>77</sup> The TNF Technical Committee was mandated to undertake this work. The main objective was to draw both positive and negative lessons from past experiences to inform the processes and outcomes going forward. As part of this work, the social partners made their inputs on the implementation of the Kadoma Declaration following a request from the Permanent Secretary Ngoni Masoka of 12 December 2017.

As the economic crisis deepened, with rising inflation triggered by the measures announced on 1 October 2018, the ZCTU wrote Minister Sekai Nzenza on 11 January 2019, demanding that Government adopts measures to arrest rising prices, fuel queues, address the grievances of doctors who were on strike and restive civil servants, scrap the 2% intermediation tax and that workers be paid in US dollars. On 29 March 2019, ZCTU wrote Minister Nzenza proposing restoration of a national minimum wage to help cushion workers against rising prices.

At an informal discussion with Minister Nzenza and her senior staff held at the Rainbow Towers Hotel in Harare on 11 April 2019, the ZCTU raised the following sticking issues that were to be discussed with the President:

- Arrest, detention and criminal charges against its leadership and its implications for social dialogue (1 August 2018 shooting of ZCTU offices; 11 October 2018 protest action; and 14-16 June 2019 protest action);
- The RBZ and Ministry of Finance measures of 1 October 2018;
- Harmonization of labour laws (the Labour Act, Public Service Act, Health Services Act, and the TNF Act);
- ZCTU representation on the NSSA Board;
- The challenges to tripartism in international labour meetings (SADC Employment and Labour Sector, AU Labour Sector etc.);
- ZESA corruption and victimization of workers’ representatives;
- May Day preparations and funding; and

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<sup>77</sup> At this meeting, ZIMTA expressed its concern to the government, over the process of harmonization of the Public Service Act, where the Public Service Act had been withdrawn from the TNF platform without finding expression at the National Joint Negotiating Council platform.

- Trade unions, politics, polarization of labour movement (Zimbabwe Constitution and ILO Resolution Concerning the independence of the trade union movement, 1952, and the ILO Commission of Inquiry Report, 2009).<sup>78</sup>

The Minister promised to come back to the ZCTU with a response, which did not happen. In a follow-up letter to the Minister of 23 May 2019, the ZCTU took note of Government financial assistance during May Day commemorations, and requested a response to the issues raised. The issues were escalated to the President through a letter of 5 June 2019 where the ZCTU demanded an urgent meeting with the Head of State to discuss the state of the economy, repression and persecution of trade union leaders, corruption, and lack of consultation on policy issues. Again through a letter of 17 June 2019, the ZCTU wrote to Minister Nzenza, seeking an urgent TNF meeting to discuss the deteriorating economy and erosion of salaries.

The TNF duly met on 26 June 2019 where the social partners raised concerns on the lack of consultations leading to the promulgation of Statutory Instrument (SI) 142 of 2019 that led to the abolition of the multi-currency regime and the introduction of a mono-currency, the Zimbabwe dollar. Interestingly, the Minister of Public Service, Labour and Social Welfare also expressed disquiet at the lack of broader consultations, and also signed the TNF statement emanating from this meeting requesting Cabinet to reconsider the introduction of the mono-currency and seek inputs from social partners.<sup>79</sup> Business and Labour also raised the need for Ministers to attend TNF meetings and provide the necessary link with Cabinet. At this meeting, the social partners noted the need for the institution of proper structures of the TNF as dictated by the TNF Act. It was also proposed that each social partner should nominate members to the various structures of the TNF, a request that was formally communicated in a letter from the Minister on 4 July 2019. Social partners duly nominated their representatives and their alternates to the Technical Committee structures, namely Economic, Social and Labour Clusters.<sup>80</sup>

Meanwhile, principles for the ZNPI Bill were signed by the Minister and sent to Cabinet for approval in March 2017. Following expiry of tenure of the Zimbabwe National Productivity Institute Board in November 2017, it was re-appointed for an additional year to December 2018, and again in November 2019. ZNPI joined the Pan-African Productivity Association (PAPA) to create synergies with fellow national productivity organizations (NPOs) and benefit from capacity building programmes run by PAPA with support mainly from the Japanese Government.

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78 These issues were also raised at the meeting between the ZCTU and the new Minister, Paul Mavima, of 11 December 2019, including the lack of participation of Ministers in the TNF, lack of consultation of social partners on key policy issues by the RBZ and Ministry of Finance, and on public enterprise reforms, as well as request to review the NSSA Act to make the body accountable to stakeholders and Parliament. These issues were further included in a letter from ZCTU to Minister Mavima on 24 January 2020, and a follow-up letter of 29 June 2020. In yet another letter to Minister Mavima of 29 July 2020, the ZCTU raised further issues relating to anti-union utterances and actions against ZCTU and its leadership (for instance the labelling of the ZCTU as a terrorist organization by the ZANU-PF Acting Secretary for Information and Publicity, Patrick Chinamasa at a press conference on 27 July 2020); the visit to the ZCTU President's home and attempts by unknown assailants to abduct his family, and deflating the tyres of his car;

79 With no feedback on the Cabinet response, the ZCTU wrote a letter of 11 November 2019 to Permanent Secretary Simon Masanga requesting an update.

80 See letter of request from Permanent Secretary Simon Masanga to social partners dated 11 November 2019.

Fast forward to September 2019, the draft ZNPI Bill was ready. However, lack of start-up financing hindered further progress in operationalizing the ZNPI. This is yet another example of the inordinate and prolonged processes in implementing decisions of the TNF given that the organization was first launched in February 2003.

The social cluster had to meet on 30 October 2019 to look into the alleged persecution of trade union representatives as well as accusation from Government that by dabbling in the parallel market for foreign currency, business people were fuelling inflation. The relations between the social partners had deteriorated sharply as the 'blame-game' reached unprecedented levels.<sup>81</sup> Following requests from social partners for the TNF to address the socio-economic challenges facing the country, the TNF Technical clusters went on a retreat in Kadoma during the period 15-19 January 2020 to map out the way forward on issues within their jurisdiction. A contentious issue from the retreat was whether to de-dollarize or dollarize. Government and Business supported de-dollarization, while labour argued that owing to lack of trust and confidence in the local currency, exacerbated by high inflation, it was better to dollarize. Eventually, the parties agreed to allow the de-dollarization process to continue for another six months from January 2020, and review the situation end of June 2020.

One of the outcomes of the TNF retreat was the negotiation of a national minimum wage for all employees (other than domestic and agricultural employees) gazetted through SI 81 of 2020 of 27 March 2020 at ZWL\$2 549,74.<sup>82</sup> The Labour Cluster was mandated to work out the standard operating procedures of the TNF into a Statutory Instrument (SI) to give legal effect to the agreed operational guidelines supporting the TNF Act. The appointment of the Executive Director of the TNF was scheduled for the first quarter of 2022.

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81 Addressing captains of industry and commerce at the 13th Zimbabwe International Business Conference in Bulawayo on 24 April 2019, Vice President Chiwenga and the Minister of Finance, Mthuli Ncube, blamed the business community for stoking the parallel market, with the former equating such behaviour to 'financial terrorism'.

82 This was a compromise position as Labour had insisted on US\$-denominated salaries on the basis that employers had been accorded the opportunity to implement a dual pricing regime through SI 185 of 2020. However, in the context of an inflationary environment, this minimum wage was quickly rendered inadequate, with Labour insisting on US\$-denominated wages and salaries.

## Box 2: TNF Proposals for Responses to COVID-19

One most positive and proactive reactions by the TNF was on the COVID-19 Workplace Response. In order to address rising COVID-19 infections, Government adopted the first 21-day lockdown of the economy starting Monday, 30 March 2020 where only essential movement related to seeking health services, to the purchase and procurement of food and medicines and for other essential supplies and critical services would be exempted, and where all public transport operations excluding ZUPCO and Public Service Commission were suspended. Concerned about the lack of consultations, and the health-centred approach taken by Government, the ZCTU developed a position paper that was presented at a virtual TNF meeting held on 16 April 2020. At this TNF meeting, the social partners adopted the following recommendations, which the Minister of Public Service, Labour and Social Welfare shared with the President and the National Taskforce on COVID-19:

- Institution of a Distressed/Relief Company Fund to support vulnerable businesses to avoid large scale job losses and keep businesses in operation;
- Moratorium on unjustified price increases and review of utility costs, including electricity to make them affordable. Businesses encouraged to exercise restraint;
- Re-Organisation of the Food Value Chains to ensure health, sanitation and safety protocols are adhered to and respected. This will also include re-organising selected informal sector markets under strict conditions to offer essential services to their community;
- Ensuring Food Security and efficient distribution of food (including maize meal);
- Ensuring Business Viability during and post lockdown period. This includes tax relief, moratorium on statutory contributions and debt servicing for both companies and individuals;
- Protection of the Front – line and Essential Service Workers, including OSH inspections during the lockdown targeting companies in essential services;
- Protection of the mostly affected critical sectors such as the Tourism and Hospitality Industry through sector specific responses and efficient recovery strategies;
- Special Emergency Relief Support for the Informal Economy;
- Establishment of an Unemployment Fund as a long term measure;
- Protection of Workers during the lockdown, including a moratorium on retrenchments during the lockdown period;
- Facilitation of Ease of Passage for workers on essential service without compromising security;
- Upscaling Awareness Campaigns;
- Minimal use of force by Security Forces; and
- Establishment of a stakeholder COVID – 19 Resource Mobilization Task-Force.

Most of the recommendations were adopted by the National Taskforce on COVID-19. In addition, following consensus that the workplace was a hotspot for COVID-19, the TNF virtual meeting held on 28 May 2020 agreed to develop Workplace Guidelines on COVID-19 Containment measures. The meeting also agreed that there was need to have a standardized checklist to be used by security agents at roadblocks /checkpoints during lockdowns, so as to facilitate ease of passage of essential workers.

At the TNF meeting of 21 October, 2020, Labour expressed the need to prioritize discussion on the erosion of wages and salaries before consideration of other agenda items. It further proposed that the agenda item on currency reforms be changed to reflect erosion of salaries and wages. Labour felt short changed in that SI 185 of 2020 allowed businesses to charge goods and services in US\$\$, yet workers were paid in domestic currency. In response, Government indicated that stability of the exchange rate was critical since it helps in the determination of wages and salaries. It indicated that for civil servants, it had adopted the payment of the USD \$75 COVID allowance to cushion its workers from inflation.

Government rejected the idea of pegging wages and salaries to the United States dollars or the alternative payment of salaries in United States dollars which it considered unsustainable as it meant that the Government wage bill would increase to 97% of revenue. Business was also against pegging of wages and salaries in United States Dollars, arguing that the TNF was not a bargaining council. It insisted that the ability to pay by the different sectors of the economy had to be taken into consideration, and hence wage setting be left to National Employment Councils (NECs). Business also argued that the productivity and competitiveness of different business enterprises had to be taken into consideration before pegging the minimum wage. Given the deadlock, the meeting agreed to submit the divergent views on wages and salaries to Cabinet for direction and guidance. When it was communicated that Cabinet had opted for the Government and Business positions, the three labour federations, namely ZCTU, ZFTU and Civil Service Apex Council, walked out of the TNF meeting of 22 April 2021, insisting that there was no basis to move to any other agenda items without resolution of the deadlock on wages and salaries.

The latest attempt at giving life and renewed commitment to national dialogue among the three social partners was the TNF Consensus Building retreat of 8-10 December 2021 in Victoria Falls held under the theme, "Advancing social dialogue towards sustainable and inclusive socio-economic development." This strategic retreat was attended by senior officials of the TNF Technical Committee from Government, Business and Organized Labour, as well as their principals, Members of the Parliamentary Portfolio Committee on Labour and Social Welfare, representatives from the UN Residents Co-ordinator's Office (UNRCO), ILO, International Organization for Migration (IOM), UNDP, Consumer Council of Zimbabwe, NECF and Public Service Commission (PSC).

The retreat was guided by the following objectives:

- To create a platform for knowledge sharing and best practices on promoting social dialogue to address economic and social issues facing the nation;
- To engender mutual trust and build confidence among the parties of the TNF;
- To strengthen social dialogue culture among members of the TNF;
- Reorient members of the TNF on engagement and negotiation skills;
- To strategize on priority areas for the TNF for 2022;
- Team building and common vision.

In its opening remarks, the representative of Organized Labour, Florence Taruvinga lamented that the retreat came more than two years after the commissioning of the TNF Act by President Mnangagwa on 5 June 2019. She noted that; “Since the commission of the TNF, there was very little movement and action and in fact since the commission of the TNF Act, things have not improved much for the ordinary worker. We are still in a serious economic crisis with the parallel market forces continuing to direct the state of the economy.”

Ms. Taruvinga hoped that the social dialogue retreat would usher a new era in the way social dialogue is conducted in Zimbabwe. She highlighted the importance of ensuring that social dialogue improves working conditions, inculcate a sense of ownership of public policies and enhance participatory democracy in the world of work. Ms. Taruvinga emphasized the need to establish conditions of trust, confidence and cohesion among stakeholders within the TNF towards a Social Contract. She expressed concern at the current economic challenges including the pegging of prices on parallel market exchange rate which subjected workers to poverty and challenged the social partners to harness the potential of social dialogue to help bring macroeconomic stability through a Social Contract.

The first Vice President of EMCOZ, Farai Dube, highlighted that social dialogue is instrumental in promoting consensus building and democratic engagement on socio-economic issues affecting the country. He also saw social dialogue as key in advancing social and industrial peace at workplaces, which had a positive effect on productivity. EMCOZ outlined the preconditions for success as including the independence of the parties, trust and commitment, political will, respect of fundamental rights, genuine desire on the part of Government to commit its partners in policy formulation before implementation, as well as creating an enabling environment for parties to engage each other. The employer body noted that social dialogue remained the main vehicle for resolving current socio-economic challenges facing the nation. It identified lack of trust among the social partners and prolonged deadlocks as the major challenges militating against effective social dialogue. EMCOZ pointed to the need to finalize the sticky issue of minimum wages on which the parties were deadlocked that was affecting TNF work, conclusion of the Productivity Bill and the Labour amendment Bill.

The employers’ body also hinted at the key priorities for social dialogue in 2022 as follows:

- Operationalization of the TNF and establishment of an Independent Secretariat;
- Addressing issues that militate against effective social dialogue in the TNF, namely: (i) inclusivity of all stakeholders in policy formulation; (ii) restructuring the TNF to create an independent Chairperson; (iii) currency and exchange rate stability; (iii) clear economic roadmap; (i) currency confidence building; (ii) foreign currency retention for business to be reduced as the 60-40% is expensive and dissuades foreign currency savings by business;
- Public transport policy – comprehensive solution to the transport problem;
- COVID-19 and vaccination programmes;
- Price and wages stability;

- Formalization of the Informal Economy;
- Mutual respect within the TNF;
- Protection of migrant labour;
- Culture transformation and team building of the TNF;
- Productivity enhancement;
- National minimum wage;
- Considering COVID-19 expenses as tax deductible;
- Decent work and salaries;

EMCOZ recommended that the retreat be transformed into an annual strategic meeting of the TNF where social partners can meet and deliberate on key issues and set priorities for the next year.

In his keynote address, the Chairman of the TNF and Minister of Public Service, Labour and Social Welfare, Professor Mavima bemoaned the lack of progress in the TNF observing that "...at present social dialogue is not delivering to its full potential and to the expectations of Zimbabweans." He further noted that: "It is common cause that the work of the TNF has been met with some challenges emanating from the trust deficit and prioritization of sectoral interests among tripartite partners. Admittedly, the TNF has also had its problems, some structural while others are ideological. However, this has had a cost not only to the Social Dialogue but also to the economy of our country and society at large. These are issues that we must confront head on and I challenge my fellow Principals to take a lead in challenging this narrative." The Minister expressed the need for a new start in order to give new impetus to social dialogue in Zimbabwe and challenged the social partners to open a new chapter for the benefit of the nation.

Apart from the reflections from Business and Labour, a keynote address by the Chairman of the TNF, Professor Mavima, as well as indoor and outdoor team-building activities, the retreat also had expert presentations on the following issues:

- An overview of Social Dialogue: Issues, processes and experiences in other countries by the ILO Social Dialogue Expert, Limpho Mandoro;
- A history of the TNF in Zimbabwe: Towards a Social Contract: the role of social dialogue as a catalyst of socio-economic development in Zimbabwe by Dr. Godfrey Kanyenze;
- Conflict transformation and team-building by the UN Peace and Development Advisor, Zebulon Takwa;
- TNF Team culture transformation and realignment, by the Facilitator, Request Machimbira;
- A synopsis of productivity issues in Zimbabwe: A journey towards a productive nation, by the Acting Chairman of the National Productivity Institute Board Chairman, Joe Kahwema;
- Key social dialogue priorities for 2022 by Permanent Secretary Simon Masanga.

### ***Emergence of Other Dialogue Platforms: Complementary or Duplicative?***

Following the post-election violence in the aftermath of the July 30 2018 national elections and contested Presidential results and deteriorating economic performance, President Mnangagwa established three additional dialogue initiatives since end of January 2019, namely:

- Political Actors Dialogue (PoLAD) launched on January 22, 2019 to allow leaders of the other 22 political parties that contested the Presidential elections of 30 July 2018 chaired by Retired Justice Selo Nare, chairperson of the *National Peace and Reconciliation Commission* to draw up the framework for national dialogue. However, only about 18 political parties have regularly participated. The main opposition party, the Movement for Democratic Change (MDC-Alliance) refused to join PoLAD.
- The Presidential Advisory Council established on January 29, 2019 comprising 26 voluntary experts and leaders drawn from diverse sectors like business, health and social protection, agriculture, governance and human rights, faith-based organisations, tourism, education, minorities, ICT, civic society, communication and media management. It advises and assists in formulating key economic policies and strategies that advance Vision 2030. The council, which is mandated to meet at least quarterly, also acts as the President's "sounding board" on key economic reforms, issues and initiatives. Its meetings are chaired by the President and also attended by his Vice Presidents and any other invitees, including ministers and officials. It is serviced by a Secretariat which based in the Office of the President and Cabinet.
- The Matabeleland Collective emerged on March 21, 2019 when President Mnangagwa met the Matabeleland Collective, an organisation comprising of churches and civic society organisations from Bulawayo, Matabeleland North and South Provinces, which had requested for a meeting with the President to discuss among other things, development issues in the region, including the Gukurahundi issue and devolution. This platform was aimed at building consensus to influence national and regional policy in support of healing, peace and reconciliation in this region.

Three years on, these dialogue fora appear to be facing familiar challenges around their lack of independence, lack of follow-up in implementing agreed positions, and hence ineffectiveness. As for the NECF, its existence alongside the TNF entails a duplication of roles, as both are legislated bodies with a similar mandate.

#### **5.4 Causal Factors for the Side-lining and Ineffectual Role of the TNF**

The TNF was established at a critical stage as the crisis was just emerging, amidst high expectations that national social dialogue will set the economy on a more positive trajectory. Alas, as has been outlined, the TNF and other bodies promoting social dialogue, such as the NECF, amounted to bridesmaids, simply shepherding the crisis without averting it. As the then Minister of Public Service, Labour and Social Welfare, Nicholas Goche, observed in his opening remarks to the 13 July 2006 National Tripartite Workshop on Social Dialogue: "...As the Chairperson to the TNF, I note



with deep sadness that the immense potential of the TNF to drive socio-economic recovery for the country has not been transformed into reality. Often times, as Stakeholders we have saved the best of our efforts to crafting flowery rhetoric and engaged in shameful finger pointing to justify our subordinating the national interest to the selfish one. Not surprisingly, as we have continued to dither and postpone commitments at every crucial moment, we have directly actuated the continued decline of the economy” (TNF, 2006: 27).<sup>83</sup>

To its credit, the TNF did make spirited attempts at addressing the crisis and came up with some outstanding outputs including the tax relief measures of September 1998, the Declaration of Intent Towards a Social Contract, Guiding Values and Principles, the Kadoma Declaration Towards a Shared Vision, the Prices and Incomes Stabilisation Protocol, the five protocols signed in June 2007, the launch of the National Productivity Centre, the TNF Act to establish it as a statutory body with an independent secretariat, and the COVID-19 workplace responses.

A number of factors account for this lacklustre performance. To begin with, there was never any chemistry between the social partners. Right from the beginning, issues of mistrust and animosity loomed large. Since the mid-1990s, the ZCTU evolved into probably the most influential civil society organization in the country, encapsulating social movement unionism that brought together urban civil society to form a formidable urban labour coalition. It also facilitated the emergence of an empowered rank and file which pushed radical activism and a dual agenda against political authoritarianism and neoliberalism.

Its strategy included negotiating policies through the TNF, whilst at the same time reserving the right to resort to mass actions whenever necessary to force the hand of the government. The MDC represented the culmination of the alliances and partnerships, collaboration and mobilization for change, which reconfigured the political trajectory of the country. By supporting the creation of its own labour support base through the ZFTU, the government heightened the tensions. Thus, regime change on the one hand and political survival on the other became dominating themes that cast a long shadow over the TNF. The strategic question then is whether social dialogue can be effective when social partners are polarized along political lines, and also in the absence of explicit nation-building and confidence enhancing measures.

The local political context was therefore inhibitive, coupled with insufficient commitment of key actors, which hampered the effective implementation of the agreements. This was worsened by the fact that the TNF did not have decision making, implementation, supervisory and enforcement powers and had to relay its agreements to Cabinet. Having to rely on the voluntary compliance of other economic agents, including line ministries, proved untenable. As the participation of Ministers in the TNF became a recurring issue often raised by the other social partners, the link with Cabinet was further weakened.

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83 He made it particularly clear that: “I sincerely believe that it is our failure as Social Partners to influence the recovery of the economy that we today witness a deepening crisis of confidence throughout the economy,” (TNF, 2006:27).

In addition, the ad hoc and haphazard nature of its meetings reflected the challenges of having one of the social partners, the government, as both its chairperson and secretariat, which implies a lack of independence in its operations. The Parliamentary Portfolio Committee Report on the Operations of the TNF to the third session of the fifth Parliament (S.C.2.2003) noted the challenges associated with the government chairing, in that meetings are convened when it suits the convening authority. It called for an independent chairperson or rotating chairmanship, as well as a legalized statutory body. Though the TNF Act has been in place since 5 June 2019, the process of establishing an independent body has taken time, reflecting a lack of political will to align the practice with the letter and spirit of the law.

Mtapuri (2006) argues that because it has no teeth, the TNF is "...susceptible to arm-twisting, unilateral action, slow feedback, government retaining sweeping powers, and the existence of widespread politicking." Furthermore, the absence of a clear implementation and monitoring mechanism for the TNF left it disconnected from government decision making structures such as Cabinet. The lack of implementation of agreed positions therefore reduced the TNF to a talking shop and frustrated the other social partners.

The lack of adequate budgetary support and government prioritization left the TNF short of resources to implement its programmes. As such, its activities remained intermittent and irregular. This is not helped by the duplication of roles with the NECF, which has never been addressed, and the penchant of the state to create parallel structures such as NEC during the tenure of the GNU, and the 26-member Presidential Advisory Council appointed on 30 January 2019. Consolidating such initiatives could create additional fiscal space to support and promote sustainable national social dialogue.

The Concept Paper on National Tripartite Workshop on Social Dialogue held on 13 July 2006 noted the acrimonious relationships among social partners and that the TNF's processes had not been smooth and effective due to the following:

- Mistrust among social partners;
- Inadequate sharing of information;
- Lack of a common understanding on the role of social dialogue and the capacity of social partners to resolve key socio-economic issues;
- Lack of an institutional framework within which the TNF and its technical committees operate;
- Inadequate resource capacity of the secretariat of the TNF and its technical committees; and
- Lack of a specific arrangement for the implementation and monitoring by the parties of agreements reached (TNF, 2006: 14).

These issues were also highlighted by the ILO Commission of Inquiry, conclusions of the Committee on the Application of Standards, and at the TNF Consensus Building retreat of 8-10 December 2021 in Victoria Falls.

The continued reliance on authoritarian measures and repressive laws such as the Public Order and Security Act (POSA), its successor, MOPA, the Criminal Law Codification Act and AIPPA undermined the rights and freedoms of the other social partners, heightening the governance deficit. The contested July 2018 presidential election results and the outcome of the elections in general reflect a highly divided country, polarized along political fault-lines that have undermined social dialogue. This has been exacerbated by the shooting and killing of six people on 1 August 2018 and the heavy-handed approach to the protests of 14-16 January 2019 that soured relations with western countries and elements of the local community, especially in urban areas. Zimbabwe therefore needs to deal with a litany of legacy issues that undermine legitimacy and governance.

The wrenching structural changes that the economy has undergone since ESAP, characterized by persistent deindustrialization and informalization, has resulted in the emergence of other social bases and voices, particularly the informal economy and other civil society groups.<sup>84</sup> This may imply that the TNF as currently configured, comprising three social partners, may be inadequate and inappropriate. This points to the need to explore a more inclusive configuration – “tripartite plus” or “multi-party” – allowing the traditional tripartite partners to open up the dialogue and engage with other civil society groups in order to gain a wider perspective and consensus on issues.

It would be appropriate to conclude with the words of then Minister of Public Service, Labour and Social Welfare at the National Tripartite Workshop on Social Dialogue of 13 July 2006: “We should by now have learned from experience that no matter how well conceived economic and social policies can be, without the influence and participation of Social Partners in their formulation and implementation, the policies will not yield the desired outcome” (TNF, 2006:28). Hence the Decent Work Country Programme (DWCP) of 2005 identified the upholding and strengthening of social dialogue and tripartite consultation as one of the three national priorities.<sup>85</sup> The DWCP (2012-2015), signed on 22 October 2012, also includes the strengthening of social dialogue capacities and processes for sustainable socio-economic development as one of its key strategic objectives.

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84 The Fourth Quarter 2021 Labour Force Survey, for instance, shows that 86% of all employment in Zimbabwe is informal. The IMF (2018) shows that the three largest shadow economies for the period 1991–2015 out of 158 countries worldwide are Georgia with 64.9%, Bolivia with 62.3% and Zimbabwe with an average of 60.6% of GDP.

85 The other priorities were poverty reduction through employment creation, and social protection and reducing the impact of HIV and AIDS at the workplace.

## 6. Conclusion and Recommendations

Clearly from the foregoing, the preconditions for successful national social dialogue are inadequate to allow co-operation to help address crises, and unlock sustainable development in Zimbabwe. However, the ILO (2017) points to a successful project, “Skills for Youth Employment in Zimbabwe”, the evaluation of which suggests that the high levels of ownership of the project at the national, district and grassroots levels were important for success.<sup>86</sup> This project was implemented within a tripartite framework that included the then Ministry of Youth, Indigenisation and Economic Empowerment, EMCOZ and the ZCTU, with technical backstopping from the ILO.

A useful starting point is a survey by Mtapuri (2006) showing that 86% of respondents from government, business and labour believed that social dialogue was necessary to solve the national crisis. Parakokwa (2017) finds that there is general understanding and consensus on the concept of social dialogue and what it seeks to achieve. He concludes that the challenges that the TNF is facing have nothing to do with lack of understanding of foundational or conceptual issues, but rather its practice.

A similarly high number (71%) supported the proposition that the TNF should be a body legally constituted to enforce decisions. Respondents also highlighted the need to co-opt civil groups, universities, youth groups, student unions, women’s groups, consumer groups, professional associations, and others, – i.e., essentially ‘tripartite-plus’ – so that no one is left behind (Mtapuri, 2006).

Now that the TNF Act provides for a statutory body with an independent secretariat, it is critical that the alignment of the practice with the legal framework is expedited. Building the competencies and cohesion amongst the social partners is crucial in order to deal with the persisting high levels of mistrust and animosity. Given its role as the specialized UN agency with a tripartite structure, it is important to utilize the ILO for building cohesion amongst the social partners, and to continue to draw on its excellent technical backstopping support and services through the Country, Regional and Global (Geneva) Offices. This should be extended to other external co-operating partners such that social dialogue becomes a cross-cutting issue.

In this regard, it is important to re-orient the social partners so that they recommit to the Guiding Principles and the Kadoma Declaration, which should lay the foundation for a mutually beneficial, win-win smart partnership. With the assistance and support of the ILO, the parties should undertake a comprehensive evaluation of the successes and failures of the TNF since its inception, as a basis for forging better and sustainable relations going forward. The persistent and deepening economic crisis requires a united front that allows for the harnessing of all the talents reposed in all the social partners in the true spirit of the SDG mantra of “leaving no one behind”. As is the new consensus under the Busan Principles on Development Effectiveness, national programmes cannot succeed until the virtues of democratic ownership, inclusivity and accountability are nurtured and embraced.

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<sup>86</sup> To engender ownership, there were Steering Committees representing the three partners at the national, regional and district levels responsible for decision making, coordination and implementation, respectively.

The government must take the lead in championing social dialogue across ministries and the international co-operating partners. The requisite political will should be demonstrated by among other things removing all draconian pieces of legislation and aligning all laws with the Constitution. A strong signal that Zimbabwe has closed its dark past and is now in a “new dispensation” can only be demonstrated through governance reforms, and in particular the effective use of inclusive governance platforms, including the TNF. The current penchant for top-down policy formulation only serves to preserve the past, with all the negative consequences that this implies.

Furthermore, to move forward as a country, and in particular to create the necessary preconditions for successful national social dialogue, it is instructive to revisit the ILO Commission Report of 2009 and its recommendations:

- the harmonization of the relevant legislative texts, and particularly the Labour Act, the Public Service Act and the Public Order and Security Act, with Conventions Nos. 87 and 98, as requested by the ILO supervisory bodies;
- the cessation with immediate effect of all anti-union practices;
- the Zimbabwe Human Rights Commission to be rendered operational as soon as possible, with adequate resources;
- the provision of training on freedom of association and collective bargaining, civil liberties and human rights to key personnel in the country, most notably the police, security forces and the social partners;<sup>87</sup>
- the reinforcement of the rule of law and the role of the courts in Zimbabwe, by ensuring that the courts are respected, properly resourced and provided with appropriate training and support;
- the continued strengthening of social dialogue; and
- the continuation of ILO technical assistance in these areas (ILO, 2009b).

Furthermore, there is need to follow-up and implement the conclusions of the Committee on the Application of Standards and those from the various direct contact missions of the ILO. Critically, it is important to ensure that the challenges that befell the body in the past, including the ad hoc approach, the lack of an institutional framework and independent secretariat, and the absence of an implementation and monitoring framework, are fully addressed.

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<sup>87</sup> This training was provided to police over a number of years, including the development of a training manual. What probably remains to be done is to assess how the training has been utilized.

This is particularly important in view of the political, social and economic challenges facing the country, which require national consensus and the active participation of all social partners. Furthermore, Zimbabwe has already lost several decades of development when it underwent debilitating crises and cannot afford to miss any further opportunities. The fragmentation and fractured relations within and among the social partners cannot be resolved without recourse to social dialogue. The recommendations, and agenda for 2022 set out at the TNF Consensus Building retreat of 8-10 December 2021 in Victoria Falls held under the theme, “Advancing social dialogue towards sustainable and inclusive socio-economic development” should be implemented without fail. Lastly, the fragmented and duplicative social dialogue platforms should be streamlined and consolidated for greater impact and sustainability.

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