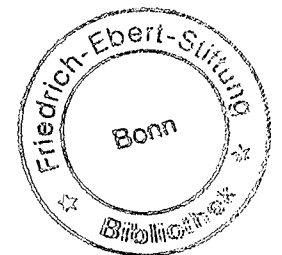


**THE
TRADE UNION
SITUATION IN ZAMBIA**

*An Overview of the Law, Practice and
the Way Forward*

A MONOGRAM

A 98 - 03581



**BY
DARLINGTON AMOS BANDA**

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Foreword for ZCTU Publication

The Friedrich Ebert Stiftung (FES) supports the promotion of democracy in Africa at many different levels, the support of civil society through trade union cooperation being one of them. Democracy means to strike a balance between the conflicting interest of different groups in society.

The representation of worker's interests by trade unions constitutes an essential part of democratic development. Co-operation with trade unions is therefore the Foundation's activity with the longest tradition. All trade union-related activities of the Foundation are closely coordinated with the German Trade Union Federation (DGB), its affiliated unions, the International Trade Union Secretariats and the International Confederation of Free Trade Unions.

FES promotes institutions of civil society, such as trade unions, women's organisations, human rights organisations and environmental organisations. It offers support for preparation and conduct of general and free elections, assist in decentralising government structures and promotes dialogue on economic and social policies to contribute to the solution of necessary restructuring processes.

It is my hope that through support of publications such as this, we can make a contribution towards a united trade union movement in Zambia.

The views expressed in this monogram are those of the author and do not necessarily represent the views of FES.

Dr Reinhold Plate
Resident Representative
Friedrich Ebert Stiftung
Zambia Office
July, 1997.

INTRODUCTION

It is beyond dispute that trade unions constitute an important factor on any country's terrain of industrial relations. In true democratic states trade unions are treated as part of an overall system of a decentralised decision-making where group interests are taken into account in the process of shaping the equitable rules of work. In short trade unions in a democratic environment have to be accepted rather than merely tolerated.

In his book *'What is wrong with Unions'*¹ written more than thirty five years ago about British Trade Unions, Eric Wigham argued that one of the weaknesses of British unions then was inter union rivalries coupled with an outdated trade union structure. This is probably one issue that researchers on Zambia's labour movement must focus on in order to determine the true character of the Trade Union Movement in Zambia.

Admitted that Trade Unions are important and, probably indispensable, in a democratic country, the question immediately arises as to the capacity of the labour movement in such an environment to sustain itself and become more relevant to the call of labour as well as the broader interest of the community. For if the notion that trade unions are important is accepted then the parameters of that importance must be defined in terms of their expected roles in society and their capacity to fulfill them.

The capacity of trade unions to be relevant and achieve their objectives may be frustrated by a number of factors. Two of these stand out very clearly: internal union bickering and external pressure.

The axiom *'Unity is Strength'* need not be over emphasised in relation to the labour movement: because of what the State stands to gain in a disorganised labour movement, any show of weakness, any crack or disagreement within the labour movement is a premium and is taken full advantage of by the government. In Africa and in Zambia in particular the tradition of political ties between the trade unions and the government has meant that pressure must be brought to bear on unions to *'conform to overall political goals and programmes.'*² While this was more readily manifest during the early years of independence, the advent of plural political systems should not necessarily spell the end of that culture. In fact, it should put the trade unions on alert and guard against associating plural politics with trade union strength and autonomy: the opposite could indeed be the case.

The degrees of virulence to control the labour movements may vary although the attempts to check and control and sometimes limit trade union freedom are almost universal. Legislation provides one such avenue of control. In some cases governments have used subtle methods of infiltration or incorporation in order to achieve the needs of control.

To lurk in the abyss of history is not to commit a heinous crime as to forget the lessons that it can provide. As far back as 1960 Julius Nyerere, the first President of Tanzania said the following on the relationship between the state and the trade unions:

'The trade union movement was, and is, part and parcel of the whole nationalist movement. In the early days (before independence) when a trade union went on strike, for instance, and its members were in dire need of funds to keep them going, we saw no doctrine which would be abrogated by our giving financial support from the political wing to the industrial wing of the same Nationalist

¹Wigham, Erick *What is Wrong with the Unions?* (Penguin Books: London 1961)

²Kassalow, E.M. *Trade Unions and Industrial Relations: An international comparison* (Random House Inc. NY: 1969) p. 294.

*Movement. It would clearly have been ridiculous to preach . . . [a] doctrine of 'independence' of [the labour movement] from political control and so deny them the assistance they needed from the [political wing].*³

To argue that this type of thinking has ceased is to close one's eyes to reality: it is indeed to forget the cardinal point that most political cultures in most developing countries frown upon any form of organised institutional independence that would have a tendency to check the excesses of the state.

Again, as early as 1965 the Singapore National Trade Union Congress (SNTUC) recognised this challenge when it noted the existence of a *'highly divisive, centrifugal forces at work, in the new societies, and the need for all modern forces to overcome the inertia of tradition'*.⁴ Although SNTUC acknowledged the difficulties involved in separating the labour movement from the state, mainly because of the relationship between problems and solutions to the challenges of labour and political action necessary to bring about the required changes, it was emphasised that a balance through agreement with the government had to be struck.

The proceeding discussion demonstrates the precarious position in which the trade unions find themselves. It emphasises the point that the trade union situation in any country will depend on the established relationship between trade unions and the government, the structure of the labour movement itself and the instruments of control and administrative regulation of the trade unions by the government as well as the importance of internal union relationships.

This is the central theme attempted in this publication.

³Julius Nyerere, 'The African Trade Unions,' speech, Dar-es-salaam, December 1960, Quoted in Kassalow, E.M. Trade Unions and Industrial Relations: An International Comparison) *ibid* p. 295

⁴Singapore National Trade Union Congress (SNTUC) The Problems of Workers in Developing countries, working papers presented by the central committee of the SNTUC to the International Labour Seminar, October 18, 1965 (Singapore, 1965). p. 7

CHAPTER ONE

Legislative and Political Developments of the Trade Unions in Zambia

In terms of post-independence legislative developments the Trade Unions and Trade Disputes Act of 1964 was the earliest piece of legislation to regulate trade union activities. This was repealed in 1971 and replaced with the Industrial Relations Act which did not become operational until 1974. This Act was again repealed in 1990 and another Industrial Relations Act was introduced. In 1993 the new government repealed the Industrial Relations Act of 1990 and in its place the Industrial and Labour Relations Act was introduced.

It is the purpose of this chapter to consider the historical developments of trade union law and practice in Zambia in so far as they have a bearing on the present day trade union status.

(a) The Zambia Congress of Trade Unions (ZCTU)

The ZCTU was established by an amendment to the Trade Unions and Trade Disputes Act (TUTDA) of 1964. All the subsequent and successive Acts have retained the statutory proclamation of the ZCTU with variations as to its powers. For example, the 1971 Act expressly provided under section 26 that the ZCTU was to be automatically registered by the Labour Commissioner without any application being made on its behalf. Automatic registration of the ZCTU had implications on the structure of trade unions and, in particular, on the question of trade union affiliation to the ZCTU.

(b) Affiliation to the ZCTU

Under section 43 of the TUTDA affiliation to the ZCTU could only be effected if a majority of its officers resolved to affiliate. Under this Act, therefore, the question of affiliation was a matter left to the decision of the members: it was not mandatory to affiliate to the ZCTU.

The 1971 Industrial Relations Act (IRA: 1971) made some radical changes to this matter by providing for the principle of affiliation by registration. The Act stipulated under section 15(i)(b)

that every trade union in possession of a valid certificate of registration shall be deemed to be a trade union duly affiliated to the Congress.

Under sub-section (2) it was provided that upon registration and, therefore, affiliation, such a trade union 'shall be entitled to the rights and privileges, and be subject to the obligations specified in the constitution of the congress'. Thus the influence and authority which the Congress could exercise in respect of its affiliates wholly depended on what the constitution of the ZCTU stipulated. Indeed section 27 (i) required that the constitution of the ZCTU ought to spell out the rights, privileges, duties and obligations conferred or imposed upon trade unions by virtue of their affiliation to the congress.

The powers of ZCTU over its affiliates were also defined under section 28. It was provided that where a dispute arose between two or more trade unions as to which of them had or should have the exclusive right to represent employees of a specified class or category then the parties were under an obligation to refer such a dispute to the ZCTU with a right of appeal to the Industrial Relations Court. It has to be noted that section 27 was in effect a limitation of the scope of issues on which the ZCTU could have influence on. The trade unions in dispute could only refer the matter to the ZCTU if the issues in dispute related to representation.

The relationship between the ZCTU and its affiliates was judicially tested in the case of Luciano Mutale and Jackson Chomba vs Newstead Zimba in 1988.¹ The facts of the case were that the National Union of Building, Engineering and General Workers (NUBEGW) General Council passed a resolution in September 1987 to suspend the union chairman Frederick Chiluba who was also the Chairman General of the ZCTU. This was followed up by the ZCTU convening its own General Council which decided to intervene by way of suspending the entire Executive Committee of NUBEGW and some of NUBEGW's full time

¹unreported

employees. NUBEGW objected to the intervention by the ZCTU arguing that it (the ZCTU) did not have legal authority to do so. When the matter was taken to the High Court it was ruled that the action by the ZCTU was not in breach of the law.

On appeal the Supreme Court reversed the decision of the High Court. It was decided that the rules or the constitution of the ZCTU did not give the ZCTU the power to intervene in the internal affairs of the affiliates in the manner in which it did. The court observed that the power to expel or suspend members could only be enforced if such a power was expressly provided by the rules or could arise by necessary implication. The court refused to draw such an implication from the constitution of the ZCTU.

Under the short lived 1990 Industrial Relations Act the matter was put to rest when it was expressly provided that the ZCTU could not intervene in the internal affairs of its affiliates. Similarly, automatic affiliation was removed and provided that only by a two thirds majority of all members of a union could a union affiliate to or disaffiliate from the ZCTU.

The 1993 legislation makes it obligatory for unions affiliated to the ZCTU to refer their dispute to the ZCTU for reconciliation. If this fails the parties have recourse to the Minister of Labour and Social Security for arbitration with final appeal to the Industrial Relations Court².

It is important however to note that under the same 1993 Act³, it is provided that each trade union shall maintain its separate status and shall have the right to organize itself as it considers fit.

It is further provided that the ZCTU shall have no jurisdiction over any trade union affiliated to it in any domestic management or domestic matter unless such a matter has been referred to it by

²The Industrial and Labour Relations Act

³S.34

the trade union concerned.

Finally, affiliation to the ZCTU⁴ is by a simple majority decision of the members present and voting at a General Conference.

These three aspects require some clarification. Section 35 only makes it mandatory that where there is a dispute between two or more trade unions affiliated to the ZCTU then such a dispute has to be referred to the ZCTU in the first instance.

On the other hand, section 34 declares that where a dispute is purely domestic within the trade union then the ZCTU has no right to intervene unless such a dispute has been referred to it by the trade union concerned

Lastly, section 17 deals with the question of affiliation to and disaffiliation from the ZCTU. It provides that by a simple majority a trade union may decide at its General Conference to affiliate or cease to be affiliated to the ZCTU. This last point is particularly important on the trade union situation in Zambia — a point which is a central mark of this treatise.

(c) Trade Union Registration

It has been noted that the 1971 legislation provided for automatic affiliation to the ZCTU by registration. It is also significant to note that under Rule 3 of the ZCTU constitution it was stipulated that every trade union which was duly registered under the Industrial Relations Act was deemed to be affiliated to the ZCTU.

The 1971 legislation, like the TUTDA of 1964, provided that an application to register a trade union had to be signed by not less than seven members. This application had to be lodged with the Labour Commissioner. The Labour Commissioner could, under that legislation, refuse to register a trade union on any of the following two grounds:

1. that it has a name that is identical with that by which any other trade union has been registered or so nearly resembling such a name as to be likely to deceive its own members or the members of the public;
2. that it purports to represent a class or classes of employees already represented by or eligible for membership of another trade union⁵.

The first of the above grounds had no bearing on the strength or structure of the labour movement. It is the second reason that had far-reaching implications on trade union structure and organisation and needs to be examined in some detail.

What the second ground effectively meant was that no trade union could be registered if another union existed in such industry. By extension no single employer could have more than one union to deal with. This interpretation is derived from section 112 of the 1971 legislation. This section provided that every recognition agreement 'shall provide that the employer has duly recognised the trade union as the sole representative of and exclusive bargaining agent for *employees employed by such an employer.*'

The net effect of these sections was to define the structure of trade unions based on the principle of one union in one industry. Indeed in his opening address to the National Assembly of 7th January 1979 the then President Kenneth Kaunda stated as follows:

'... our policy still remains one of supporting one union for one industry, for we are convinced that a proliferation of trade unions weakens the bargaining strength of the workers.'

One can hardly doubt the suitability of this philosophy because of its implicit spirit for good industrial relations and a strong trade union movement. The pattern of one union in one industry has more advantages than disadvantages. Apart from strengthening

⁴s.17

⁵s.7(8)

trade unions this pattern avoids the problem of multiple representation and its associated disadvantages of inter union conflict, multiplicity of negotiations within the industry as well as the problem of overlapping membership. Proliferation of unions also has the disadvantage of promoting industrial disharmony which has the ultimate effect of compromising trade unions in their collective bargaining engagements and other industrial relations obligations.

These problems were endemic shortly after 1967 when Zambia got her political independence, for example. At that time the mining sector had three unions, the railways had two and the transport sector also had two.⁶ At that time there were twenty four unions in Zambia. By 1974 the number had dropped to eighteen because of the reorganisation of the labour movement necessitated by the introduction of the principle of one union in one industry by the 1971 legislation. Thus the three unions in the mining sector amalgamated to form the Mineworkers Union of Zambia (MUZ) while the two unions in the transport industry, namely, the National Union of Transport and General Workers and the Zambia Long Distance and Heavy Haulage Union merged to form the National Union of Transport and Allied Workers. Similarly those in the railways amalgamated to form the Zambia Railways Amalgamated Workers Union which changed its name to the Railway Workers Union of Zambia.

The law has drastically changed and the whole process has been reversed. These changes have also seriously affected the bargaining power of the trade unions especially in view of the Structural Adjustment Programme which the Movement for Multiparty Democracy (MMD) government is pursuing. With the privatisation programme firmly in place, jobs have been lost thereby reducing union membership and in some cases, seriously undermining trade union unity.

⁶See Elena Berger, *Labour Race and Colonial Rule* (Oxford: Clarendon Press, 1974) and Cherry Gertzel, 'Industrial Relations in Zambia to 1975' in Damachi, U.G. et al (Eds) *Industrial Relations in Africa* (London: The Macmillan Press Ltd, 1979) pp 324-5

(d) The Impact of Political Pluralism on Trade Unionism

The advent of political pluralism in 1990 in Zambia was used as a major thrust to justify the liberalisation of the labour movement by the former government of Kenneth Kaunda. While it was publicly admitted in 1970 by the former head of state that the bargaining strength of trade unions is undermined by the proliferation of trade unions, there was a major policy shift in 1990 when it was stated that trade unions had a duty to compete for membership and that therefore, the law should allow the proliferation of trade unions within industries. This, it was argued, was consistent with the spirit of liberalisation.

It is interesting to note that while the MMD was strongly opposed to the 1990 Industrial Relations Act introduced by the former government as it was perceived to be divisive of the labour movement the MMD now in power have done nothing significant to address the divisive character of the law. While the 1990 legislation did not place any restrictions on trade union formation and registration, the 1993 Industrial and Labour Relations Act, introduced by the MMD, states that no union could be registered within an industry where another union exists unless it is shown that such a union is intended to represent a specific trade or profession. This has been broadly interpreted and has led to a liberal registration of trade unions on the basis that they are distinctly professional and that the existing trade unions cannot sufficiently represent such members. As pointed out above, the 1993 legislation also makes affiliation to the ZCTU optional. These developments have put the labour movement in Zambia in disarray because of disaffiliation from and non affiliation to the ZCTU. There are also serious cracks in some unions arising from splinter unions.

These are some of the factors that have compromised the strength of unions such that they have failed to make much impact on government policies, especially in the area of the adjustment programmes and the lack of initiatives towards labour law or policy reforms.

For example over 7000 employees lost their jobs between January and October of 1995 from 310 companies as a result of the structural adjustment programme. According to the Bank of Zambia 1995 Annual Report the highest job losses occurred in the transport, manufacturing, wholesale, retail and financial sectors of the economy. The Report stated that the liquidation of the United Bus Company, a public corporation and three commercial banks contributed significantly to the rate of redundancies and unemployment.

Further, according to the statistics at the Ministry of Labour and Social Security, formal sector employment has been on a declining trend since 1992 and now only represents 10-15% of the entire labour force. On the other hand the informal sector has emerged as the main source of employment in the country. Divisions and internal fighting in the labour movement has made it impossible for the unions to be assertive in the face of such employment related developments.

CHAPTER TWO

The Trade Union Situation in Zambia: A Bird's Eye View

From its inception the labour movement in Zambia has not been spared from political interference, abuse or control. During the struggle for independence the labour movement constituted an active ally of the nationalist movement. When independence was achieved in 1964 the government in power wanted to extend the symbiotic alliance to actual control. When this could not be achieved the state used its powers under the law to deal with dissension from the labour movement. In some instances the state achieved control through incorporating labour leaders in the mainstream structure of the ruling political party. For example the top brass labour leaders were arrested and detained under presidential power in 1982. On the other hand some prominent members of the labour movement were appointed as members of the ruling party's central committee.

The labour movement also witnessed its incorporation on the ruling part's national council based on the principle that the party was supreme.

These and many other overt and covert overtures and acts on the part of the state towards the trade union movement demonstrated government perception of the labour movement as a pillar of formidable influence. It also shows that the state machinery could take appropriate steps in order to control and weaken the labour movement.

One of the the factors that had made the Zambia Labour Movement to be one of the strongest in Africa was the retention of the principle of one union in one industry up to 1990. Indeed the period between 1971 to 1990 was the era of capacity building with legal support of the trade unions. By 1990 the ZCTU had organisational structures similar to those of the United National Independence Party (UNIP) across the country. The overwhelming success of the movement towards democracy in 1990-1991 was

largely due to the organised structures of the ZCTU which the MMD took advantage of and used.

When the MMD took over the reins of power from UNIP in 1991 they promised an overhaul of the legal structure of the labour movement in order to strengthen it. Essentially this was interpreted to mean the redrafting of the 1990 Industrial Relations Act particularly as it affected the organisational structure based on the multiplicity of unions. It will be recalled in fact that before its ascendancy to the helm of political power the MMD, itself dominated by former labour leaders such as Frederick Chiluba, strongly condemned the 1990 Act as being anti-union and divisive. Yet, at the same time, the MMD leadership promised to usher in liberal policies.

Hence one of the priority areas when the MMD assumed power was to embark on the World Bank and International Monetary Fund (IMF) supported Economic Structural Adjustment Programme (ESAP). This has had far-reaching implications on the labour market trends, employment and trade union density mainly due to the privatisation of publicly owned companies which could not stand the competitive nature of ESAP.

Privatisation, which is invariably an inevitable incident of ESAP, has had to be implemented in the framework of the unrealistic legal regime with regard to support systems or mechanisms for those out of employment. Another dimension to this has been the lack of cohesion and vision by the labour movement which has remained divided. The last factor has been government's wish, through a number of instruments, to extend liberalisation to the organisational structure of the labour movement.

The question to be addressed in relation to those factors is: What, in real terms, has liberalisation meant to the effectiveness and organisational structure of the labour movement?

Zambia's labour force, a scenario which is common in the

Southern Africa sub-region, has a tendency to record a disproportionately high growth of the informal sector against a declining formal sector employment. According to the 1991 Central Statistical Office (CSO) Priority Survey on the Social Dimensions of Adjustment published in 1993 the labour force was estimated at 3.2 million with an average annual growth rate of 2.1 per cent and dominated by about 54 per cent of persons aged between 12 and 34 years of age. The study showed that about 64 per cent of the labour force was located in the rural areas with a high proportion of female employees. The bulk of the labour force was unskilled with high levels of illiteracy particularly among the women and the youth. The priority survey estimated the unemployment rate at 22 per cent and the rate being higher for females.

The reliability of these statistics have been questioned and doubted particularly that the survey considered subsistence farmers and unpaid family workers as being 'employed'¹. If this is discounted it is estimated that the unemployment rate ranges between 70 to 80 per cent.

It will be noted from Table 1 for instance that against the labour force of 3.5 million only 526.4 thousands were in formal sector employment with the public sector and agriculture having the largest share as can be observed from Table II. It will also be observed from both tables that there has been a progressive increase in unemployment resulting in a general decline of the formal sector employment. Formal sector employment has been declining at an annual average of 2 per cent. The most affected sectors in terms of the decline in employment levels are manufacturing, construction and mining. The public sector, on the other hand has registered an increase between the years 1993 to 1994. This picture is likely to change negatively because of the restructuring of the public service².

¹See also Banda, D.A. and Muneku A.C. 'The Impact of Structural Adjustment Programme on the Labour Market and Unionisation in Zambia' a study conducted on behalf of the Friedrich Ebert Stiftung (FES) Zambia and the ZCTU in 1996 which paper was subsequently presented to a ZCTU workshop.

²See the 1997 Budget Speech, Government Printers, Lusaka 1977.

Table I below shows national employment trends while Table II shows trends in formal sector employment by Sector.

TABLE I: National Employment Trends

	1986	1987	1988	1989	1990	1991	1992	1993	1994
P/M	6.6	6.8	7.0	7.2	7.4	7.6	7.8	8.4	
PGR	2.7				3.5				
LFM	2.4				3.2		3.5		
ELFM	2.4				2.5				
UR	13					22			
FE	526.	530.	533.	540.	543.	544.	546.	526.	405.

SOURCE: EMPLOYMENT TRENDS 1994 AND ZAMBIA IN FIGURES 1996. CSO

Key

P.M	—	Population (Millions)
P.G.R	—	Population Growth Rate %
L.F.M	—	Labour Force (Millions)
E.L.F.M	—	Employed Labour Force (Millions)
U.R	—	Unemployment Rate %
F.E.	—	Formal employment ('000)

TABLE II: Formal Sector Employment (000)

	1990	1991	1992	1993	1994
Agriculture, Forestry, and Fishing	79.8	77.7	82.0	82.8	78.3
Mining and Quarry	64.7	64.8	62.1	58.2	51.2
Manufacturing	72.1	75.4	73.6	67.6	57.1
Electricity and Water	7.1	7.6	8.4	5.7	5.1
Construction 33.4	33.1	27.8	22.1	17.5	
Distribution, Restaurants & Hotels	55.1	55.2	51.3	49.3	49.6
Transport & Communication	33.8	34.4	31.0	29.0	29.0
Finance, Insurance & Real Estate	32.9	35.8	39.0	37.0	33.8
Public Sector 159.4	162.2	170.7	166.3	173.9	
Redundancies	3	4	6	5	9
TOTAL	543.3	544.2	546.2	526.4	405.5

SOURCE: ZAMBIA IN FIGURES, CSO, 1996

The declining employment trends have been attributed to the privatisation programme which has been associated with job losses. This also has a direct effect on the levels of unionisation. For example, according to the Research Department of the ZCTU, ten public corporations liquidated between 1992 and 1994 deprived the labour movement of a substantial membership as a result of which more than five thousand jobs were lost. Table III shows the public Companies affected by liquidation or receivership.

What is probably of some significance is the role of the labour movement in the whole scenario of structural adjustment programme in so far as it affects the interests of the workers.

To start with, the labour movement in Zambia has in the past few years, been rather very weak to influence government policy especially in the implementation of ESAP. What the country has witnessed is a quickly contracting formal sector employment and a rapidly growing informal sector. Those ejected from employment, either by virtue of privatisation or liquidation, have had little protection from the labour movement which has been left helpless

Table III: Public companies affected by liquidation or receivership as at 31 December 1995

NAME OF CORPORATOIN	INDUSTRIAL	NUMBER OF WORKERS REJECTED
Mansa Batteries Limited	Manufacturing	800
National Import and Export Corporation	Trading	38
National Wholesale and Marketing Corporation	Trading	134
National Home Stores Limited	Trading	406
Zambia National Consumer Buying Corporation	Trading	720
Mwaisen Stores Limited	Trading	98
City Radio and Refrigeration Limited	Trading and Electronic Repair works	95
*Zambia Airways Corporation Limited	Air Passenger Transport	1300
United Bus Company of Zambia Limited	Passenger Road Transport	1500
Contract Haulage Limited	Cargo Road Transport	600
TOTAL		5691

*Includes National Air Charter in Air Cargo Transport
Source: ZCTU Research Department

as the law on collective bargaining does not allow a negotiated package for retrenched workers.

When ESAP started to be implemented in earnest in 1992 the laws relating to liquidation, minimum standards and employment were those dating back to the colonial era. The introduction and subsequent implementation of ESAP did not involve the participation of the labour movement at the policy, design or delivery levels although in theory the law establishes a Tripartite Consultative Labour Council (TCLC) where such important matters could be discussed. As a result of rushed implementation of ESAP without regard to the social as well as legal safety mechanisms to ensure that the law was in line with the changed economic circumstances, retrenched employees were faced with totally unrealistic and unbearable conditions for loss of employment. For instance, under the archaic law on liquidation a former employee could only be entitled to ZK200.00 (about 50 cents) — an amount which could hardly buy such an employee even a bottle of Coca-Cola in Zambia. Under these conditions, the labour movement was and continues to be helpless because of a technical hitch that retrenched former employees are no longer in employment capable of being negotiated for. Therefore, such former employees were at the mercy of the State.

Under the a Statutory Instrument No. 171 of 1995 a minimum compensation of three months salary for a retrenched worker whose minimum period of service is ten years or more is provided for. There are no corresponding provisions for those employees whose period of service is less than ten years.

Beside that the labour movement is weak, (and we shall address the question as to why) the government has not been pro-active in its design and implementation of ESAP particularly as this has had an effect on levels of employment and poverty.

In Ghana, for example the government took 'a number of steps to deal with its substantial liabilities for end-of-service benefits to

retrenched workers'³ Such steps included the introduction of a national pension scheme to replace the inadequate retirement package, a revision of the relevant laws on collective bargaining, employer responsibility and social security as well as the creation of an institutional arrangement to oversee the social costs of adjustment.

In this regard the Programme of Action to Mitigate the Social Costs of Adjustment (PAMSCAD) was put in place. Such or similar steps were not taken by the Zambian government and the labour movement has continued to be marginalised in that sense.

According to the ILO 1995 World Labour Report another example is that of Mauritius where 'Trade unions kept the right to negotiate their transferred workers' terms and conditions of service with their employers.'⁴ The Report further notes that it is close contacts between the Mauritian trade unions and the new employers that has kept to the barest minimum the adverse effects of Privatisation on employment.

With an unbridled implementation of the Privatisation programme and its adverse effects on levels of employment and, therefore, unionisation, the labour movement can only look up to the informal sector for membership. This is not without its own problems and limitations. To start with the composition of the informal sector is such as to restrict the entry of the labour movement into it. The combination of such attributes cannot favourably be exploited to labour's advantages.

According to Nyirongo (1997)⁵ there are seven characteristics of the informal sector.

First, the sector is heterogeneous and includes the socially repulsive and illegal activities such as prostitution and drug peddling.

³ILO, *World Labour Report, 1995*, Geneva, p.58

⁴Ibid p.59

⁵See a paper by Nyirongo Griffin 'Employment in the informal sector: Can it be sustained?' presented to the ZCTU? FEES Policy Workshop on Employment and Labour Market Policies, Lusaka, May 1997.

Secondly, those engaged in the informal sector are generally characterised with a very low capital intensity.

Thirdly, informal sector activities often lack access to official credit.

Fourthly, low or primitive technology is a feature that often inhibits capital expansion.

Fifth, the markets are limited and will often depend on established direct relationship with customers. This entails a lack of distribution networks in the sector.

Sixth, the informal sector is relatively dependent on the formal sector for inputs. By extension, a large number of those today engaged in the informal sector, finance their activities from savings generated out of formal employment.

Finally, and this is important for the penetration of the labour movement into the informal sector, it is characterised with low and unstable wages although exceptions can be found. Indeed most of the participants in the informal sector are self-employed.

These characteristics are very visible in Zambia and can hardly be said to be favourable for the penetration of the labour movement in it. The ZCTU has in the recent past been advocating for the recruitment of informal sector participants into the labour movement and largely because of the outlined factors above, the scheme has not taken off and is unlikely to take off in the foreseeable future.

Added to this is the fact that the sector is highly fragmented making it all the more difficult for the labour movement to have a defined and coherent structure for its regulation. And this is so in spite of the steady increase of the sector as an alternative to the formal sector employment. For example, according to the Labour Force Survey, (1986), Priority Survey, (1993) and the Quarterly Employment Inquiry, (1994) the informal sector grew by 28 per cent between 1986 and 1993 while the formal sector declined during the same period by 11 per cent. The 1993 survey indicates that out of the 2.3 million participants in the informal sector 56.3 per cent were self employed while 41.7 per

cent comprised unpaid family workers. An additional 1.8 per cent were engaged as private sector employees and at least 0.2 per cent were in private firms with less than five workers. These statistics further underscore the nebulous character and fragmented status of the informal sector and the difficulties compounding the labour movement penetration in this sector.

The legal framework would also appear to be the obstacle particularly with the self employed in the informal sector. Given that the sector is heterogeneous it must follow that the economic activities are also diverse and would not all fit in one occupational definition. This being the case then one would expect a multiplicity of unions within this sector structured along crafts. The alternative would be to have an all embracing union for the entire informal sector. As pointed out earlier, there are problems with the definition of 'employee' when one has to deal with the self-employed who, in any event, would not need a union to interfere with his business as he is 'self employed.'

With all these problems and challenges confronted by the labour movement in Zambia, what role has the State played and what has been the reaction of the labour movement. This is the subject for discussion in the next chapter.

CHAPTER THREE

The Role of the State in Zambia's Trade Union Movement

The relationship between the state and the labour movement, particularly during the period 1969 to 1991, was one based on suspicion and therefore acrimony. Underlying the unsatisfactory industrial relations scene was the apparent conflict and rivalry, between the labour movement and the Government. This explained why, for example, all the strikes that took place between 1964 and 1991 were illegal in the sense that they were taken without exhausting the legal procedures. It has, however, been argued that it was not legally possible to have a legal strike during that time as the law did not, paradoxically, allow for such a situation to arise. In short, the procedures precedent to a strike were unrealistic. A policy of 'strike first and talk later' was the established norm.

It can be generally said that Zambia experienced the largest number of strikes between the years 1964 and 1971. The highest number of strikes registered in one year was 1161 in 1969. This was attributed to wage demands and demands for better conditions of employment by workers in almost all sectors of the economy.¹ However, these could also be attributed to unfulfilled post-independence promises.

After 1971 the number of strikes was comparatively on the decrease except for the dramatic change in 1980 and 1981 which registered 121 and 156 strikes respectively. This was partly due to the high cost of living with the labour movement calling for substantial wage increases and also partly due to the sharp differences between the labour movement and the government over the latter's stand to introduce a decentralised system of local government which resulted in the expulsion of the ZCTU leadership from the ruling party (UNIP)². This precipitated a series of strikes by

some unions who demanded for the reinstatement of the expelled labour leaders.

The conflict between the Government and the Labour Movement worsened and adversely affected the industrial relations system in the country when the government detained the nucleus of the labour leadership³ which included the Chairman General of the ZCTU, Frederick Chiluba.⁴ The issue became so emotive particularly on the Copperbelt, the nerve-centre of the country's industrial relations that, in an attempt to resolve the conflict with the miners, the Minister of Labour was physically manhandled by the irate miners.⁵ In an early morning address to the nation one and half weeks later the President alleged that the wave of strikes that had engulfed the nation were instigated by the Labour Leaders for political objectives to take over from President Kaunda's government.⁶ In fact, a day before the detentions were effected, a high ranking member of UNIP's Central Committee and Secretary General of the Party Humphrey Mulemba challenged the Labour Leaders to declare their positions in the face of the strikes and a deteriorating industrial relations system in the country. It was later alleged in the High Court, when Frederick Chiluba⁷ challenged the detention in an application of habeas corpus that he was detained because he had pledged to take over the Zambian government.⁸

The above reasons, although far from exclusive, would sufficiently account for a sudden increase in the number of strikes between 1980-1981. This was a period of political sensitivity in the country particularly as the memories of an alleged coup d'etat attempt by

¹See Annual Report, Labour Department, 1970.

²See Times of Zambia 21 and 26 January 1981

³See Times of Zambia 28 July 1981

⁴These were later set free when they contested their detentions in courts of law. See Times of Zambia 29 October 1981, also 10 and 14 October 1981.

⁵Times of Zambia 17 July 1981

⁶Times of Zambia 28 July 1981

⁷Times of Zambia 27 July 1981

⁸Times of Zambia 18 September 1981

Edward Shamwana and others were still fresh.⁹ In addition, it is a period during which the inflation rate in relation to the increase in the index of consumer prices was growing while the growth rate of Gross Domestic Product (GDP) was low. Thus while inflation rate between 1980 and 1981 was 13.6 per cent the GDP was 2.0 per cent during the same period. In such a situation the labour movement, which was united and formidable, naturally arose to the occasion.

The labour movement justified its wage demands in the eighties on inflation resulting in high prices for goods and services. In an attempt to control wage inflation the government had taken a number of measures including the imposition of wage ceilings¹⁰ and by requiring that any wage increase must be approved by a competent government authority.¹¹ Government policy, however, on wage ceilings was that trade unions should be free to bargain for higher wages¹² as long as (they) reflected the economic realities.

Indeed, the following comment which appeared in the Times of Zambia when the labour movement rejected a wage ceiling is instructive as it amply demonstrates the extent to which the relationship between the State and the labour movement had been strained. The editorial comment stated:

*'... if some ZCTU leaders have ambitions for political power, they should come out in the open and follow the normal channels of achieving it, otherwise they should not blame anybody if their ambitions are nipped in the bud through their bunglings.'*¹³

⁹In 1980 Edward Shamwana and other were arrested and charged with the offence of treason on the ground that they has conspired to take over the Zambian government by unlawful means. Those convicted, including Edward Shamwana, a prominent Lusaka Lawyer and State Counsel, were released through a general amnesty in 1991 by former President Kaunda when he was under intense political squeeze

¹⁰Times of Zambia 16 April 1983

¹¹Before 1983 this power was vested in the Industrial Relations Court. This was later transferred to the Prices and Incomes Commission. No such power exists today and the Prices and Incomes Commission has since been abolished.

¹²Times of Zambia 3 May 1983

¹³Times of Zambia 15 August 1983.

It is arguable, in fact, that the real matters rested on sheer political ambitions than on issues pertaining to free collective bargaining and the right to strike. It appeared then, that the apparent lack of a clear policy on prices and incomes rendered it almost impossible for the trade unions to negotiate for wages which, according to law, ought to have conformed with the governments declared policy on prices and incomes.

The failure on the part of the government to have a clear policy on prices and incomes at that time could be explained on two grounds.

First, by insisting that collective agreement should comply with the policy on prices and incomes ensured that those engaged in wage negotiations and conditions of employment exercised restraint in their demands to be consistent with the undefined policy. In other words it was hoped that wage demands would correspond with productivity.

Secondly, this may be explained in terms of the implications of having a prices and incomes policy in relation to the incidence of strikes. The State seemed to have the view that with a traditionally militant labour movement and in the face of the ailing economy, the price which the government had to pay for accepting such a policy would have been its willingness to stand up to strike action. Therefore government did not seem prepared to have an incomes and prices policy with a threat of a strike hanging over it at the same time.

All that this boils to is that while a need was recognised to have an incomes and prices policy the government of the first and second Republics was reluctant to pronounce one for fear of its abuse through the instrument of industrial action. The removal of suspicion was therefore one major task confronting both the government and the labour movement. It is hardly surprising that the ZCTU maintained a special file on its conflict with the State.

Although the government had, since independence, used its

detention powers to detain labour leaders, these were measures intended to discipline those involved or to restrict the right to strike. This, in spite of the 'one union in one industry' philosophy, also had the effect of compromising and weakening the labour movement and its leadership. However, the government appears to have realised that taking direct action against the labour leaders had the effect of turning them into martyrs and also that restricting the right to strike merely on the basis of a broad definition of 'essential services' was an inadequate measure to effectively deal with the unions that went on strike.

Tactics changed in 1985 when the government targeted the trade unions other than individuals. As a reaction to the strikes that had occurred between December 1984 and February 1985 the Minister responsible for labour purporting to act under the authority of section 20 of the Industrial Relations Act, issued a directive in the form of a Statutory Instrument. Under this instrument the financial strength of unions whose members went on strike was at stake. This was the Statutory Instrument No. 6 of 1985 whose full title was Trade Unions (Deduction of Subscriptions) Regulations, 1985. This provided as follows:

'Any deduction of subscription Order under section 20 of the Act shall be deemed revoked and shall become null and void from the day when a trade union for the benefit of which such order is made goes on illegal strike, whether official or unofficial.'

It must be pointed out here that the legality of a strike has nothing to do with whether or not the strike is official; whether the strike is legal depends upon the law and whether or not it is official depends upon the rules and policy of a union faced with such a strike action.

A strike may be illegal either because it has criminal objectives or it is conducted contrary to the laid down procedures of the law.

Section 20 of the Act on which the Minister relied is crucial in considering the government's reaction. This is more so because the ZCTU challenged this instrument in the Courts of law alleging

that the Minister had no power or jurisdiction to revoke an order made pursuant to section 20(1) and (2) of the Act. It is pertinent that these provisions are examined.

The Impact of Section 20(1)

'The Minister may by statutory Instrument

- (a) Order an employer to deduct at the end of each month from the wages of those of his employees who are members of any trade union such subscription as are prescribed by the Constitution of the trade union of which each of such employee is a member;
- (2) The Minister shall not make an order:
 - (a) under paragraph (a) of subsection (1), unless he is satisfied that the trade union to be named in the order is sufficient representative of the employees concerned as to justify the making of such an order . . .
- (11) The Minister may at any time revoke an order under subsection (1) if he is satisfied that the conditions which justified the making of such an order no longer exist.
- (12) The Minister may make regulations to give effect to the provisions of this section and may, in particular prescribe anything which may be, or is required to be prescribed under this section.

The general rule under the Act was that Trade Unions would collect their dues from their members by way of a check off system under section 19. This system is administratively inconvenient and expensive. Section 20 established the collection of such dues through a due shop system where the Minister was satisfied that the union for whose benefit a due shop order was to be made was sufficiently representative of the employee concerned or that the members of such union constituted at least sixty per cent of the total number of persons employed by a particular employer.

The Statutory Instrument, therefore, had the effect of revoking

a due shop order made by the Minister whenever the members of such a trade union went on strike without following the laid down procedures. It did not matter for purposes of the instrument whether or not the strike in question was official. The effective question, therefore, is not whether the union rules were followed but whether the strike was legal. It has already been observed that although there was an apparent right to strike under this law the practical realities did not render the legal procedures to be tenable.

For purposes of this analysis, the following pertinent questions may be posed. First, what were the conditions precedent to the Minister's exercise of the discretion to make a due shop order? Secondly, what conditions justified the revocation of such an order?

The case of John Daniel Sichone (and others as Trustees of the ZCTU) vs The Attorney General¹⁴ was an important test case. By this case the ZCTU challenged the legality of Statutory Instrument No. 6 of 1985 in the High Court for Zambia. The ZCTU sought a Court ruling and a declaration that the instrument was void on the ground that the Minister of Labour, relying on the condition or event specified in the instrument, had no power or jurisdiction to revoke an order made pursuant to section 20(1) and (2) of the Act. In the alternative, the court was requested to determine the question whether the expression 'condition or conditions' under subsection 2(11) of section 20 included going on an illegal strike to attract the sanction of revoking a due shop order.

The ZCTU argued that matters specified in section 20(2) were exclusive and exhaustive conditions precedent and that going on an illegal strike was not one of such conditions and that its inclusion was extraneous and irrelevant and, therefore null and void.

On the other hand the Attorney General contended that the Minister did not only have the discretion under the subsection to revoke the order but also the discretion to vary or add to the terms of an order made under section 20(1) and that by issuing the Statutory Instrument the Minister was merely adding a condition. In the alternative, the Attorney General argued that in any case the Minister was empowered to make regulations to give effect to the provisions of the entire section.

The above argument raised very crucial legal issues to which the court should have given more serious consideration than it did. The court observed and held that:

'... The conditions are clearly spelt out but these are the conditions under which the Minister may make an order and not the conditions under which he may revoke an order made by him . . . The conditions, therefore, which justify the making of an order are not spelt out in the Act'

Quite clearly this decision by the court could not be supported in principle. The Act clearly stated that the Minister could issue a due shop order if the stated conditions were satisfied. By strong implication the Minister was obliged to revoke such an order if those conditions ceased to exist. Going on strike was not one of such conditions at all.

This case alone demonstrated the rivalry that had existed between the state and the trade unions and, by extension, how the courts were politically manipulated by the state to the disadvantage of the labour movement. It also demonstrated the determination of the labour movement to fight the state through the Courts. More important and significant is the fact that as a united front the labour movement refused to be divided as a unified force.

¹⁴1985/HN 227 unreported

CHAPTER FOUR

The State of the Labour Movement Today and the Prospects for the Future

In fighting, division, internal conflicts and a weak alliance characterises the labour movement in Zambia today. It is beyond question that the labour movement has allowed itself to be used as a tool for politicians to the injury of a once strong trade union movement.

Following the Industrial and Labour Relations Act of 1993 more unions have emerged, some have split away from the mainstream unions while others have disaffiliated from ZCTU making the labour movement today more divided than ever in the history of the country. Thus there are today twenty-five unions in Zambia. Of these five had disaffiliated from the ZCTU in 1994 and one has rejoined. At least two unions have never been affiliated to the ZCTU although there are strong indications that they will apply for affiliation before the end of the year.

The five unions that had disaffiliated from the ZCTU are the Mine Workers Union of Zambia (MUZ) the National Union of Building, Engineering and General Workers (NUBEGW) the Zambia Union of Financial and Allied Workers (ZUFLAW) the Zambia National Union of Teachers (ZNUT) and the National Union of Commercial and Industrial Workers (NUCIW). These had grouped together to form the Federation of Free Trade Unions in Zambia (FFTUZ) which had not yet been registered at the time of publication of this monogram. It is interesting to note that NUCIW has rejoined the ZCTU and the Technical and Trades Lecturers Union has lodged an application to the ZCTU. The University of Zambia Lecturers and Researchers Union (UNZALARU), which has never affiliated to the ZCTU is also considering applying for affiliation to the ZCTU.

The table below gives the nature of trade union density in Zambia and the affiliation status to the ZCTU.

TRADE UNION DENSITY AND AFFILIATION TO ZCTU

	1986	1990	1994	1995	1997	Affi*
Mine Workers Union of Zambia	45867	58808	52058	48000	443000	Unaffi.
National Union of Commercial and Industrial Workers	28000	27000	26000	18000	16000	Affi.
National Union of Building Engineering and General Workers	35000	25000	14310	11000	10100	Unaffi.
Guards Union of Zambia	8000	13000	8000	10000	11000	Affi.
National Union of Communication Workers	5000	6319	6494	5547	4500	Affi.
National Union of Transport and Allied Workers	9000	7592	7896	5500	4500	Affi.
Zambia Local Authorities Workers Union	24000	24000	22626	22000	21300	Affi.
Zambia Electricity and Allied Workers Union	4200	6600	3600	4000	4000	Affi.
Zambia Union of Financial and Allied Workers	7100	11754	10116	7000	6000	Unaffi.
Airways and Allied Workers Union of Zambia	10234	8858	3010	2800	2100	Affi.
University and Allied Workers Union of Zambia	2748	2794	5075	5000	4000	Affi.
Zambia National Union of Health and Allied Workers	—	1219	5030	6000	4010	Affi.

Zambia Typographic Workers Union	1400	1509	2500	2000	2000	Affi.
Railways Workers Union of Zambia	10234	10000	8501	6000	4250	Affi.
National Union of Plantation and Agricultural Workers	10143	16674	18332	16000	17000	Affi.
Hotel and Catering Union of Zambia	8000	7000	6840	5000	4000	Affi.
Zambia National Union of Teachers	25000	36230	48000	52000	35000	Unaffi.
Civil Servants Union of Zambia	33000	28000	29001	29000	26000	Affi.
National Union of Public Service Workers	—	—	300	300	450	Affi.
Bankers Union of Zambia	—	—	—	1000	Affi.	
Secondary School Teachers Union of Zambia	—	—	—	2600	10000	Affi.
Zambia Revenue Workers Union	—	—	—	2000	2000	Affi.
University of Zambia** Lecturers and Researchers Union	—	—	400	86	234	Unaffi.
Technical and Trades Lecturers Union	—	—	—	—	1000	Unaffi.
TOTAL						

SOURCES: ZCTU STATISTICS AND ESTIMATES FOR 1997 BASED ON PERSONAL RESEARCH.

*Affi. indicates that the union is affiliated and unaff indicates unaffiliation or disaffiliation as the case maybe.

**In 1994 the Management of the University of Zambia dismissed all lecturers and reserchers for going on strike to press for the equal pay for equal work principle which they had initiated. Due to that intimidation the union density has not fully recovered as many lecturers and researchers believe that belonging to a union would facilitate their dismissals.

To underscore the degree of division and disunity within the labour movement one just has to look at the tug of war between the ZCTU and the FFTUZ and how this has affected the internal cohesion of some trade unions.

While opposed to the formation of another national centre in favour of a united federation, the ZCTU supported the breakaway of the Secondary School Teachers Union of Zambia (SESTUZ) and the Technical and Trades Lecturers Union (TTLU) from the ZNUT which cried foul play. SESTUZ had applied for affiliation to the ZCTU which was accepted and the TTLU has already lodged an application for affiliation to the ZCTU which is likely to be accepted. In a similar fashion, the Bankers Union of Zambia (BUZ) and the Zambia Revenue Workers Union (ZRWU) are splinter unions from ZUFIAW both of which have been accepted to affiliate to the ZCTU. Understandably, ZNUT and ZUFIAW who are in FFTUZ camp feel that ZCTU is working against the alliance by promoting splinter unions and on this basis feel that they cannot get back to the ZCTU which they have accused of not being in favour of a strong and united trade union movement.

On the other hand the ZCTU argues that as long as the four unions in the FFTUZ camp do not feel that it is necessary to form a strong alliance with the ZCTU it is not the responsibility of the ZCTU to prevent the splinter unions who would apply for affiliation to the ZCTU for better representation. Whatever the arguments may be from either camp this state of affairs has irreparably damaged the much needed unity of the labour movement and it is imperative that the parties seriously re-examine their role in the trade union movement.

As a result of this split the state has also taken advantage of the ensuing weakness. A decisive step has been taken by the state to ratify an ILO Convention No. 87 on Freedom of Association and Protection of the Right to organise (FAPRO). By this International Labour Organisation (ILO) Convention workers and employers organisation are, without distinction, guaranteed the right to

form or belong to organisations and federations of their choice without prior authorisation. The Committee of Experts on the application of ILO conventions has on several occasions accepted that while the ratification of this convention by member states could affect trade union strength and unity, it is not prudent or advisable that trade union unity should be promoted by legislative or other administrative means.

It is the view of many labour experts in Africa that far from fostering organisational independence and democracy FAPRO indeed undermines the very basic principles of trade unionism whose success in the area of social justice must depend on unity. Where this instrument has been ratified, such as Zambia, the act of ratification has been a signal of government's intention to divide and therefore weaken the labour movement. In developing states such as Zambia, where the roots of trade unionism and democracy are still growing, conventions such as FAPRO should not be tolerated or grafted on the facade of political democracy. When this is done, as has happened in Zambia, political pluralism becomes associated with industrial democracy and labour is transformed into an undefined nebulous factor to be abused and weakened by the politicians who stand to benefit from a divided trade union movement. This is precisely what has happened in Zambia: by ratifying convention 87 the labour movement has thereby been divided and weakened.

In realising the importance of a united and strong labour movement particularly in Zambia, the Friederick Ebert Stiftung (FES) Zambia office, initiated dialogue between the ZCTU and FFTUZ in 1996 with a view to bringing them together. This initiative on trade union integration must be seen from a broader context of both inter as well as intra union cooperation and not merely from a narrow perspective of the relationship between the ZCTU and the other unions. Much as this was and indeed is important, it simply reflected a larger organisational problem at the top which required diagnosis and treatment.

This initiative on the part of the FES revealed that there were

ostensibly four major factors that led to the split in the labour movement in Zambia. These factors are:

- (a) The 9th Quadrennial Congress held in 1994 at Livingstone
- (b) The relationship between the ZCTU and other unions;
- (c) The perceived relationship between the FES, the ZCTU and the breakaway unions, and
- (d) The leadership crisis, within the ZCTU.

To put things in their proper perspective it is important that we briefly examine the organisational structure of the ZCTU.

The highest policy making body is the Quadrennial conference of the ZCTU. This is convened once every four years and all affiliated unions are invited with proportional representation according to the size of a union.

Next to the Quadrennial conference is the General Council which meets at least twice annually. Representation by unions is also proportional according to size.

Then there is the Executive Council which comprises all General Secretaries of national unions affiliated to the ZCTU, all the members of the Executive Board and two members of the Women's committee.

Then comes the Executive Board which comprises nine members as follows:

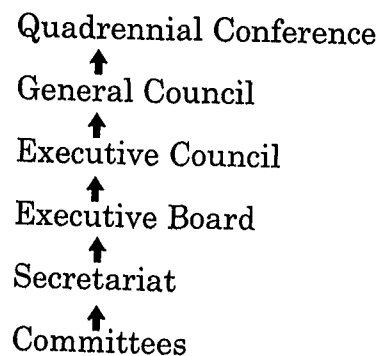
1. President of ZCTU
2. Vice President of ZCTU
3. Secretary General of ZCTU
4. Two Deputy Secretary Generals of ZCTU
5. Four Trustees of ZCTU

All these are elected at the Quadrennial conference for a term of four years.

Then there is a secretariat whose head office is in Kitwe, on the copperbelt province. The Secretary General of ZCTU is a full time employee in charge of the secretariat.

At the bottom of this structure are various committees such as the Women's committee. There is also union representation at district level. The membership is drawn from Civil Servants Union of Zambia (CSUZ), the National Union of Public Service Workers (NUPSW), the Zambia National Union of Teachers (ZNUT) and the Zambia United Local Authorities Workers Unions (ZULAWU). These unions are spread throughout the country and therefore not difficult to organise for representation at district committee level.

ZCTU STRUCTURE



It is now proposed to consider the four reasons advanced that may have contributed to the weakness in the trade union movement in Zambia since 1994. It must be pointed out that these reasons were more speculative than real and the impact of convention 87 should not be lost sight of.

A. The 9th Quadrennial Congress

Out of the four factors, the Quadrennial congress held in 1994 was a turning point for the course that the labour movement finds itself in today. Prior to the congress the President of the ZCTU had called for a meeting of the Executive Board in order to prepare the ground of the Executive Board who wanted or did not want to stand for their or other positions should state so. Accordingly, the members declared their positions as to retain their present status.

Things changed at the Quadrennial congress as members of the Executive Board stood against each other. The President of the

ZCTU, Fackson Shamenda was challenged by his deputy Francis Kunda (late) while the Secretary General Alec Chirwa was also challenged by his deputy Alikipo Banda. This created confusion and painted a picture of disintegration within the ranks of the Executive Board.

When elections were held both the President and the Secretary General retained their seats defeating the contenders. It was at that point that who was also President of the all strong Mineworkers Union of Zambia (MUZ) announced that his union would disaffiliate from the ZCTU. This was followed by four other unions, namely the Zambia National Union of Teachers (ZNUT), the Zambia Union of Financial and Allied Workers (ZUFLAW), the National Union of Building, Engineering and General Workers (NUBEGW) and the National Union of Commercial and Industrial Unions (NUCIW). This was a big blow to the financial as well as numerical strength of the ZCTU especially that MUZ and ZNUT alone accounted for eighty per cent of the revenue of the ZCTU. Except for NUCIW which has rejoined ZCTU the rest remain disaffiliated although the indications are that they may also get back to the fold. This is a possibility wholly dependent on how both teams can tackle the problem of mistrust between them.

The question is what went wrong at the Quadrennial congress?

According to the splinter group constituting the Federation of Free Trade Unions in Zambia (FFTUZ) rampant malpractices and lack of seriousness characterised the manner in which business was conducted at the congress. The FFTUZ alleged that the situation was so chaotic and undemocratic that they felt the ZCTU leadership had betrayed the cause by being bought and used by politicians. Some of the incidents alleged to have brought dissatisfaction were enumerated, such as:

- (a) the presence of political parties at the congress invited by and supporting the ZCTU leadership. The presence of National Party cadres was specifically identified;
- (b) failure on the part of the ZCTU leadership to fairly transact business for which the congress was constitutionally

mandated to do such as consideration of the Financial Report and the mapping out of the course of action for the next four years.

- (c) allegations of vote buying and rigging especially that the vote count margins were almost the same for the contestants
- (d) tribal practices
- (e) expensive and lavish life styles of the ZCTU leadership as an indication of alleged vote buying and rigging.

None of these allegation could be substantiated in terms of influencing the outcome of the elections. In any case, it is difficult to justify these allegations especially that those that stood against each other were members of the Executive Board who had the opportunity to correct any shortcomings at that level: or by utilising other structures such as the Executive Committee, or the General Council. The allegations were only made after they lost elections-an indication that reasons may have been personal rather than deep rooted convictions of principles.

B. The Relationship between the ZCTU and other Unions

It is also felt by the breakaway unions that the ZCTU has embarked on a vicious campaign of destabilisation of those unions that have disaffiliated from the ZCTU. Concern has been raised over the real reasons for the ZCTU to accept to affiliate unions that have split from those that have disaffiliated from the ZCTU.

Examples that have been given are the affiliation of the Secondary School Teachers Union of Zambia (SESTUZ), the Bankers Union of Zambia (BUZ) and the Zambia Revenue Workers Union (ZRWU) which are splinter unions from the mainstream and disaffiliated Zambia National Teachers Union (ZNUT) and the Zambia Union of Financial and Allied Workers (ZUFLAW) respectively. They claim that this conduct on the part of the ZCTU is a reflection of insincerity and double standards whereby the ZCTU is against other unions splitting from it while at the same time encouraging intra union rivalry and splinter unions emerging.

C. ZCTU-FES-FFTUZ Relationship

Related to the problem of ZCTU's alleged fanning of discontent in these unions that have disaffiliated from the ZCTU was the issue of the relationship between the FES and the ZCTU. It was felt by the disaffiliated unions that the ZCTU was able to sustain its destabilisation activities because of the support it allegedly got from the FES. The splinter unions were of the view that FES should be impartial in its dealings with ZCTU and FFTUZ.

The reaction of FES was and has remained to be that it is neither the policy nor the practice of FES to fund any trade union for purposes of destabilising the labour movement anywhere in the world. In fact the policy of FES world wide is to promote and foster trade union unity and solidarity in order to achieve democracy through social justice. The reason why the FES now only deals with the ZCTU is simply because ZCTU is the only recognised National Centre and the policy of FES worldwide is to deal only with the national centres. FES is of the view that given the programmes such as the Structural Adjustment Programme, privatisation and the public service reform programme, it is crucial that the labour movement concentrate their efforts on constructive dialogue for the sake of unity and strength.

D. The Leadership Crisis in the ZCTU

The disaffiliated unions also feel that there is a serious leadership crisis in the ZCTU which the government has taken advantage of. They allege that the current leadership of the ZCTU is more involved in politics and much less effort is directed towards addressing the interests of the workers. In their view the current leadership of the ZCTU need to be changed.

These factors may not be exhaustive but do represent the core areas of conflict in the Zambia's labour movement. It is also important to note that all of these factors have continued to influence the course of the trade union movement and the unity and strength of the labour movement will largely depend on how these issues are addressed and handled.

Conclusion

In the context of the present situation the future of the labour movement in Zambia remains largely bleak and uncertain. The perceptions and hopes have changed and the direction of the labour movement has been lost, probably for many years to come. One important consideration that must be taken into account by the labour movement and its leaders is the question of the priorities of the trade union movement and what its ultimate objectives are. If it is accepted as it indeed should, that the labour movement in Zambia is in disarray and that the foundation has to be rebuilt, then it is the duty of all the labour leaders to ensure that unity manifests itself at all levels. Once this last grain of hope and vision is lost then the labour movement in Zambia will have outlived its relevance.

Selfish personal interests should be reconciled with the collective interests of the workers who only have stood to lose in the current tug of war between the ZCTU and FFTUZ.

Unity of purpose and direction in today's labour movement in Zambia have been lost. The challenge is to regain that unity: Both the ZCTU and FFTUZ have a major role to play so that the divisive instruments of the state can be fought on a level playing ground with solidarity.

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