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**TRACK 5 : Employment relations in the Public Sector**

***PAPER TITLE:***

**COLLECTIVE BARGAINING IN THE PUBLIC SECTOR, A PANACEA TO PERPETUAL CONFLICTS AND LABOUR UNREST(STRIKES): A STUDY OF ZIMBABWE EXPERIENCES.**

**BY**

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## **1.0 Introduction**

Industrial and labour relations can not be complete in the Zimbabwe context without covering the Public Service. The Public Service in Zimbabwe together with the uniformed forces is the largest employment sector employing over 250 000 at a time when other sectors like the manufacturing sector are downsizing (retrenching) or going into liquidation and bankruptcy. This paper covers the background to this study, roles and functions of the Civil Service Commission which until 2013 was known as the Public Service Commission (PSC) which is the government employment agency, the Official Secrets Act, Staff Associations, Collective bargaining involving the Apex council and the Joint Negotiating Council. The powers of the Minister in labour relations in the Public service as well as challenges pertaining to the sector have been covered including cited cases or incidences of labour unrest. This helps one to have a better appreciation and understanding of the nature and complexity of public service labour relations in Zimbabwe . Recommendations to kick start collective bargaining in the public sector as well as attempts to reduce perpetual conflicts have been included in this report.

### **1.1 Background of the study**

Collective bargaining is defined in ILO Convention 154 as a voluntary process for reconciling the conflicting interests and aspirations of management and labour through joint regulation of terms and conditions of employment.

Several researchers have examined the efficacy of collective bargaining in the private sector in Zimbabwe, however little work has been done relative to public sector collective bargaining. Labour relations in Zimbabwe have undergone extensive change

in the past thirty four years since the attainment of independence in 1980. However, public sector labour law in Zimbabwe seems to have developed on a somewhat different track than private sector law. With the advent of Labour Relations Act, 1985, a new ball game came into existence, in particular for the private sector.

Zimbabwe has a dual labour system. Workers in the Private Sector and State owned enterprises are covered under the Labour Act [Chapter 28:01]. The Labour Act provides for collective bargaining in the private sector as well as in state owned enterprises (SOEs) but the same rights are denied to civil servants.

In August 1996, Zimbabwe went through one of the largest strike waves in history, with all civil servants dissatisfied with working conditions and wages. Furthermore, during the period (2009- 2014 )after dollarization of the economy, civil servants occasionally threatened to go on strike over poor salaries, one of the latest being the three weeks strike by junior doctors which only ended on 12 November 2014. Civil servants continue to seek for an improvement in the conditions of service and for fair labour practices in their contract of employment.

The Public Services Act Chapter 16:04 only gives them the right to consult. Civil Service employees, for the past two decades, were at most “consulted” over their terms and conditions of employment, with the real determination being done by the employer, represented by the Civil Service Commission. Civil Servants in Zimbabwe are denied an opportunity to determine their direction , future and to improve their standard of living.

Section 19 and 20 of the Public Service Act should be amended to provide for collective bargaining processes as provided for in section 65 (5) (a) as read with 203 (1) (b) of the new Constitution of Zimbabwe.

Collective bargaining agreements are usually not collectively reached as parties coerce each other to force the other party to accede to their demands. All public service employee unions among them mainly, Zimbabwe Teachers Association( ZIMTA), Progressive Teachers Union Of Zimbabwe(PTUZ), Zimbabwe Nurses Union (ZNU),and College Lecturer's Association of Zimbabwe (COLAZ), have on numerous occasions castigated their employer for making unilateral decisions about government employees' salaries.

Civil service workers are not able to engage in collective bargaining due to the current labour laws as shown by the Public Service Act Chapter 16:04 extract below,

*Subject to this Act and the Constitution, conditions of service, applicable to members of the Public Service (with the exception of the Army, Police, Prisons and Central Intelligence Organisations which have separate arrangements) including their remuneration, benefits, leave of absence, hours of work and discipline, shall be determined by the Commission in **consultation** with the Minister (responsible for Public Service), provided that, to the extent that such conditions may result in an increase in expenditure chargeable on the Consolidated Revenue Fund the concurrence of the Minister responsible for Minister shall be obtained.*

This serves as clear testimony that collective bargaining in the public service in Zimbabwe is engulfed by a host of enormous problems and challenges. It is the intention of this study to unfold the impediments of collective bargaining in the civil service and suggest remedies to continued conflicts which continue to adversely affect service delivery in the public sector.

The government, faced with a debilitating liquidity crunch, was forced to delay the payment of bonuses to the bulk of its workers, due to erratic cash inflows in 2014.

The uniformed forces ( police and soldiers) were the only state employees who received their bonuses last year.(2014) . They were finally paid in staggered bonus payments in January 2015 but other government grant aided institutions such as state universities were on strike at the time of finalizing this report as they had been promised to be paid their bonuses on the 6<sup>th</sup> of February 2015 but to no avail .

The above gloomy picture is evidence of unfavourable working conditions especially with regard to remuneration and benefits of government workers that have been a perennial problem . Workers are only consulted without any final say in whatever is then finally decided upon by the employer, that is ,government and this motivated this researcher/writer to have interest in conducting this study.

## **1.2 Statement of the problem**

The issue of salary negotiations in Zimbabwe's public sector has become a contentious issue following the failure by both, the employer (Civil Service Commission) and employees (civil servants) to seriously engage in collective bargaining. The current arrangement of using the poverty datum line as the basis of determining remuneration in the public sector appears to be not fruitful given that the government has been struggling to pay its workers due to serious financial constraints, which government is using as an excuse. Decisions to review or engage in negotiations have been based on threats by individual staff associations or through their coalition arrangement, Apex council, to engage in collective job action (strike) like what junior doctors recently did for

three weeks ending Wednesday 12 November 2014 and even state universities whose employees are paid by government have been on go slow (strike) up to the time of finalizing this report(25/02/2015).

Such a situation of not having a concrete position on a bargaining structure at the moment in Zimbabwe ,has resulted in poor relations between the government and its employees. The resorting to industrial action by the civil servants has culminated in serious disruption of service delivery of essential services such as health and education, just to mention a few.

### **1.3 Purpose of study**

This study sought to investigate and document the problems encountered in the process of collective bargaining in the public service in Zimbabwe in order to recommend feasible solutions that should bring cordial working relations between the government and its employees. Such stability should improve service delivery as well as staff motivation and welfare without unnecessary work stoppages due to labour unrest.

#### **1.3.1 Objectives of the study**

The study was conducted to accomplish the following objectives

- (i) To establish the legislative documents that influence conditions of service and negotiations in the public sector in Zimbabwe.
- (ii) To examine the impact of current remuneration negotiation strategies used in the public sector in Zimbabwe.

- (iii) To find out the problems and challenges encountered in the process of collective bargaining in the civil sector in Zimbabwe.
- (iv) To examine the proposed labour reform as provided for by the new Constitution of Zimbabwe with particular reference to collective bargaining in the public sector.
- (v) To identify selected cases of conflict and labour unrest and to analyze the causal factors.
- (vi) To make recommendations to improve industrial relations between government and civil servants on aspects of collective bargaining in order to eliminate conflicts and labour unrest.

## **1.4 Structure of the Public Sector in Zimbabwe**

### **1.4.1 Civil Service Commission**

The Civil Service Commission(CSC) has been in operation since 2013 and it is a replacement of the Public Service Commission as gazetted in the new national constitution of 2013 . Its mandate is as follows;

- (i) To appoint qualified and competent persons to hold posts in the civil service
- (ii) To fix and regulate conditions of service including salaries, allowances and other benefits
- (iii) To exercise control and disciplinary powers over members of the civil service
- (iv) To investigate grievances and to remedy the grievances of members

- (v) To implement measures to ensure effective and efficient performance within and the general well being of the civil service.
- (vi) To ensure that members of the civil service carry out their duties efficiently and impartially
- (vii) To advise the State President and responsible Minister on any matter relating to the civil service.
- (viii) To promote throughout the civil service the values and principles set out in the new constitution of Zimbabwe of 2013
- (ix) To exercise any other function that is conferred or imposed on the commission by the constitution or an Act of Parliament .

**N.B** The **civil service** refers to a branch of governmental service in which individuals are employed on the basis of professional merit to work in a government agency other than the military. Also synonymous with **public service** and used interchangeably in this study.

#### **1.4.2 The Public Service Act 16:04 of 1995**

This is an Act to make further provision to the Civil service Commission (PSC) and its functions; to provide for the constitution and administration of the Public service and the conditions of service of its members and to provide matters connected or incidental to the foregoing. The Act covers;

- The Civil service commission on term of office of commissioners and their roles.
- Functions, procedure and staff of the PSC

- Constitution of the public service, classification of members, conditions of service, appointments and promotions, persons under contract, rights of members.
- Discipline of members of public service e.g misconduct cases and appeals to labour court.
- General issues such as regulatory powers of the Minister of Public Service, pension benefits, service regulations.

#### **1.4.3 Official Secrets Act Chapter 11:09 amended 2002**

This is an Act, which prohibits the disclosure for any purpose prejudicial to the safety or interests of Zimbabwe of information which might be useful to an enemy, to make provision for the purpose of preventing persons from obtaining or disclosing official secrets in Zimbabwe, to prevent unauthorized persons from making sketches, plans or models of and to prevent trespass upon defense works, fortifications, military reserves and other prohibited places, and to provide for matters incidental to the foregoing. The term 'enemy' in this context refers to a hostile organization.

All civil servants and government workers in general are supposed to sign for this official secrets Act before assuming office or duty and are most affected by section 3 which covers espionage and section 4 on prohibition of communication of certain information including abuse of any secret official code or password or any model, article, document or information which has been entrusted in

confidence to him by a person holding an office in the service (e.g head of office, supervisor, minister, commissioners etc).

Violation of this Act, empowers the Attorney General to institute criminal proceedings in which the culprit is brought before a court or may go through the formal disciplinary hearings beginning at the place of employment.

It can be observed that civil servants in Zimbabwe do not have much if any freedom to reveal any information related to government operations or release of information which could be revealed as causing harm to the image of the government

### **1.5 Collective Bargaining in the public sector/service.**

- i) In Zimbabwe there is no clear cut procedure on collective bargaining between the civil servants and the employer represented by the Civil service commission. The legislation which is at the centre of industrial relations, that is the Labour Act chapter 28:01 appears to be not adequately covering the Public service as it even prohibits civil servants from initiating any form of labour unrest **as outlined in the Labour Act Chapter 28:014 PART X111 Section 104 (3) (a) (i)**

#### **1.5.1 Staff Associations**

Sections 20(1) of the Public Service Act, Chapter 16:04 passed in 1995 states that the Commission (this is the Civil Service Commission which is the employer representative of Government) shall be engaged in regular consultations with recognized associations in regard to the conditions of service of members of the

Public Service who are represented by the recognized associations or organizations concerned which currently are as follows

- i) Zimbabwe Teachers Association (ZIMTA)
- ii) Progressive Teachers Union of Zimbabwe (PTUZ)
- iii) Teachers Union of Zimbabwe (TUZ)
- iv) College Lecturers Association of Zimbabwe (COLAZ)
- v) The Public Service Association (PSA) made up of 4 other unions which are;
  - Government Workers Association (GWA)
  - Professional and Technical Officers Association (PTOA)
  - Administrative and Executive Officers Association
  - Civil Service Employees Association (CSEA)

In terms of the afore-mentioned Section, what is being addressed is **consultation not collective bargaining.**

With regard to the actual determination of remuneration and conditions of service, the Act states in Section 19(1) that:

*Subject to this Act and the Constitution, conditions of service, applicable to members of the Public Service (with the exception of the Army, Police, Prisons and Central Intelligence Organisations which have separate arrangements) including their remuneration, benefits, leave of absence, hours of work and discipline, shall be determined by the Commission in consultation with the Minister (responsible for Public Service), provided that, to the extent that such conditions may result in an increase in expenditure chargeable on the Consolidated Revenue Fund the concurrence of the Minister responsible for Minister shall be obtained.*

Following the numerous 1996 strikes, the engagement of the Government and the staff associations was legislated through the promulgation of Statutory

Instrument 141 of 1997 Public Service (Public Service Joint Negotiating Councils) Regulations, 1997.

### **1.5.2 Apex council**

In terms of the above regulations nine members from the Apex Council (a council representing all recognized associations and organisations that is formed for the purpose of conducting negotiations on conditions of service) and nine members appointed by the Minister (responsible for Public service) to represent government (employer), constitute the Joint Negotiating Council plus a Chairperson appointed by the Minister. Although not in the regulations, the Director of Labour Administration in the Ministry of Public Service, Labour and Social Welfare sits in the council as an advisor to the Chairperson.

The Apex Council brings together nine civil service unions (staff associations) which have been mentioned above under staff associations.

**The major functions of the Apex council** include;

- ii) To bring all civil servants under one umbrella as one family employed by the Civil Service Commission ( CSC)
- iii) To discuss issues of conditions of service and their welfare with the employer.
- iv) To lobby for better working conditions particularly salary increments paid in line with the Poverty datum line for the least paid worker as well as other benefits.
- v) To speak as one voice through their representatives in the Joint Negotiating Council.

**vi)** To recommend action to force the employer (government through CSC) to accede to their demands although they are severely handicapped by the fact that they are not allowed to go on industrial action since they provide essential services as enshrined in the **Labour Act Chapter 28:014 PART X111 Section 104 (3) (a) (i)**

vii) to establish synergies, strategic alliances with industry and commerce and other regional and international civil service unions (associations).

### **1.5.3 The Joint Negotiating Council (JNC)**

The nine members representing Government are drawn from the following Ministries or Government departments;

- CSC –(Chair of Government Team)
- Salaries Service Bureau
- Ministry of Public Service, Labour and Social Welfare
- Ministry of Finance and Economic Development
- Ministry of Health and Child Welfare.
- Ministry of Higher and Tertiary Education
- Ministry of Education and Culture(now Min of primary and secondary Education)

The Civil servants are represented by 9 members of the Apex Council(coalition body of all staff associations).

### **1.5.3.1 Duties of the National Joint Negotiating Council(NJNC)**

The central duties of the National Joint Negotiation Council as stated in Section 4 of Statutory Instrument 141 of 1997 are to:

- Receive representations from both sides represented in the Joint Council on any matter concerning employment in the Public Service.
- Review and negotiate salaries, allowances and conditions of service in the Public Service.
- Conclude and enter into agreements concerning salaries, allowances and conditions of service for submission to the Minister for his consideration.

**The fact that the output of the National Joint Negotiating Council goes to the Minister as a recommendation, defeats the spirit behind collective bargaining.**

Recommendations can be adopted, modified or rejected. In a nutshell, these regulations are about legitimatizing the consultation process and outlining details of such consultations.

The conditions of service for the Public service, contained in Statutory Instrument 1 of 2000 are not an outcome of negotiations within the realm of the National Joint Negotiating Council. The review of these regulations, currently underway, is being done by the CSC in consultation with line Ministries without involvement of staff associations.

Today, there is no salary award, which can be directly or wholly linked to the negotiations within the ambit of the National Joint Negotiating Council in Zimbabwe.

.As at the time of finalizing this report (25 February 2015) the platform for any meaningful negotiations between the government and its workers had been dealt a severe blow. The development followed reports by acting Public Service, Labour and Social Welfare minister Walter Mzembi in early January that the NJNC had collapsed (*Newsday newspaper*, 08/01/2015).

Minister Walter Mzembi had said there were no negotiation teams on the part of the government and the workers because the government team leader Maxwell Ranga was offered an ambassadorial post while NJNC chairperson Nelson Sambureni resigned.

In the same article ,Progressive Teachers Union of Zimbabwe (PTUZ) secretary-general ,the vociferous Raymond Majongwe accused Minister Mzembi of lying. He said the minister was taking advantage of the Apex council's weak leadership of Richard Gundani, which he said was sitting on its laurels while civil servants' issues were not being resolved.

“As the PTUZ, we are saying Gundani must step down and (PSA president Cecilia) Alexander must take over. Tomorrow we are having a meeting where we will push for Gundani to step down because he has betrayed the workers' cause,”

Majongwe said.

He accused the Apex Council of not being vocal at a time when only teachers had received bonuses while the rest of the civil servants were still to access their 13th cheque.

He said as civil servants they were concerned over the shifting of their salary payment schedule, the outstanding non-monetary incentives issue, conditions of service for teachers in rural areas and were demanding an urgent NJNC meeting before the schools opened on January 13.

The government, faced with a debilitating liquidity crunch, was forced to delay the payment of bonuses to the bulk of its workers, due to erratic cash inflows.

The uniformed forces ( police and soldiers) were the only state employees who received their bonuses last year.(2014)

#### **1.5.4 Complexities in Collective Bargaining in the Public Service**

##### **1.5.4.1 Nature of the employer**

In reality which organ can be said to be the employer in Government? As was submitted earlier on, the agreed positions of the Joint Negotiating Councils are by and large recommendations.

Although not indicated anywhere in the Regulations, The Minister responsible for Public Service tables the recommendations in Cabinet. Once this is done, the decision that follows becomes that of Cabinet.

Again, the role of the Ministry of Finance is central as it controls the purse(budget), while CSC has in its custody the workers and the custodianship

also involves line Ministries. What about the Ministry of Public Service, Labour and Social Welfare which is responsible for Labour Policies? All these questions make it difficult in Zimbabwe to really know who is responsible for making determinations on issues of collective bargaining.

***In the final analysis, the amorphous nature of the Employer in Government complicates any arrangement aimed at meaningful collective bargaining in the public sector.***

#### **1.5.4.2 Fiscal Determination of Wages**

The fact that the Public Service Wage Bill is part of the expenditure component of the national budget poses a challenge to collective bargaining in the Public Service. The fiscal determination of what constitute the wage bill as a percentage of the gross domestic product (GDP) militates against collective bargaining in the Public Service. The same can also be said about the timing of the processes of budget formulation and collective bargaining. It appears they run parallel to each other and yet the latter's agreed positions should be inputs to the former.

#### **1.5.5 Sectoral Considerations on the part of Labour under a Coalition Arrangement.**

The Apex Council is a coalition arrangement. The extent to which staff associations' specific interest, concerns and needs are addressed, is a matter of concern. Coalition bargaining is adopted by trade unions representing different trades or categories of workers e.g. the scenario in Public Services. Coalition

refers to the coming together of trade unions/staff associations in order to formulate strategies and negotiate with the employer as one body. In the case of the Public Service in Zimbabwe, the Apex Council becomes the focal point.

A coalition as a bargaining strategy or arrangement has some merits particularly when the worker organizations are dealing with one employer such as Government. Some of **the merits** are:

- Pooling of administrative resources e.g for hiring experts such as lawyers, economists and labour advisers, resources for different meetings, travelling, subsistence and accommodation allowances for the negotiations
- Different backgrounds, approaches and experiences help in the preparation of position.
- increased technical capacity
- A common agenda for a common employer
- A united approach increases the power base and minimizes jealousy that characterizes separate bargaining arrangements with the same employer.

This strategy has **some demerits** and some of them are:

- Failure of such arrangement to deal effectively with inter-union rivalries which is inherent in trade unionism.
- Coalition arrangements are prone to administrative hiccups e.g problems associated with convening meetings and selection of negotiators.
- Failure to deal with sector specific demands or sectoral consideration e.g in the case of Zimbabwe, the Hospital Doctor's Association, has accused the Apex

council of not presenting meaningfully its interests and concerns. As a result they pulled out and fortunately on its part, the PSC and the line Ministry give it audience and enter into separate agreements. This has seriously affected the credibility of the Apex Council and indeed the Joint Negotiating Council.

## **1.6 Methodology**

This study collected data basing on library analysis (desk research). Most of the information has been obtained from different legislation affecting the public sector as well as the print and electronic media. Cases of incidences involving demonstrations or strikes have been included in this study to demonstrate the level of conflict and breakdown on dialogue in the public service sector.

## **1.7 Findings**

**The study was able to establish that there has been a lot of labour unrest in Zimbabwe's public sector for time immemorial. The** following are selected cases to testify that

### **1.7.1 Selected Cases of labour unrest in Zimbabwe's public sector/service**

The following are some of the incidences in which there were conflicts between government and the civil servants which had the following news headlines

### **1.7.1.1 Universities staff go on strike**

ZIMBABWE STATE UNIVERSITIES

To: All Chairpersons of State University Councils

Cc: Minister of Higher and Tertiary Education, Science and Technology Development  
Permanent Secretary  
Vice-Chancellors

Date: 10 February 2015

Ref: Declaration of incapacitation by State University workers due to failure by Government to pay Salaries and Bonuses

Following a meeting held by worker representatives, both teaching and non-teaching at NUST on the 10<sup>th</sup> of February 2015, the following observations were made:

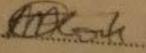
- 1 That the employer is deliberately neglecting his duty of paying employee salaries as and when they are due.
- 2 It has been a long-time practice that university workers receive bonuses by the year-end.
- 3 The rest of the Government-funded institutions have since received their January salaries and 2014 bonuses.

In light of the above observations, the following resolutions were adopted:

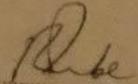
- 1 Zimbabwe State University workers are incapacitated to report for their normal duties with immediate effect. In the future, the workers will not report for duty if their salaries are not paid by the end of each and every month.
- 2 The Government/employer must pay our 2014 bonuses forthwith.
- 3 As State Universities we demand a fixed pay date, as is the case with all the other Government-funded institutions.
- 4 To seek an audience with the Chancellor, His Excellency, Cde R.G Mugabe.

Thank you

All State Universities Representatives

Mr A. Muzvuwe.....

Teaching Staff

Mr R. Dube.....

Non-Teaching Staff

According to **Bulawayo24** an online publication (11 February 2015), lecturers at all the country's state universities had with immediate effect gone on strike over unpaid bonuses and January salaries. They demanded to meet the State President, Robert Mugabe, the Chancellor of all state universities over their plight saying negotiations with the government had failed to take off. At a meeting held at the National University of Science and Technology (NUST) today, the lecturers said they were disappointed that government had left them out when it paid other civil servants their annual bonuses. Lecturers and non-teaching staff at the universities that include, NUST, University of Zimbabwe (UZ), Great Zimbabwe and Chinhoyi State Universities have vowed not to return to work until Government paid them the bonus and salary.

They agreed to go on strike each time the government failed to pay them on time henceforth.

In a letter addressed to their employer(attached above), the lecturers said they could no longer afford to go to work as they had run out of money.

*"Zimbabwe State university workers are incapacitated to report for their normal duties with immediate effect. In the future, the workers will not report for duty if their salaries are not paid by the end of each and every month. The government or employer must pay our 2014 bonuses forthwith,"*

read part of the letter.

Lecturers said a delegation from the Zimbabwe State Universities Union of Academics (ZISUUA) on Friday (06/02/15) met officials from the Ministry of Higher and Tertiary Education and the Ministry of Finance and Economic Development but there was no progress as the ministries were clueless about when they would receive their monies.

#### **1.7.1.2 Civil servants divided over strike**

By Webdev Author, 28 September 2012 *Financial gazette*

According to the reporter, two distinct camps had emerged within the civil servants unions with reports indicating that some unionists wanted an outright strike before public examinations, which were to commence in October 2012, while others wanted to keep engaging government.

Teachers, in particular, were not happy with their monthly salaries that were far below the poverty datum line estimated at that time to be around US\$600 and threatened to strike just before commencement of 'O' and 'A' levels national examinations as a way of pressurizing government to accede to their demands.

The lowest paid civil servant was getting US\$250 per month by then .

But officials from the different workers unions represented in the Apex Council, an umbrella body that brings together the civil service workforce, declared that they were consulting their membership for direction although there was consensus that a salary increment was long overdue.

Members of the Progressive Teachers' Union of Zimbabwe (PTUZ) were already

said to be on a go-slow since the start of the Third term three weeks ago.

PTUZ representatives suggested that a national strike could be declared on Friday next week during the World Teachers' Day.

*"Yes we are on a go slow, which started on the day we opened schools.*

*Members are actually angry with us as they were expecting action...but we will announce our official position on October 5 on World Teachers' Day,"*

said Raymond Majongwe, the president of PTUZ.

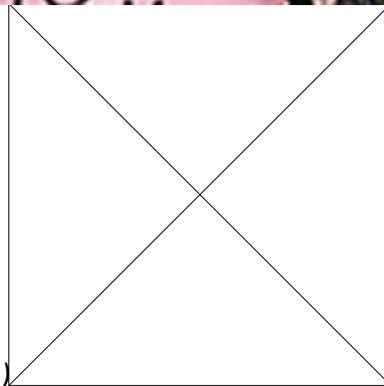
Finance Minister Tendai Biti had previously declared that government was broke and could not afford any salary hike. He had complained that money from the mining of diamonds in Marange was coming in at a trickle, with the bulk of it suspected to be financing a parallel government linked to ZANU-PF.

This had heightened tension among civil servants who said that they were being sidelined through political fights between the rival coalition partners.

### **1.7.1.3 Zimbabwe civil servants to go on strike next Thursday**

*Harare24.com* of 17 January 2012





**Source;** *Harare24.com* (17 January 2012)

According to *Harare24.com* of 17 January 2012, CIVIL servants had resolved to go on strike the following Thursday if their salaries were not increased.

The Apex council had met the then Public Service Minister Lucia Matibenga, but nothing had materialised. The workers were demanding a minimum salary of US\$538 per month which was in line with the poverty datum line..

Apex Council chairperson by then, Mrs Tendai Chikowore said Minister Matibenga told

them that she was taking their grievances to principals in the inclusive Government. President Robert Mugabe(ZANU PF political party), Prime Minister Morgan Tsvangirai(MDC T) and Deputy Prime Minister Arthur Mutambara(MDC) were the principals. Mrs Chikowore, who was also the ZIMTA president by then, said they had mobilized their members for the strike while waiting for Government's response. PSA executive secretary Mr Emmanuel Tichareva and TUZ chief executive, Mr Manuel Nyawo said their members were already prepared for the industrial action.

*"Minister Matibenga almost cried during deliberations but that is not going to stop us from demanding what is due to us."We wanted to sleep in her offices to demonstrate how serious we are before she pleaded with us to understand her,"*

Mr Nyawo said.

The workers had already given Government the list of demands they want urgently addressed.Government had always been arguing that it did not have enough money to award a salary increment.

Finance Minister Tendai Biti had not provided for any civil service salaries increase in the then 2012 national budget.

#### **1.7.1.4 Zimbabwe magistrates strike over poor pay**

**Source Africanlawlibrary.net (17 February 2011)**

According to the website, ZIMBABWEAN magistrates had that week embarked on an

industrial action as government officials scrambled to reach agreement on improved pay. This was paralyzing an already creaky justice delivery system

The industrial action began in stages in Binga, Masvingo, Bulawayo, Gweru and Harare on Tuesday, but had spread to all parts of the country late Thursday. Striking judicial officers refused to meet emissary sent by Justice minister , Patrick Chinamasa. They were demanding an 80% salary hike and improved benefits in addition to improved working conditions

#### **1.7.1.5 Civil servants strike looms as soldiers get windfall** **By Fikile Mapala, *newzimbabwe.com*(02/01/2008)**

According to the reporter, ZIMBABWE'S civil servants were up in arms against the government for selectively awarding hefty pay rises to the military while excluding the rest of its workers who were earning salaries that are far below the poverty datum line.

Union leaders threatened industrial action if their members were not awarded salary increases similar to those received by soldiers.

President Robert Mugabe' bankrupt government had awarded hefty pay increases in January 2008 to disgruntled soldiers in an apparent move to buy their loyalty ahead of crucial joint elections on March 29 2008..

### **1.8 Changing views of conflict**

In the last forty years attitudes towards conflict in work organizations, including Zimbabwe's public sector have changed significantly. The table below summaries the two contrasting views.

Traditional view	Modern view
<ul style="list-style-type: none"> <li>• Conflict is avoidable</li> <li>• Conflict is caused by the trouble makers (Leaders of staff associations)</li> <li>• Conflict disrupts the organization(government) performance</li> <li>• Conflict should be eliminated.</li> <li>• Optimum performance requires the removal of conflict</li> </ul>	<ul style="list-style-type: none"> <li>• Conflict is inevitable</li> <li>• Conflict arises from many causes: differences in goals, perceptions, values, etc</li> <li>• Conflict should be managed using a holistic approach</li> <li>• Optimum performance requires a moderate level of conflict</li> </ul>

**Source :** Mudyawabikwa (2004)

Traditional view is supported by government whereas the modern view is supported by staff associations and such divergence of ideas should be responsible for the following item

### **1.9 Causes of strikes in Zimbabwe in the public sector**

The study established the following as some of the major reasons why strikes continue to be experienced in the public sector;

- i) **Low remuneration** Civil servants in Zimbabwe are some of the lowly paid professionals in Southern Africa and to make matters worse they are paid well below the poverty datum line although in 2014 they are closer to that.
- ii) **Corruption** A lot of senior government officials have been involved in corrupt tendencies but nothing has been done to weed out corruption as those implicated have strong roots in the current ruling government of ZANU PF. This has irked civil servants the majority of which are against the ruling party e.g. teachers
- iii) **False promises and partisanship** A lot of promises are made especially by senior government officials and politicians eg In 2013, the President Robert Mugabe had promised that if he won the election, his priority was to reward government workers by immediately increasing their salaries in August after the July 31 2013 Presidential and parliamentary elections. He reneged on his promise and civil servants through their staff associations wanted to embark on strikes.  
  
Also the issue of awarding security forces (army and police) salary reviews/increments for fear of mass uprising, such moves have been heavily criticized and have also contributed to civil servants going on strike in the past. For example only the police and soldiers got their bonuses in November 2014 and the rest got in January 2015 and still other government workers in state grant aided institutions eg. Universities had not been paid even by end of February 2015
- iv) **Consultation and no spirit of collective bargaining**

As alluded to earlier on , the talks between government and staff associations through the Joint Negotiating Council, the platform is more of consultation without any concrete decision making as the final decision rests with cabinet or treasury in some cases. This has persistently angered the civil servants and they feel hard done by government resulting in them showing their disgruntlement through strikes. However to go on strike or any other form of labour unrest in Zimbabwe has not been easy as evidenced below;

### **1.9.1 General impediments to engage in strike or industrial action in the Zimbabwe**

In Zimbabwe, it is difficult to engage in a collective job action e.g a strike since the procedures are prohibitive as enshrined in the Labour Act 28:01 and they give the Minister a lot of powers to call off the industrial action. The following just demonstrates why it is almost impossible to carry out an industrial action in general which also affects civil servants at times.

- The workers committee or trade union(staff association) should get consent of at least 50% of its members who should append their signatures to commit themselves at a meeting. A list of members who attended that meeting shall be attached to the minutes of that meeting which resolved to embark on industrial action(strike).
- Writing a **letter of intent** which should be given to the employer (management) notifying them about the determination to conduct an industrial action. Usually a grace period of 14 days is given for management to address the grievance(s)

and if they failed to address their grievances, then another 16 days is considered as consultation period before a strike can be done. This is a very long period and a lot of events or activities would have taken place.

- A letter with justification to go on industrial action known as **show cause order** is normally required by the labour relations officer, representing government and works in the Ministry of Labour , who normally intervenes so that negotiations between the conflicting parties should take place.
- Notification of impending strike to the police (**application letter**) to get clearance at least four days before the intended date. However this is normally difficult to be granted by the police who normally view strikes as politically motivated and threatening peace and stability .
- If impasse continues even after intervention of senior labour relations officer and if workers were decide to continue with the industrial action(strike), the Minister can issue a **disposal order** to call off the strike especially if he or she feels that the service being disrupted constitute **essential services**.
- In the event that the strike is likely to paralyze major service areas and even the national economy, the State president could invoke his emergency and temporary powers to restore parity (stability).
- Use of **forced arbitration** (e.g use of labour court) could be effected by the Labour relations officer as a way of trying to resolve the impasse. However this could take a lot of time as some cases can take even more than 2 years before finalization due to backlog of numerous pending cases.

- In addition, the police (Zimbabwe Republic Police ) could effect AIPPA (Access to Information and Protection of Privacy Act) and POSA(Public Order Security Act) which are acts that prohibit any public gatherings without police clearance or consent.

**NB.** On few occasions, permission has been given in cases where workers strike against threat to **health and safety issues** at the workplace, to engage in such industrial action or when showing solidarity; such as women demonstrating against abuse or sexual harassment , discrimination, demonstration against child labour etc. In such cases, there is normally police presence(police escort).

### **1.10 Recommendations**

The study suggested the following recommendations as panacea to challenges of collective bargaining in Zimbabwe's public sector with a view to have such a platform put in place

#### **1.10.1 Expediting implementation of the provisions of new National Constitution of 2013**

The new national Constituion has provisions for collective bargaining for civil servants but it appears government has not been showing meaningful commitment to facilitate the implementation of that provision by putting necessary operational framework and logistics.

#### **1.10.2 Amendments to the Labour Act 28: 01**

Although there are many options to resolve conflicts (avoiding labour unrest like strikes, go slows and stay-aways, protests etc.), that is the traditional and third party intervention approaches, in Zimbabwe, the impasse is largely as a result of a rigid legislation. There is need to amend the major piece of labour legislation, the Labour Act 28 : 01. These changes should;

- ✓ Reduce the powers of the Minister of Labour who can make unilateral decisions without consulting other parties eg. He is empowered to issue a disposal order, thereby calling off a strike.
- ✓ Not give the Minister, the right to make input on issues deliberated by the Joint Negotiating Council as he is bound to be biased and partial.
- ✓ Not allow the cabinet to make its own determination outside that concluded by the Joint Negotiating Council
- ✓ Make provisions for the Civil servants to participate fully in Collective bargaining which in Zimbabwe at the moment is a preserve of the private sector mostly.

### **1.10.3 Unity within APEX Council(Speaking with one voice)**

- ✓ The bargaining mandate of the Apex council (representation of staff associations) should have the support of all its members. However the sharp differences which even portray political parties affiliations and differences should not be tolerated. Civil servants should not openly declare their political interests as is the case in Zimbabwe e.g. The Progressive Teachers Union Of Zimbabwe (PTUZ) is an affiliate of the Zimbabwe Congress Of Trade Union

which is anti the ruling government of ZANU PF. The ZCTU has always been at loggerheads with government since 1998 when its leadership went on to form a political party, the Movement for Democratic Change, the MDC now led by its president Morgan Tsvangirayi who was the ZCTU Secretary general. The MDC has become the major opposition party in the country. There is need to weed out such differences among the staff associations for synergy and focus.

#### **1.10.4 Contemporary approaches involving use of third parties**

If the government of Zimbabwe and its employees, the civil servants cannot resolve a dispute on their own, a third party can be called upon to help them determine the appropriate thing to do.

##### **What are “Third Parties” in negotiation?**

Third parties are people outside the conflicting parties who are called in or who offer to harmonize the tense relations of the negotiating parties. They come in either as arbitrators, or mediators or process consultants at the time when the negotiation gets rough. They are the go-betweens whose main task is to see the conflicting parties back on the negotiation table.

##### **Advantages of third parties**

Third parties can be productive when they succeed in providing the stability or rapport among conflicting parties and create momentum essential for the negotiators to readdress the problems at stake. They can:

- offer breathing space to cool off excess heat

- re-establish or enhance communication
- refocus on substantive issues
- remedy or repair strained relationships.
- Persuade recommitment to time limits
- salvage the damage of stalled negotiations
- Increase levels of negotiator satisfaction by showing commitment to the conflicting resolution process and its outcomes.

### **When is third party intervention necessary?**

Under normal circumstances negotiators, that is the Zimbabwe government and its employees(civil servants) through the Joint Negotiating Council, might seek third party involvement if they experience;

- Intense emotions that threaten to hamper a settlement
- Poor quality or quantity of communication, resulting in a negotiation impasse
- Misconceptions or stereotypes that hinder productive exchanges
- Frequency of negative behaviors e.g name-calling, use of abusive or hate language, victimization and power struggle.
- Serious disagreement over the importance, collection or evaluation of data
- Disagreements on the number, order and combinations of issues under dispute.
- Actual or perceived incompatible interests that the parties are unable to reconcile
- Unnecessary value differences that are divisive eg. Political considerations
- Absence of a clear, common negotiation protocol or procedure.
- Difficulties to initiate negotiations or “bargaining through” an impasse.

The third party formal intervention methods are usually;

### **Conciliation**

Conciliation can be defined as the first third party intervention strategy that helps the disputing bodies identify the cause of their differences and the relative importance of the various issues at stake. The parties are left to agree on a resolution to the dispute themselves; conciliators do not impose or recommend solutions. Conciliation as a third party strategy does not only support the direct bipartite negotiating process by assisting the parties to identify the cause, and extent of their differences but also encourages them to establish alternative solutions and their various implications and to develop and agree a mutually acceptable settlement. What this means is that the responsibility for making decisions and reaching a solution still remains a joint one between the conflicting parties –Zimbabwe government and its workers.

### **Arbitration**

Arbitration is another popular formal third party dispute settlement method whereby one or more impartial persons (arbitrator/s) determine/s the issue on which the parties are unable to agree. Unlike other forms of dispute settlement

methods, where the disputing parties control over the outcome of the dispute, in arbitration the third party is given the power of final determination. Any other solution in arbitration is not acceptable. Arbitration could be Voluntary(agreed by both parties) or Forced/ Compulsory(use of courts)

## **Mediation**

In this third party involvement, the negotiators themselves, reach an agreement and the third party is just a facilitator. Mediators usually have no formal power Their strength lies in their ability to motivate the parties to make concessions towards agreement. The mediator himself/herself must be acceptable and credible, must be neutral and recognized as impartial, experienced and potentially helpful.

### **1.10.5 Use of traditional conflict management approaches**

This writer recommends that the use of the four traditional strategies could help in managing conflicts between the government and its employees(civil servants).

These are:

- i) **Yielding/Accommodating or obliging** – Negotiators here show little interest or concern about whether they attain their own outcomes, but are keen to see to it that the other party attains its outcomes. This involves the negotiator lowering his aspirations to “let the other win”. This strategy may seem strange but it has its own advantages in some disputes, for example, if the conflicting parties are

going to have a lasting relationship like in the case of the Zimbabwe government and its employees.

**ii) Inaction/Avoiding** – Those in this band show little concern about whether they attain their own outcomes, nor do they show much concern about whether the other party obtains its desired outcomes. Inaction is the same as withdrawal or passivity or retreat.

**iii) Problem solving/collaborating or integrating** –Here negotiators show high concern for attaining their own outcomes and great concern for whether the other party attains its outcomes. Both parties actively pursue approaches to maximize their joint outcome from the conflict, so that both sides win.(win win situation)

**iv) Compromising** -It represents a moderate effort to pursue one's own outcomes and a moderate effort to help the other party achieve his outcomes.

**END**

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