

From bi-national organisation's trade unions alliance to the establishment of joint industrial relations collective bargaining mechanism: The case of Tanzania Zambia Railway Authority

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Abstract

This paper is about the development of industrial relations in a bi-national organization: Tanzania Zambia Railway Authority, jointly owned and managed by the Governments of Tanzania and Zambia with different historical, political, economic and social backgrounds. The importance of the study comes from recent economic and political developments relating to countries forming regional political and economic groupings, such as the European Union, African Union and ASEAN. It is envisaged that these developments will lead to bi-national organizations as common forms of business organizations (e.g. Euro Tunnel between the United Kingdom and France and Tanzania Zambia Railway between Tanzania and Zambia.), hence the need to develop industrial relations systems which will cater for such organizations. The study was carried out within the phenomenological paradigm, focusing on the actors in industrial relations.

The study reveals that industrial relations in a bi-national organization are highly influenced by national political and economic pressures and are therefore responsive to national industrial relations systems. This conclusion confirms the generally accepted belief that it is not possible to establish a collective bargaining system in a multi/trans-national organization due to countries' political, economic and social differences (Northrup and Rowan 1979, TAZARA Salary Disparity Committee 1991). However, the same study challenges this conclusion by revealing that Tanzania Railway Association of Workers' Union (TRAWU) of Tanzania and the Workers

Union of TAZARA Zambia (WUTAZ) of Zambia have established a joint industrial relations negotiating mechanism where the two trade unions jointly negotiate with management. The collective agreement so concluded is uniformly implemented within the organisation.

The study introduces a bi-national approach to industrial relations, which is concerned with understanding the integration of two national industrial relations systems to establish a bi-national industrial relations model. The study also reveals that with the involvement of all the actors in the industrial relations process it is possible to develop a framework through which bi-national industrial relations systems can be developed. The paper proposes that the model be adopted by regional groupings around the world as it does not only localise industrial relations systems but also enhances trade unions alliance and promotes trust and good faith between trade unions and management.

Introduction.

The Tanzania Zambia Railway stretches 1,860 kilometres from the East African Indian Ocean port of Dar Es Salaam in Tanzania to New Kapiri Mposhi of the land locked Zambia.(Figure 1) It is defined as a bi-national organisation as opposed to either trans national or multinational because it is jointly owned and managed by the Governments of Tanzania and Zambia. It's construction was made possible by Chinese interest-free loan of £ 167 million to the two Governments, other conditions included eight years grace period and twenty two years repayment period.(Bailey 1976)

Industrial relations literature has cited differences in countries' historical, social, political, economical and ideological background as the main obstacles in the development of collective bargaining machinery in trans or multinational organisations. A study in Tanzania Zambia Railway Authority has established the development of integrated bi-national collective bargaining machinery whose collective agreements are legally enforceable in their respective countries.

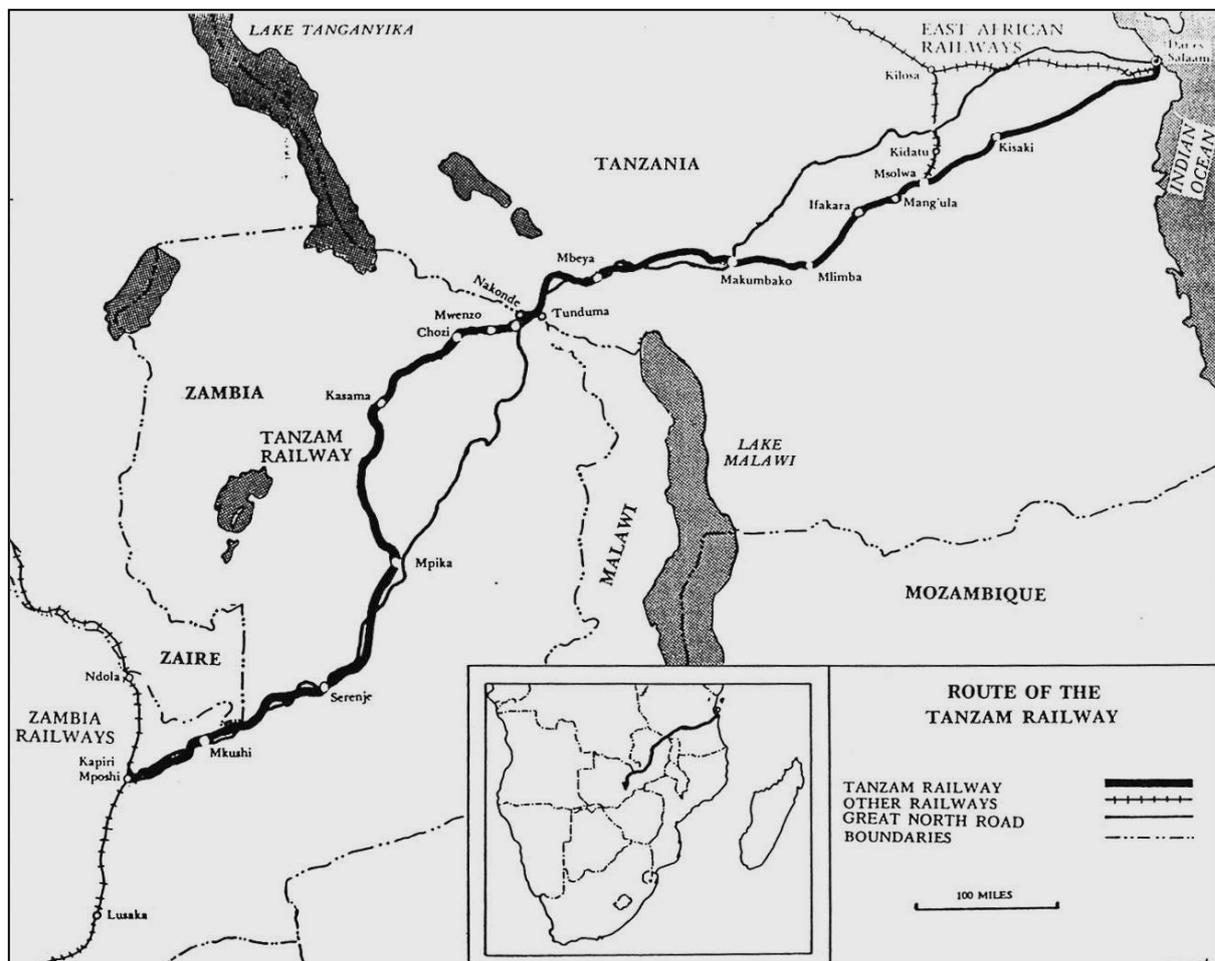
The paper explores the development of trade unions in both Tanzania and Zambia and critically examines how each stage of development stimulated the two trade unions' awareness of the importance and power of both alliance and solidarity.

Industrial Relations during construction phase.

The Chinese Railway Construction Team (CRCT), undertook Tanzania Zambia Railway construction, from 1970-1975. There were no trade unions during this phase because the labour laws of both Zambia and Tanzania proscribed them. Industrial relations issues were regulated either by management and workers consultations through local human resource officers known as Field Assistants or were referred to the Ministry of Labour.

The railway was handed over to the Governments of Tanzania and Zambia on 1 July 1976 after six months trial period. Chinese Railway Construction Team (CRCT) employees were laid off, while those recommended to work for the operating railway were re-employed under permanent and pensionable conditions of employment by Tanzania Zambia Railway Authority established by the Tanzanian Railway Project (Implementation) Act 1968 to run the railway. Under new conditions of employment, workers were eligible to become members of a trade union subject to the Security of Employment Act 1964 of Tanzania and to form a trade union subject to the Industrial Relations Act 1971 of Zambia.

Figure 1 Route of the Tanzania Zambia Railway (Bailey 1976).



The development of trade unions in Tanzania Region.

The first trade union to be formed in Tanganyika main land was Tanganyika Federation of Labour (TFL) in 1955 when Colonial government recognised the existence of trade unions, their registration and regulation.(Figure 2: profile of the development of trade unions in Tanzania.).Like in any other colonies trade unions in Tanganyika were strictly regulated by colonial political economy and its industrial relations systems. At independence in 1961,Tanzania inherited British economy and its industrial relations system, by 1967 the Tanzania government realised that British political economy and its industrial relations systems were not compatible with Tanzanian society the Government declared Tanzania a socialist state and aligned industrial relations to socialist political economy.Kahama etal (1985)

Trade unions under Socialism.

National Union of Tanganyika Workers(NUTA)

The National Union of Tanganyika Workers (NUTA), established under NUTA Act no. 4 of 1964, became the only trade union in Tanganyika and was affiliated to the ruling political party, Tanganyika African National Union (TANU); it therefore functioned as an arm of the ruling political party, commonly referred to as transmission belt or what Debrah (2004: 81) calls an “economic development-oriented/state institution”. One of NUTA’s objectives was “to promote the policies of TANU and to encourage its members to join [TANU] (Pratt, 1976; Rwekaza, 1999).

Under the provisions of the NUTA, if an employee remained out of the trade union after two months of employment, the employer had the right to terminate his employment (Mihyo, 1979: 74; Rwekaza, 1999). The NUTA General Council was barred from sanctioning or proposing strike action in respect of any labour dispute without exhaustive procedures stipulated by the Trade Disputes (Settlement) Act 1962. Consequently NUTA was not allowed to negotiate for conditions of employment for their members, although it was allowed to advise the government on wages policies and other issues relating to workers (Mihyo, 1979).

Jumuia ya wafanya kazi Tanzania.(JUWATA)

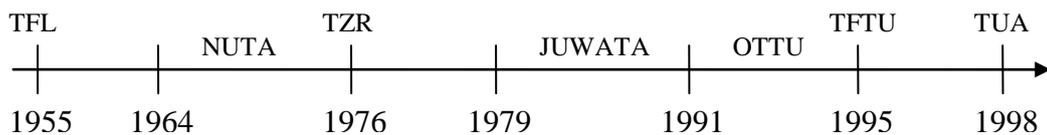
In 1979 the government declared the United Republic of Tanzania following the merger of the main land Tanganyika and the Islands of Zanzibar and Pemba.NUTA was replaced by JUWATA (Jumuia ya Wafanya kazi Tanzania, or Workers’ mass organisation) for the newly formed political party Chama cha mapinduzi(CCM)or (Revolutionary Party) and became the sole trade union in Tanzania and took care of

all labour matters. In 1989 JUWATA held elections, the newly elected office bearers tried to de-link the trade union from party domination, supervision and control (Rwekaza, 1999). JUWATA was granted relative autonomy with the adoption of political pluralism and the subsequent multiparty system in 1990.

Organisation of Tanzania Trade unions (OTTU)

JUWATA was replaced by the Organization of Tanzania Trade Unions (OTTU), established under the Organization of Tanzania Trade Union Act 1991 as the sole trade union representing all workers in Tanzania. The main objective of OTTU legislation was to free workers’ unions from the government. This led to the re-establishment of one-industry-one-trade union, leading to the establishment of the Tanzania Railway Association of Workers Union (TRAWU), which covered Tanzania Zambia Railway Workers. Consequently, 1992 did not only mark the beginning of the collective bargaining process in Tanzania Region but also drew the two trade unions closer resulting in the consolidation of their alliance and solidarity. The 1995 elections paved the way for the establishment of the Trade Unions Act 1998 and the Employment and Labour Relations Act 2004, realigning Tanzania Trade unions to liberalised trade unionism.

Figure 2. Profile of the development of trade unions in Tanzania.



TFL:Tanganyika Federation of Labour; *NUTA*: National Union of Tanganyika workers; *TZR*: Tanzania Zambia Railway Authority; *JUWATA*: Jumuia ya Wafanya kazi Tanzania (Workers’ mass organisation); *OTTU* :Organization of Tanzania Trade Unions; *TFTU*: Tanzania Federation of Trade Unions; *TUA*: Trade Union Act.

The development of trade unionism in the Zambia Region

The colonial government attitude towards establishing trade unions in Northern Rhodesia(Zambia) was that Africans were not mature enough to get involved in trade unionism; the government’s policy was that no civil servants were allowed to participate in politics. This policy was supported by large mining companies, fearing the effect of strikes on production.(Mulford 1967)

The first trade union in Northern Rhodesia was the European Mine workers Union formed in 1936 and determined the development of trade unionism on racial basis. The Shop Assistants' Union was the first African trade union formed in 1947 while the strongest and the most wealth trade union the Northern Rhodesia African Mine Workers' Union (NRAMWU), was formed in 1949.(Gertzel,1979)

Trade unionism in independent Zambia.

At independence in 1964 the Zambian government espoused the philosophy of humanism and corporatist approach to trade unionism, which stressed unity and corporation above sectional interest in national economic development.

In 1968, the government acquired controlling interest of 51% in all vital industries and by 1973 the government declared the country a one party state. Although the government tried to control trade unions by offering union officials government positions, trade union officials preferred to remain independent from government control. In 1990,independent trade unions spear headed the return to multiparty democracy in Zambia.(Larmer,2000,Nordlund (1996)

Comparison of the factors influencing the development of Industrial Relations in Tanzania and Zambia

Similarities.

- Both countries were British colonies and therefore inherited British political economy.
- Both nationalized their industries.
- Both were declared one-party state at some time.
- Both countries' political economies collapsed leading to economic restructuring
- Both countries have reverted, to political pluralism.

Differences.

- Both countries pursued different ideologies after independence, which dictated industrial relations. Tanzania pursued African Socialism while Zambia pursued Humanism.
- The two countries have different economic bases, Tanzania being basically an agricultural country while Zambia is highly dependent on copper industry.

- Copper industry dictates wages in Zambia as the government and the mining industry owners would rather give in to salary demands by trade unions rather than risk industrial action that would stop copper production.
- Trade unions in Tanzania were controlled by the party, whilst trade unions in Zambia were controlled by the government through the legal system.(Gertzel 1979)

These similarities and differences are important because they help both the two trade unions and management to understand each other in difficult and different situations.

Nature of collective bargaining

The term collective bargaining was originally used by Beatrice and Sidney Webb (1894), who identified and differentiated three major categories of trade union activity: mutual insurance in the provision of friendly social benefits in the event of sickness, unemployment and industrial action; collective bargaining for the negotiation of terms and conditions of employment on behalf of their members; and legal enactment in the lobbying of legislation supportive to the members' interests.

As a method of determining the terms of employment relationship, collective bargaining utilises the process of negotiation between representatives of management and employees and results in an agreement that may be applied uniformly across a group of employees (Salamon, 2000: 323, Farnham & Pimlott, 1990). The main constituents of collective bargaining are: the determination of the relationship between employees and management; the processes through which this determination takes place, i.e. negotiation; the result of the negotiation, i.e. agreement, commonly known as a Collective Agreement; and finally the application of the contents of the agreement to the group it covers. According to the ILO, collective bargaining is “an institutionalised procedure of joint determination of rules to govern the terms and conditions of employment of the workers concerned and the labour management relationship”. The term “institutionalised” conveys the legal status of the collective agreement especially in countries where it is regarded as a legal document, as is the case in Tanzania and Zambia.

The regularized patterns of union-management interaction or the network of institutionalized bargaining relationships are referred to as “bargaining structures” (Bean, 1994). Bargaining structures establish the framework for the exercise of power within the labour market. These structures may be broadly classified in terms of the level at which negotiations are conducted. Three models can be distinguished: industry wide, a multi-employer bargaining which is external to the firm, as practiced in Western Europe on wage-related issues; single enterprise or firm bargaining, as typically found in the USA, Japan, Tanzania and Zambia; and economy-wide systems between trade unions and the employers’ central confederation, characteristic of several countries including Norway, Sweden, Denmark and the Netherlands.

Collective bargaining in Tanzania Zambia Railway Authority.

Background.

When the railway was handed over to the two governments in 1976, Tanzania was a one-party socialist state; the principal labour law was the Security of Employment Act 1964 which provided for the establishment of trade union field branches (workers’ committees in the workplace) but did not provide for negotiations between management and trade unions for employees conditions of employment.

In Zambia the principal labour law was the Industrial Relations Act 1971 which provided for negotiations between trade unions and management for employees conditions of employment, the Act provided for one union in each industry, and works councils as a means of consultation between workers and management and set out procedures for registering a trade union: signing a recognition agreement; forming a joint council; signing a collective agreement (section 4 while 7(1) provided for the number of trade union members required for registering a trade union and its constitution. Under a one industry one union Act, the Railway Workers Union of Zambia (RWUZ) was the only legitimate trade union for workers of the newly established Tanzania Zambia Railway Authority.

Single trade union negotiation phase.

The Railway Workers Union of Zambia (RWUZ) in Zambia Region was the first trade union to start negotiating with TAZARA management for their members’ conditions of employment having established a trade union and formed the Joint Industrial Council (JIC) which first met in 1982. Members of JUWATA, the Tanzanian trade union, attended as observers since both TAZARA Management and

RWUZ accepted them as members of a trade union despite their not being allowed to formally negotiate for their members' conditions of employment as provided by their government's socialist ideology. However, JUWATA attendance raised a legal concern when the Collective Agreement was sent to the Zambian Labour Commissioner for approval. It was noted that there were two trade unions; the Railway Workers Union of Zambia (RWUZ) (for Zambia) and Jumuyia ya Wafanya Kazi Tanzania (JUWATA) (for Tanzania), and that the Agreement stated two Acts; the Industrial Relations Act Cap 517 of 1971 of the laws of Zambia and the Security of Employment Act 1964 of the laws of Tanzania. (Collective Agreement between Tanzania Zambia Railway Authority (TAZARA) and the Railway Workers Union of Zambia (RWUZ), 29th January 1982).

The Commissioner for Labour in Zambia rejected the agreement on the grounds that:

- a) it incorporated facts or material alien to the Zambian situation,
- b) the inclusion of JUWATA as a subscribing party to the Agreement was not only unacceptable but contrary to the current industrial relations laws in the country and
- c) the majority of the provisions of the Agreement were contrary to the provisions of the industrial relations scene in Zambia and therefore the agreement should make provisions which were legally enforceable in Zambia

With these remarks the Agreement was referred to Zambia Industrial Court which directed that, the parties to the collective agreement re-negotiate the agreement and that it should only take account of laws and practice of laws in Zambia (Ref: MLSS: 4th May 1982).

The Agreement was re-negotiated, resubmitted and eventually approved by the Labour Commissioner.

The Zambian Labour Commissioner's rejection of the first Agreement highlighted the importance of the two trade unions and TAZARA Management to work within the laws of each contracting state yet it raised the implementation question. If the Agreement is confined to the labour laws of one country should its implementation be confined to the members of that country's trade union? Tanzania Zambia Railway Authority's Council of Ministers ruled that the agreement be implemented throughout the railway system. The system wise implementation raised the question of the cost of the Joint Industrial Council (JIC). The Railway Workers Union of Zambia (RWUZ) argued that their members subscribed to the costs of the JIC, but questioned whether

they should continue subscribing to the JIC if the Agreement was extended to the members of JUWATA in Tanzania? The Council of Ministers ruled that TAZARA Management should fund the Joint industrial Councils until such time that trade unions in Tanzania would be allowed to negotiate with management and therefore be able to fund their JIC meetings.

Joint trade unions negotiation phase

In 1992 Tanzania Government allowed trade unions to negotiate with their employers; consequently Tanzania Railway Association of Workers Union (TRAWU) started negotiating with TAZARA management for their members conditions of employment. The two trade unions negotiated jointly with TAZARA Management for 1992 to 1994 collective agreement, for 1994 to 1996 collective agreement the trade unions started negotiations jointly, but differed on the final offer of salary increase. While RWUZ accepted 3% salary increase, TRAWU rejected it. TRWU decided to negotiate with Management without RWUZ for 1996 to 1998 agreement. Although the two trade unions negotiated separately the two Agreements were similar because they were based on the previous Collective Agreement, which was jointly negotiated, except for the following two differences; first, there were differences relating to the provisions of the benefits accrued to dead employee or spouse and the dead employee's biological child or legal dependant. Second, TRAWU demanded and was awarded Golden Hand shake for a retired employee, and also suggested that a consultative committee comprising management and trade union officials be responsible for recommending to the Managing Director the type and nature of the award to be given to the best workers. The Railway Workers' of Zambia (RWUZ) collective agreement did not contain the Golden Handshake and consultative committee provisions because they were not demanded.

One management negotiating with two trade unions separately within the same organisation presented both management and trade unions not only with the problem of the implementation of two different collective agreements but also threatened the unitary nature of the organisation enshrined in the organisation's Act.

Both management and trade unions resolved to find as lasting solution to separate negotiation problem.

In search of an integrated collective bargaining machinery.

Negotiating separately with two trade unions triggered the need to find a system where the two unions would negotiate as one team. This was necessary for three main reasons: first: the one main purpose of trade unions is to protect their members' interests; second: as the two trade unions belonged to one and the same organisation they were faced with challenge of harmonising their members' conditions of employment; and third: different conditions of employment would defeat the purpose of running the organisation as a unitary system as provided for by the Act.

Management suggested to the two trade unions that they negotiate as one since they had been consulting each other on most issues affecting their workers, and they were also part and parcel of running TAZARA as a single undertaking. Management wrote to the two trade unions:

... since TAZARA started holding separate negotiations with the two trade unions (TRAWU & RWUZ) on conditions of service, Management has been experiencing enormous problems arising from application of different conditions of employment to employees working for one and the same organisation and with one common purpose and objectives. This trend has not helped either Management or the unions promote industrial harmony because employees from either one union or both feel unfairly treated by Management or betrayed by the union that represents them, and finally, Management is of the view that more financial and time resources are spent on these separate negotiations which could be rationally utilized if three parties had a viable negotiating arrangement. Management proposes that future negotiations be held jointly between Management on one side and the two trade unions negotiating as one on the other side. (*Director of Human Resources, 6 January 1998*).

The two trade unions accepted the proposal, paving the way for the establishment of Tanzania Zambia Railway Authority Joint Industrial Council (TZRJIC).

Tanzania Zambia Railway Authority's integrated collective bargaining structure

Tanzania Zambia Railway Joint Industrial Council (TZRJIC) structure comprises of the Chair, the Council Secretary and 22 members, seven from each trade union and eight from management (see Figure 3). The Chair can come from either Tanzania or Zambia, is independent and is proposed by either Management or the trade unions and approved by the other party; the Chair should be knowledgeable in the field of industrial relations, and in fact the current Council Chairman was a lecturer in industrial relations at former President's Citizenship College(now Mulungushi University) in Zambia. The Directorate of Human Resources at Head Office appoints the Joint Industrial Council Secretary. One of the two Regional General Managers acts as spokesperson for the Management negotiating team while one of the presidents acts as the spokes person of the two trade unions.

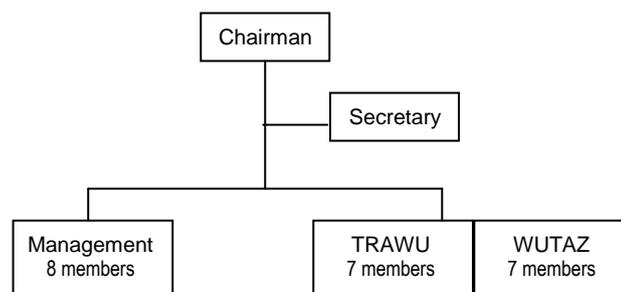


Figure 3. TAZARA integrated joint council structure

The two Heads of Human Resources, one for each Region, were of the opinion that they should have been members of the Council because they were responsible for implementing the Agreements; however, Management believed that since the Regional General Managers and the Director of Human Resources were members it was not necessary to include the Heads of Human Resources

Since 1999 all collective agreements have been under this arrangement. The arrangement has been hailed as a tremendous success indicating that it is possible to develop collective bargaining machinery in a bi-national organisation which can operate within the labour laws of the two contracting state. This is a great improvement on earlier findings by Northrup and Rowan (1979) that it was not

possible to establish joint negotiating machinery in a multinational organisation due to different labour laws, social and historical backgrounds.

Negotiation process.

Bi-national integrated collective bargaining model's background

According to TAZARA's negotiation terminology, *proposals* refer to items suggested by TAZARA Management for discussion with trade unions. *Demands* refer to items suggested by trade unions for discussion with the Management. In other words, trade unions *demand* while Management *proposes*.

Both Management and trade unions examine current collective agreements and identify clauses or new items, which would constitute demands or proposals. The bi-national trade unions collective bargaining model assumes that negotiations are initiated by trade unions. From discussions and other materials it is possible to depict this process in Figure 4

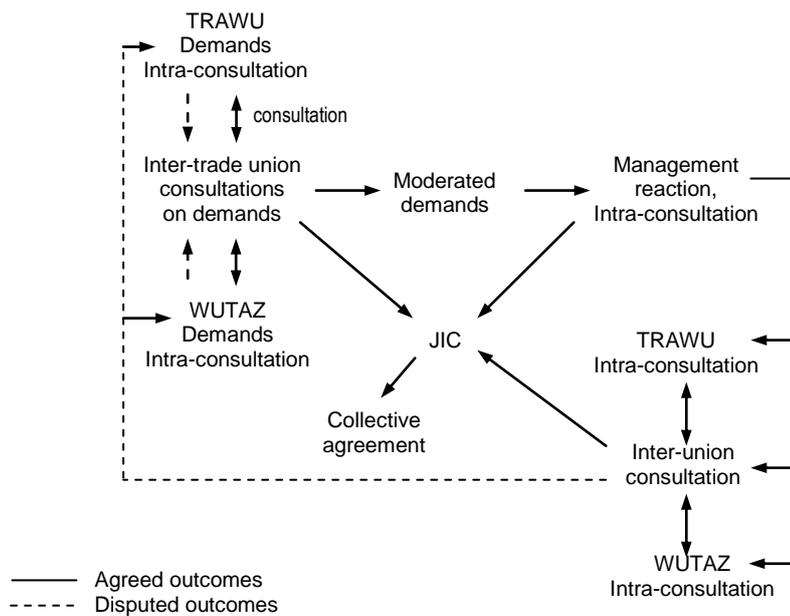


Figure 4. Bi-national integrated collective bargaining model

A trade union prepares demands through “intra-negotiations” (internal trade union consultations); it then convenes a meeting with the other trade union where the two trade unions’ demands are *moderated*. The moderated demands are sent to Management as trade union demands; the Management then hold their own intra-negotiations before either accepting or rejecting those demands. Accepted demands

form part of the next Agreement without being discussed by the TZRJIC. Management sends back their reactions to the trade unions, the trade unions convene another intra-negotiations meeting and then convene another inter-trade unions negotiations meeting with the other trade union to finalise items to be discussed at the Joint Industrial Council (JIC). Both trade unions and Management submit their items to the Council Secretary who draws up the JIC agenda.

Negotiation.

The Council Secretary fixes the date of the meeting in consultation with management and trade unions. At the meeting the Secretary tables items (clauses) to be discussed item by item by the Council. Agreed items are deemed to be concluded and become part of the newly concluded collective agreement.

The agreement ends with the names, designations and signatures of the parties to the agreement. In order to show that the parties to agreement are responsible for each item(clause) on each page of the agreement ,Zambian law requires that all pages are signed by the agreement signatories. Signed copies are then submitted to the Ministries of Labour for the Minister's approval in both Tanzania and Zambia. Once approved the agreement becomes a legal document ready for implementation for the period in force.

Advantages of joint trade unions' collective bargaining.

The study identified the following advantages:

- 1) Collective agreements signed after negotiations are worded the same and are therefore legally binding on the parties concerned in each of the two contracting states.
- 2) The collective agreement standardises conditions of employment of workers through out the organisation.
- 3) The collective bargaining machinery saves time and costs for both trade unions and management as the two trade unions negotiate as one team.
- 4) Management finds it easier to implement one collective agreement through out the organisation.
- 5) The process inculcates trust and solidarity between the two trade unions and good faith with Management.

Limitations of joint trade unions' collective bargaining.

- 1) The machinery has no legal provision binding the two trade unions; one of the trade unions could easily opt out of the collective bargaining machinery. This limitation can be resolved by providing for joint trade unions' collective bargaining machinery in the organisation's Act .
- 2) The process can be costly for the two trade unions as they seek to reconcile their demands before presenting them to Management.
- 3) The process can also be costly to Management during negotiation if adjournments are required to allow the two trade unions to consult.
- 4) The pressure on two trade unions to reach a compromise through give and take makes them vulnerable to overlooking the real social and economic circumstances of their members.
- 5) There may be uncertainty between the two trade unions as to which demands would be presented to management before they are reconciled.

Conclusion

National, historical, social, political and economic differences have been cited as the main obstacles to the development of multi or trans-national collective bargaining machinery. This model demonstrates that it is possible to develop a bi-national collective bargaining mechanism provided that the parties concerned are directly involved in the process. Because they are aware of their countries' business environment, they will ensure that the agreement so concluded complies with the labour laws of all the countries concerned.

Integrated joint collective bargaining machinery is expected to emerge as a practical industrial relations option for countries in economic communities such as the Common Market for Eastern and Southern Africa (COMESA), the Economic Community for West African States (ECOWAS), the newly revived Common Market for East African Countries (Tanzania , Kenya, Uganda, Rwanda and Burundi)and other similar economic communities around the world, attempting to bridge national economic barriers to national development as it localises industrial relations in general and collective bargaining process in particular.

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