

Collective Bargaining or Collective Begging? A case of the public sector in Zimbabwe

by Taurai Mereki

Introduction

The International Labour Organisation (ILO) Conventions 87 and 98 provide for the right to belong to trade unions, employers' associations as well as the right to collective bargaining in any employment relationship. 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". Zimbabwe ratified both conventions in 2003 and 1998 respectively. It also committed itself to the ILO Decent Work agenda and has a country programme which runs until 2015. However, government as the largest employer has not made positive strides when it comes to decent work. This article seeks to answer these central questions: is there collective bargaining in the public sector in Zimbabwe? Are there any factors hindering collective bargaining? Examples from state owned enterprises (SOEs), commonly referred to as parastatals, and to a certain extent the public service will be cited.

The Law and Collective Bargaining in Zimbabwe

Zimbabwe's 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 who are governed by the Public Services Act which only gives them the right to consult. The Labour Act speaks of collective bargaining agreements (CBA) which are negotiated by registered or certified trade unions, employers and employers' organisations or federations. Section 74 states that parties are free to bargain on any conditions of employment which are of mutual interest to the parties. The right to strike is incorporated under section 104 in the event that parties fail to agree. The Act also gives the Minister of Labour the power to register and gazette CBAs thus making the agreements binding.

Collective Bargaining Contradictions

Despite the fact that the law allows for bargaining, the Minister of Labour has the power to refuse to register a CBA where it is felt to be unachievable. This was the case with Post and Telecommunication Corporation (PTC) versus Zimbabwe Posts and Telecommunication Workers Union (ZPTWU)

where the CBA was reduced by 50% by the Minister in 2000 and the same happened with Zimbabwe Electricity Supply Authority (ZESA) versus Zimbabwe Energy Workers Union (ZEWU) in 2009. The other notable contradiction lies in the ministerial power to designate any industry an essential service thus practically barring workers in such an industry from embarking on a legal strike. Illegal strikes also attract a five year jail term to the organisers. Where workers in such designated areas dare to embark on a strike, the authorities use maximum force to quell the strike. This occurred when more than half of the TelOne, NetOne and Zimbabwe Posts workforce was dismissed for going on strike in 2004 when the employers had refused to abide by an arbitration ruling (Mereki, 2012). The right to strike is also cumbersome as more than 50% of the workers have to vote in favour of the strike followed by a 30-day conciliation period that might lead to a binding arbitration. However, in the majority of cases that go for arbitration, SOEs have appealed against the ruling if it is in favour of workers¹. Recent examples include TelOne, Zimbabwe Posts and ZESA. Like TelOne and ZimPosts, ZESA also recently dismissed² 135 workers for threatening to go on strike over reluctance by management to implement an arbitration award.

The public sector has also been militarised in response to the upsurge in strike action by public sector workers during the second half of the 1990s. In all SOEs, the board of directors has to be staffed with at least two senior Army officials. Moreover, most senior managers are alleged to have links with the dreaded Zimbabwean secret service (Central Intelligence Organisation - CIO). The boards use a military approach which is more unitaristic and authoritative and pluralism is used only as window-dressing as unions are not tolerated. The first major casualties of militarisation were TelOne, NetOne and Zimbabwe Posts workers who embarked on a strike in October 2004 to force the employer to implement an arbitration awarded to them in 2003. More than 3000 workers were

sacked and most positions were replaced by soldiers. In many SOEs arbitration has replaced collective bargaining. This shows a state that is embedded in capital and repressive towards labour.

On 11 September 1999 a labour-backed political party, the Movement for Democratic Change (MDC) came into being. Its existence has dealt a blow to bargaining as genuine labour demands have been labelled as political especially in SOEs where government has direct influence. The state responded in 2002 by enacting laws that bar public gatherings like the Public Order and Security Act (POSA). If one is found to be disturbing peace under POSA, he faces up to ten years imprisonment. Many trade unionists have been beaten, arrested, detained and are under constant surveillance under POSA. The general workforce has also been cowed into submission to the extent that there hasn't been any effective strike since 2006³.

Although the law allows for collective bargaining, in more than 90 percent of SOEs there hasn't been real collective bargaining but consultations since dollarisation in 2009. This is largely because there are pending cases in the courts or employers are just not willing to bargain citing undercapitalisation due to the migration from Zimbabwe dollar to United States dollar. While the average poverty datum line (PDL) wage for the period 2009 to 2012 has been around USD520, the average wage for the public sector worker remains around USD180. The consultations and even strikes by the most vocal and biggest public sector associations, the Progressive Teachers Union of Zimbabwe (PTUZ) and Zimbabwe Teachers Association (ZIMTA), have yielded no result. The Finance Minister in the inclusive government, Tendai Biti, recently hinted that "you eat what you kill" a statement suggesting that the government has no money for its workers' wage demands. However, its critics believe that if the disputed diamonds were properly accounted for, the state would be in a better position to pay a PDL wage to its workers.

Conclusion

While there is collective bargaining in the private and public sector, some sections of the public sector are excluded. Civil servants in Zimbabwe make the bulk of the formally employed workers hence the majority of workers are denied bargaining rights. Moreover, with the majority of sectors having been classified as essential service a small portion of workers is allowed to strike. While the essential service law is important, it is being used as a tool to limit industrial action. In line with international laws, this law should only exclude uniformed forces and other state administrators.

The cumbersome pre-strike requirements and management's ability to replace strikers with scab labour weaken bargaining. This paper recommends win-win bargaining which would involve SOEs returning to the National Employment Council (NEC) which enforces workers' rights to collective bargaining. Finally, the Labour Minister's power to reverse any collective bargaining agreement goes against the provisions of Convention 98. No matter what the provisions of the law say, if the playing field is not level, collective bargaining will be reduced to collective begging.

- 1 (http://www.herald.co.zw/index.php?option=com_content&view=article&id=29139:zimpost-contests-high-court-ruling&catid=41:business&Itemid=133)
- 2 (<http://www.industrial-union.org/solidarity-support-needed-for-suspended-zesa-workers>)
- 3 (http://www.thezimbabwean.co.uk/news/zimbabwe/58020/police-have-cowed-workers-zctu.html?utm_source=thezim&utm_medium=homepage&utm_campaign=listarticle&utm_content=textlink)

Taurai Mereki is the Vice President of the Communication and Allied Services Workers Union of Zimbabwe. He is also an Alumnus of the Global Labour University programme at the University of the Witwatersrand.

References

- ILO (1948), *Convention 98*, ILO Geneva
- Zimbabwe (2005) *Labour Act (Chapter 28:01)*, Harare
- Mereki, Taurai (2012), *Strikes for wages and democracy in Zimbabwe: CASWUZ experience*. South African Labour Bulletin, Vol. 36, No. 3 (p55 – 58)