

# Collective Bargaining in the Public Sector, a Panacea to Perpetual Conflicts and Labour Unrest (Strikes): A Study of Zimbabwe Experiences.

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**Abstract:** *The issues of salary negotiations and other conditions of service in Zimbabwe's public sector, have always been contentious issues following the failure by both, the employer (government) and employees (civil servants) to seriously engage in collective bargaining for time immemorial. The civil servants through their representatives, staff associations and their coalition body, the Apex council have often resorted to collective job action or labour unrest in a bid to force government to accede to their demands. This has always resulted in poor labour relations between the two parties. The study used the library analysis and interviews which culminated in interesting findings such as; civil servants were **consulted** through their coalition body, the Apex council. They were not involved in the final decisions. That was left to the prerogative of the labour minister, cabinet and treasury. The study recommended that there was need to amend both the Public Service Act and the Amended Labour Act 2 :01 (2015) and be aligned with the New National Constitution of 2013 which has provision for collective bargaining. Also staff associations who represent the civil servants different professionals should speak with one voice so that there is a holistic approach without prioritising sectoral interests. (199 words)*

## Definition of key terms

- **Collective bargaining-** *is a voluntary process between workers and the employer in order to jointly or amicably arrive at decisions or agreements pertaining to the contract of employment or conditions of service. In this case, between the Zimbabwean government and its workers known as civil servants*
  - **Labour unrest-** *any form of action usually taken by workers as a strategy to force the employer to accede to their demands in the event of an impasse or deadlock e.g a strike, a stay-away, sit-in, lock in, picketing or go slow by Zimbabwe's civil servants to force the state to address their grievances*
  - **Panacea-** *an almost permanent solution to a teething problem . In this study, this is the remedy to conflicts in the public sector by addressing challenges of collective bargaining*
  - **Perpetual conflicts-** *regular and ongoing differences between two parties over certain pertinent issue(s) which affect production or service delivery. In this case, the problem of non implementation of collective bargaining in Zimbabwe's public sector which gives the government prerogative to finally decide on its own on what should be accorded to civil servants who are only consulted .This has created ongoing irreconcilable differences between the government and its workers.*
  - **Public sector -***That part of the national economy which provides basic goods or services that are either not, or cannot be, provided by the private sector. It consists of national and local governments, their agencies, and their chartered bodies e.g. in Zimbabwe includes services such as teaching, health, citizens welfare, registration of births, deaths, vehicles, companies, security etc*
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## I 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.

## **II Background to 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-five 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 was the intention of this study to unfold the impediments of collective bargaining in the civil service and to suggest remedies to eliminate conflicts which continued to adversely affect service delivery in the public sector.

## **III. 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). 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.

This study therefore 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.

### 3.1 Research questions

The study which was purely qualitative sought to answer the following sub-problems

- (i) Which legislative documents influenced the conditions of service and negotiations in the public sector in Zimbabwe?
- (ii) What was the impact of current negotiation strategies on collective bargaining used in the public sector in Zimbabwe?
- (iii) Which selected cases of conflict and labour unrest could be reviewed and to establish the causal factors of such unrest?
- (iv) What were the problems and challenges encountered in the process of collective bargaining in the civil sector in Zimbabwe.
- (v) 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.

## IV. Literature Review

### 4.1 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)**

### 4.2 Staff Associations

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.

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)

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.

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

### 4.3 The Joint Negotiating Council

In terms of the Statutory Instrument 141 of 1997 Public Service (Public Service Joint Negotiating Councils) Regulations, 1997, 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 nine members representing Government in the Joint Negotiating Council (JNC) 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 Ministry of Primary and Secondary Education) The Civil servants are represented by 9 members of the Apex Council (coalition body of all staff associations).

#### **4.3.1 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.

From the above, 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.

In Zimbabwe, 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. In early 2015, the platform for any meaningful negotiations between the government and its workers had been dealt a severe blow. The development followed reports by the then acting Public Service, Labour and Social Welfare minister Walter Mzembi 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) .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 2015.

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 during the previous year (2014). They were finally paid in staggered bonus payments in January 2015 but other government grant aided institutions such as state universities went on strike as they had been promised to be paid their bonuses on the 6th 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.

#### **4.3.2 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.

##### **4.3.2.1 Universities staff go on strike**

According to **Bulawayo24** an online publication (11 February 2015), lecturers at all the country's state universities had by then with immediate effect gone on strike over unpaid bonuses and January 2015 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) t, 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 included, NUST, University of Zimbabwe (UZ), Great Zimbabwe(GZ) and Chinhoyi University of Technology (CUT) vowed not to return to work until Government had paid them their bonuses and salaries.

They agreed to go on strike each time the government failed to pay them on time.. 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) had met officials from the parent 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.

##### **4.3.2.2 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 by then getting US\$250 per month. But officials from the different workers unions represented in the Apex Council, 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 in 2012. PTUZ suggested that a national strike could be declared 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 of the Movement for Democratic Change (MDC-T) party had previously declared that government was broke and could not afford any salary hike. He had complained that funds from the mining of diamonds in Marange were coming in at a trickle, with the bulk of it being suspected to be financing a parallel government linked to Zimbabwe African National Union Patriotic Front (ZANU-PF). This had heightened tension among civil servants who said that they were being sidelined through political fights between the rival coalition partners.

#### 4.3.2.3 Zimbabwe civil servants to go on strike next Thursday



**Fig 1: Harare24.com of 17 January 2012**



**Fig 2: Harare24.com of 17 January 2012**

According to [Harare24.com](http://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 by then. 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 namely President Robert Mugabe (ZANU PF political party), Prime Minister Morgan Tsvangirai (MDC-T) and Deputy Prime Minister Arthur Mutambara (MDC)..

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. The Public Service Association (PSA) executive secretary Mr Emmanuel Tichareva and Teachers Union of Zimbabwe (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 had wanted to be urgently addressed. Government had always been arguing that it did not have enough money to award a salary increment.

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

**4.3.2.4 Zimbabwe magistrates strike over poor pay** Source [Africanlawlibrary.net](http://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 by then, Patrick Chinamasa. They were demanding an 80% salary hike and improved benefits in addition to improved working conditions.

**4.3.2.5 Civil servants strike looms as soldiers get windfall**

By **Fikile Mapala**, [newzimbabwe.com](http://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’s 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.

**4.4 Changing views of conflict**

In the last forty years attitudes towards conflict in work organizations, including Zimbabwe’s public sector have changed significantly according to Mudyawabikwa (2004) supported by Uzhenyu(2015). The table below summaries the two contrasting views which seem to be drawing parallel paths between the Zimbabwe government and its workers.

**Table 1** showing 2 contrasting views of conflict

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>• 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  
There should be a paradigm shift by both parties if conflict can be easily resolved in the Public sector.

**V. Methodology**

The following is a synopsis of the methods used by this study in the process of data collection and actual results

- 5.1 A Survey design was used as it was the best to establish social implications of the problem or issue at hand (Njaya & Choga, 2011)
- 5.2 Judgemental sampling technique was used to choose participants based on this researcher’s discretion..
- 5.3 Library analysis (desk research) was used to a large extent. Most of the information was obtained from different legislation affecting the public sector as well as the news articles from both the print and electronic media
- 5.4 Unstructured interviews were held with selected labour experts from the Ministry of Labour , Public Service and Welfare (3), Civil Service Commission (2), Ministry Of Finance (2) ,Apex Council (5), National Joint Negotiating Council (2)
- 5.5 Results were analysed using the content analysis method, involving categorization of data, classification, summarization, coding (Cresswell, 2003).

## **VI. Findings**

The study was able to come up with very exciting results which are articulated below

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

#### **6.1.1 Nature of the employer**

From those interviewed, it was difficult to conclude which organ could 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 or even other conditions of service.

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

#### **6.1.2 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 the input to the former.

#### **6.1.3 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 interests, concerns and needs are addressed, is a matter of concern. The study was able to establish 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., the Hospital Doctor's Association and Zimbabwe(HODAZ) Nurses Association (ZNA), had been accusing the Apex council of not presenting meaningfully its interests and concerns. As a result they pulled out of the coalition arrangement

Such different interests have seriously been affecting the credibility of the Apex Council and indeed the National Joint Negotiating Council.

### **6.2 Other challenges affecting Collective bargaining in the Public Sector**

The study established the following as some of the major reasons affecting Collective bargaining in the Public Sector. These were some of the reasons why civil servants at times engaged in labour unrest (strikes)

#### **i) Low remuneration**

Civil servants in Zimbabwe are some of the lowly paid professionals in Southern Africa and to make matters worse they are still paid well below the poverty datum line although as at early 2014 they were 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 irked civil servants who felt that the already stretched resources were being "abused" by those corrupt officials and there were no meaningful cases of litigation which should deter them.

#### **iii) False promises and partisanship:**

A lot of promises are made especially by senior government officials and politicians eg In 2013, the State 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 2013 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 labour unrest (strikes). Also the government priority of expediting the attending of welfare issues to security forces and not the entire civil service workforce, remained an area of heavy criticism by other civil servants .. 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



got even after mid year of 2015 e.g.. state universities were finally paid the last batch of 2014 bonuses in July 2015.

iv) **Consultation and no spirit of collective bargaining**

the talks between government and staff associations through the Joint Negotiating Council, the platform is more **consultation** without any concrete decision making, as the final decisions rested with the 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 labour unrest (strikes). However to go on strike or any other form of labour unrest in Zimbabwe has not been easy as all civil servants are classified as providing **essential service**. According to the main labour legislation, the Labour Act 28 :01 which has been amended in August 2015 (the Amended Labour Act 28 :01 number 5 of 2015) Public Service Act , all those employed under essential services should desist from participating in any form of labour unrest.

## **VI. Conclusions**

This study established that the issue of implementing Collective Bargaining in Zimbabwe's public sector was a complicated phenomenon. Despite the provision for such dialogue in the New national Constitution of 2015, there is still not much significant progress to date to raise much hope. The issues of staff remuneration, benefits and other conditions of service pertaining to the employment contract for civil servants are determined usually by cabinet with the concurrence of treasury or line ministries at times. Civil servants are only consulted through their coalition body, Apex council and whatever they decide, is then taken up with Minister of Labour for his/her input before forwarding to cabinet. The sectoral different interests among the civil servants according to their professions and trades, has also been a major drawback when their staff associations represent issues at the Apex council. This has often culminated in sharp divisions which usually stalls progress.

## **VII. Recommendations**

The study suggested the following recommendations that should be the panacea to the challenges facing collective bargaining in Zimbabwe's public sector..

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

The new national Constitution 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.

### **7.2 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.

### **7.3 Unity within the Apex Council (need to speak 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 ( MDC-T) now led by its president Morgan Tsvangirayi who was the ZCTU Secretary general by then. 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.

#### **7.4 Involving use of third parties to settle conflicts/disputes**

If the government of Zimbabwe and its employees, the civil servants cannot resolve a dispute on their own with regard to issues of negotiation or collective bargaining, a third party can be called upon to help determine the appropriate action to be done..

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.

The third party formal intervention methods should take any of the following approaches

### **VIII. Conciliation**

Conciliation is that third party intervention strategy that helps the disputing bodies identify the cause(s) 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, the civil servants.

#### **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 strengths lie 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.

#### **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) e.g. in Zimbabwe the Labour court first and then the Supreme Court in the event of an appeal.

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