Challenges facing employees to strike in Zimbabwe despite the provisions of the New Zimbabwe Constitution Number 20 of 2013

Dominic Uzhenyu
Zimbabwe Open University
E-Mail: dominicuzhenyu@gmail.com or duzhenew@yahoo.com

Abstract

The purpose of the study was to find out if employees could go on strike in Zimbabwe in the wake of the new National Constitution of 2013 which has provisions for that but labour laws still seem to remain prohibitive. The right to strike in Zimbabwe has been a contentious issue in both the public and private sectors for time immemorial. Unlike in many countries were strikes are allowed if a dispute of interest cannot be resolved through dialogue or third party intervention strategies, in Zimbabwe workers usually resort to strike to force the employer to accede to their demands. Those who have previously been engaged in strike or industrial action have been victims of decisions taken by employers either to dismiss them or harshly reprimand them. In the Public service, civil servants are not allowed to go on strike according to the Public Service Act 16:04 and even the Labour Act 28:01 (Amended August 2015). The study was a survey which was largely qualitative and data was collected using an unstructured interview guide as well as from secondary data using relevant pieces of legislation. The study established that it was generally difficult to strike in Zimbabwe as the procedures were cumbersome and the Minister of Public service, Labour and Social welfare had the prerogative of issuing a disposal order that would call off the strike as provided for by law. There were very few cases where strikes could take place such as violation of collective bargaining agreements, where there was exposure to hazardous working conditions and threat to life including discrimination and sexual harassment. The study recommended that the notification period to go on strike be reviewed to be as short as two days and to streamline the Minister of Labour ‘veto’ powers as well as aligning the new amended Labour Act 28:01 of 2015 to the 2013 National constitution.

Definition of key terms

The following terms have been contextualized to this study by the researcher

- **Amended Labour Act (Labour Amendment Act 28: 01)** - the new labour legislation that became effective on 26 August 2015 and had been on the cards since 2006. It is supposed to address contentious labour issues such as collective job action (labour unrest or strikes), collective bargaining agreements,
streamlining ministerial powers, harmonising private sector and public sector employment regulations and conditions of service to avoid dual legislation, retrenchment procedures and benefits (packages) in light of the Supreme Court ruling of 17 July 2015. Also known as Amended Labour Act, 2015.

- **Conflict** - the total range of behaviour and attitudes that express opposition and divergent opinions between managers on one hand and the workers and their organisations on the other. Conflict always involves two or more parties (individuals or groups), and occurs when one party feels its concerns are frustrated or about to be frustrated.

- **Industrial action** - a form of labour unrest which is usually taken employees to settle a workplace dispute concerning working conditions and issues related to the employment contract. It includes scenarios where employees don’t come to work, fail, or refuse to perform any work at all, delay or put a ban or limit on the work they do, or are locked out of a workplace by their employer.

- **Labour right** - or workers’ rights are a group of legal rights and claimed human rights having to do with labour relations between workers and their employers, usually obtained under labour and employment law. In general, these rights’ debates have to do with negotiations involving issues of concern such as workers’ pay, benefits, and safe working conditions.

- **National constitution** - defines the principles upon which the state (Zimbabwe) is based, the procedure in which laws are made and by whom. It also acts as a limiter of state power by establishing lines which a state’s rulers cannot cross, such as fundamental rights.

- **Strike** - is a form of labour unrest (industrial action) in which there is work stoppage caused by the mass refusal of employees to work usually in response to failure by the employer to address their grievances. It is done to force the employer to accede to employees demands and can be violent as a result of a confrontational approach used by the employees.

### Introduction

A strike is a result of an organization conflict. Conflict is an inherent and necessary ‘evil’ which streamlines the powers of industrial relations parties especially business (employers) according to Mudyawabikwa (2004). Causes or sources of conflict are important to be identified first as they become the basis of determining the method(s) that could be used to resolve the conflict which could manifest into a retrogressive situation such as creating an unconducive working environment or ‘fuelling’ emotions that could end up with a confrontational approach e.g. embarking on a strike. Conflict is inevitable but it is also necessary and should not be viewed as destructive or harmful only (Samburen, 2001).

The traditional view of conflict viewed it as undesirable and that it could be avoided contrary to the modern view that embraces it. Conflict levels range from intra-personal, inter-personal, intra-group and inter-group. Conflict brings change, creativity and adaptation and in its ‘nasty’ state culminates in industrial action such as boycotts, stay-away and strikes (Mudyawabikwa and Sambureni, 2003).

The right to strike in Zimbabwe has been a contentious issue in both the public and private sectors for time immemorial. Those who have previously been engaged in strike or industrial action have been victims of decisions taken by employers either to dismiss them or harshly reprimand them. In the Public service, civil servants are not allowed to go on strike according to the Public Service Act 16:04 and even the Labour Act 28:04 (Amended August 2015).

The new Zimbabwe Constitution (Amendment No. 20) of 2013 brought a bit of hope to workers to go on strike if certain conditions are met. Zimbabwe is also a member of the International Labour
Organisation (ILO) and has ratified some conventions which promote workplace democracy such as convention No. 87 which describes a strike as a fundamental right to organise. Workers have been pressuring government to be clear on the right to strike and had proposed that such a right be included in the Labour Act 28:01 that has since been amended and became law on 26 August 2015.

Industrial action is mainly an avenue through which workers can express their dissatisfaction, either individually or collectively, over their working conditions in order to force employer(s) to accede to their demands. Strike action is a recognized, fundamental right of workers which should, however, be exercised with responsibility. There is no single cause which can adequately explain strike activities of workers within a country (Salmon, 2000).

In terms of best practice on Dispute (conflict) resolution, a distinction is drawn between disputes of right and disputes about matters of mutual interest between employers and employees (Giles Files, www.gilesfiles.co.za accessed on 23 April 2016). This is also in line with International Labour Organisation (ILO) Conventions. A dispute of right is where, for example, an employee’s claim is based on a legal or contractual right or a dismissal case. Such disputes of right can be settled by the Labour Court or, in some cases by the Commission for Conciliation, Mediation and Arbitration (CCMA).

On the other hand, disputes of interest have bearing on the creation of new rights such as higher wages or improved conditions of service such as health and safety concerns. If such disputes cannot be settled by means of negotiation, the employees may exercise their right to strike (industrial action) once the applicable procedure has been followed. Clearly the parties are also encouraged to agree to have the dispute resolved by some form of private arrangement like mediation, conciliation or arbitration (www.gilesfiles.co.za accessed on 23 April 2016).

In this study, the real problem has been stated including the sub-problems. Relevant literature has been reviewed and the methodology has been articulated. Last but not least, the findings, recommendations and list of references make up the rest of this report.

**Statement of the problem**

There have been worrying cases of strikes and demonstrations in Zimbabwe by workers in both the private and private sectors over the past decade. Majority of these strikes have been declared illegal and some of those workers who have been involved in such type of industrial action, have been victimized in contrast to the provisions of ILO convention number 87 which gives employees right to organize a strike as a fundamental right and even the Zimbabwe New Constitution of 2013 (Amendment No. 20). The much awaited legislation since 2006, the Labour Amendment Act No. 5 of 2015 seems to have not given workers reprieve to engage in strikes despite so much expectations and lobbying by then.

The researcher was motivated by these developments so that he could establish the teething problems of engaging in a strike by Zimbabwean workers and suggest possible remedies.

**Research questions**

The study addressed the following sub-problems.

1. What do pieces of legislation in Zimbabwe say with regard to go on strike?
2. What procedures should workers follow to embark on a strike in Zimbabwe?
3. What are the problems facing workers to embark on strike in Zimbabwe?
4. What should be done to accord workers in Zimbabwe the right to strike in line with legislation provisions?
Literature review

Conceptual Framework

A labor strike is a serious disruptive form of industrial action which is a culmination of usually a prolonged organizational conflict or dispute (Sambureni, 2003). A strike is a manifestation of a serious labour conflict or dispute. Organisational conflict can be expressed in a number of ways as shown by table below.

The above table shows how organizational conflict can be disruptive or constructive. As can be seen above, a strike is classified as a disruptive action. However there have been changing perceptions as some people and organisations feel that a strike is necessary and should be considered a fundamental right for employees e.g. the International Labour Organization (ILO) convention 87 recognizes the right of workers to organize a strike.

Changing Views of Conflict

According to Mudyawabikwa (2004) supported by Uzhenyu (2015), in the last forty years, attitudes towards conflict in work organizations have changed significantly as shown by the table below.

Table 1: Expression of conflict

<table>
<thead>
<tr>
<th>DISRUPTIVE</th>
<th>CONSTRUCTIVE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vandalism</td>
<td>Good quality products</td>
</tr>
<tr>
<td>Strike</td>
<td>Punctuality</td>
</tr>
<tr>
<td>Sabotage</td>
<td>Humility</td>
</tr>
<tr>
<td>High staff turnover</td>
<td></td>
</tr>
<tr>
<td>High absenteeism</td>
<td>Good two-way communication</td>
</tr>
<tr>
<td>Picketing</td>
<td>Creative suggestions</td>
</tr>
<tr>
<td>Bad timekeeping</td>
<td>Customer care</td>
</tr>
<tr>
<td>Going slow</td>
<td>Good quality products</td>
</tr>
<tr>
<td>Working to rule</td>
<td>Punctuality</td>
</tr>
<tr>
<td>Sit in</td>
<td></td>
</tr>
<tr>
<td>Lock out</td>
<td></td>
</tr>
<tr>
<td>Stay-away</td>
<td></td>
</tr>
<tr>
<td>Refusal to work overtime</td>
<td></td>
</tr>
<tr>
<td>Power struggle</td>
<td></td>
</tr>
<tr>
<td>Insubordination</td>
<td></td>
</tr>
<tr>
<td>Grievance levels</td>
<td></td>
</tr>
<tr>
<td>High wastage</td>
<td></td>
</tr>
<tr>
<td>Poor quality product</td>
<td></td>
</tr>
<tr>
<td>OR</td>
<td></td>
</tr>
<tr>
<td>Peaceful bargaining</td>
<td></td>
</tr>
<tr>
<td>Low level of disputes</td>
<td></td>
</tr>
<tr>
<td>Joint problem solving</td>
<td></td>
</tr>
<tr>
<td>Worker participation</td>
<td></td>
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<td>Good two-way communication</td>
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<td>Creative suggestions</td>
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<td>Customer care</td>
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<td>Punctuality</td>
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<tr>
<td>Humility</td>
<td></td>
</tr>
</tbody>
</table>

Source: Organisation of training development (OTD Training Manual, 1994)
Table 2 Contrasting views

<table>
<thead>
<tr>
<th>Traditional view</th>
<th>Modern view</th>
</tr>
</thead>
<tbody>
<tr>
<td>Conflict is avoidable</td>
<td>Conflict is inevitable</td>
</tr>
<tr>
<td>Conflict is caused by the management methods or</td>
<td>Conflict arises from many causes: differences</td>
</tr>
<tr>
<td>trouble makers</td>
<td>goals, perceptions, values, etc.</td>
</tr>
<tr>
<td>Conflict disrupts the organisation performance</td>
<td>Conflict should be managed</td>
</tr>
<tr>
<td>Conflict should be eliminated.</td>
<td>Optimum performance requires a moderate level</td>
</tr>
<tr>
<td>Optimum performance requires the removal of</td>
<td>of conflict</td>
</tr>
<tr>
<td>conflict</td>
<td></td>
</tr>
</tbody>
</table>

Source; Mudyawabikwa (2004)

From the above it can be seen that the modern view sees conflict or a strike as inevitable.

**Causes of Strikes**

There is need to take cognizance of the fact that no single causal factor can adequately explain strike action in different organisations or workplaces (Bates, 1996). One has to analyse the motives, attitudes and perceptions of the participants. Furthermore, strike action does not perform exactly the same function in all organisations and may, therefore, have different meanings and significance.

According to Mudyawabikwa (2004) and Beaumont (1995), strikes may be caused by

- Scarce resources e.g. money usually on the ratio of profits to wages and the sharing formula.
- Job or work activities – how to share out activities,
- Differences in goals – managers are concerned with efficiency whilst workers are concerned with security of tenure.
- Values or perceptions.
- Environmental factors e.g. fluctuations in the market for a product can threaten workers’ jobs
- Authority and power. Workers seek more power on issues affecting their lives (vertical conflict). Subordinates may resent a superior above them.
- Nature of work itself may be tedious (boring) so that there is no control of the pace of work, no responsibility or group identity.
- Communication problems.
- Management or leadership styles.
- Line and staff structures which are not very clear.
- Ambiguities in the organization.
- Failure to honour an agreed position e.g. collective bargaining agreement.

The above causes of strikes could be summarised into three categories (Beardwell and Holden, 1997).

1) Basic issues (i.e wages, hours of work, benefits)
2) Solidarity issues (i.e worker rights, sometimes union recognition, closed shop, inter-union disputes, sympathetic action)
3) Frictional issues (i.e working arrangements, discipline, redundancy, employment of certain classes of people, etc.)

**Types of strikes**

There are two major kinds of strikes (Beaumont, 1995).

**Economic strike**

This is undertaken by workers in order to garner improvements in their wages, benefits, hours, or working conditions.

**Unfair labour practices strike**

Occurs in instances where the employer allegedly violates rules or provisions of a labour law or code of conduct e.g. disregarding the amended Labour Act 28:01 by failing to honor an agreed position arising from a properly constituted negotiation or collective bargaining platform.
Forms of strike

There are two major forms of strike, that is, the unorganized individual form and the organized collective form of action. Both forms of action express discontentment about certain issues at the workplace. The unorganized strike is the one which is usually haphazard or caused by few individuals, while an organized strike is part and parcel of collective forms of consciousness that is utilized to change the situation which is unacceptable within the employment relationship (Gennard and Judge, 1997).

Strike pattern

There are three main indices that are used to assess strike activity (Beardwell and Holden, 1997).

1) number of stoppages
2) number of workers involved
3) number of working days lost

It is important to state that the statistics only measure the extent or magnitude of the strike rather than the effect of the strike activity.

Strike management approaches

One of the widely used approach to resolve disputes including strikes is the use of a Third Party (Christie and Madhuku, 1996). If the parties cannot resolve a dispute on their own, a third party can be called upon to help them determine the appropriate thing to do. Third parties are often used in both commercial and labour disputes. 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, 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 address the problems at stake (Christie and Madhuku, 1996). They can;

• offer breathing space to cool off excess heat.
• re-establish or enhance communication.
• refocus on substantive issues.
• remedy or repair strained relationships.
• recommitment to time limits.
• salvage the damage of stalled negotiations.
• Increase levels of negotiator satisfaction with and commitment to the conflicting resolution, process and its outcomes.

Disadvantages of third parties

Third party intervention may reveal the following

• Evidence of a failure of the negotiation process.
• Failure to cultivate or build relationships between the conflicting parties
• Possible loss of control by the parties to the issues at stake.

When is third party intervention necessary?

Ideally, negotiators must solve their problems on their own without the need for a third party. However, when one party suggests the need for third party intervention, both parties must agree if they cannot persuade each other. In some instances, however, interventions may be imposed by someone with power or authority over the negotiators when their failure to resolve the dispute threatens to spill over others outside the conflict. Under normal circumstances negotiators might seek third party involvement if they experience (Christie and Madhuku, 1996);
• 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 behaviours e.g. name-calling, use of abusive or hate language.
• 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
• Absence of a clear, common negotiation protocol or procedure.
• Difficulties to initiate negotiations or “bargaining through” an impasse.

Formal third party intervention methods

These refer to roles and activities that are intentionally designed as third parties in the traditional sense such as judges, labour arbitrators, divorce mediators to mention a few. Informal third party intervention methods (Uzhenyu, 2015) include:

(i) Conciliation

Conciliation can be defined as the first third party intervention strategy that helps the disputing parties 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.

Salamon (2002) also emphasizes that 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 – management and the labour union. The conciliator acts as a medium or a catalyst for the continuation of dialogue aimed at leading the parties to an agreement without interfering in the actual decision making.

(ii) 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 determination – the arbitrator like a pendulum that swings from one end to the other, hence the name Pendulum Arbitration, is required to make a decision wholly in favor of either party’s final position, be it employer’s final offer or the unions final claim. Any other solution in arbitration is not acceptable (Christie and Madhuku, 1996).

Arbitration is usually used in disputes between businesses and union-organized workers. In Zimbabwe, the Ministry of Labour offers arbitration services in both labour and commercial disputes. The Commercial Arbitration Centre in Harare trains arbitrators and offer arbitration services in both labour and commercial disputes.

(iii) 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 over outcomes and cannot resolve the dispute on their own or impose a solution (Christie and Madhuku, 1996). 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.

The above are some of the universally used methods to resolve an impasse between employer and workers including allowing the determination of the dispute whilst a strike can be called off. These are also useful in Zimbabwe and have been used to settle labour disputes as well as helping workers to call off the strike pending outcome of the negotiations or interventions.

**Legislation position on strike in Zimbabwe**

The following are critical to the legality and feasibility of a strike in Zimbabwe

**The Zimbabwe National Constitution (No. 20) of 2013**

Section 65 (3) of the Zimbabwe’s new constitution, states

‘…..except for members of the security services, every employee has the right to participate in collective job action, including the right to strike, sit in, withdraw their labour and to take other similar concerted action, but a law may restrict the exercise of this right in order to maintain essential services.”

The constitution states that there should be amendment of Section 104 of the Labour Act ‘Right to resort to collective job action” in order to streamline the procedures for declaring a strike by reducing the notice period. This should provide for a transparent democratic voting process by the workers to mandate a strike. The constitution also indicates the amendments of Sections 107, 109, 112 of the Labour Act 28 : 01 to remove excessive penalties in the case of an unlawful collective job action as a way to decriminalise collective job actions.

Although there is provision to strike as outlined above, the problem is that, there has not been much progress on aligning the Labour Act 28:01 with the new constitution.

**Absence of Collective Bargaining in the public sector/service.**

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 center of industrial relations, that is the Labour Amendment Act chapter 28; 01 number 5 of 2015, appears to be not adequately covering the Public service as it even prohibits civil servants from initiating any form of labor unrest (strike) as outlined in the Labour Act Chapter 28:014 PART X111 Section 104 (3) (a) (i) as they are classified under essential services.

The above shows that generally civil servants cannot engage in a strike in Zimbabwe.

**Official Secrets Act**

This is an Act, Chapter 11:09

- 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 defence works, fortifications, military reserves and other prohibited places.
- 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
- 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/her 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 (Code of conduct or Courts).

The above shows how difficult it is for government workers to share any information that might justify their need to strike.

**Access to Information and Protection of Privacy Act (AIPPA) of 2002**

The Act establishes a Statutory Media Commission, which requires all journalists to apply for a one-year renewable license to be allowed to work. Licenses will only be awarded if a stringent set of requirements are met, and can be revoked at any time for those who breach a planned code of conduct.

- Initially all journalists must be Zimbabwean citizens, which bars all foreign nationals from reporting in the country although the Act has been flexible at times.
- Foreign correspondents may be allowed to cover special events.
- It is an offence to “spread rumors or falsehoods that cause alarm and despondency under the guise of authentic reports”.
- Journalists are barred from publishing “unauthorized” reports of cabinet deliberations and policy advice by a head of a public body, as well as information that may be harmful to the law enforcement process and national security.
- Public bodies are also barred from releasing information that relates to intergovernmental relations or their financial or economic interests.

The above Act shows how difficult it is to cover a strike in Zimbabwe by journalists or the media and this means the general public might not be aware of workers who are on strike.

**The Public Order and Security Act (POSA) of 2002**

Constitutional lawyers have warned that the wide-ranging provisions of this Act - which give unprecedented powers to the police - are similar to apartheid-era security legislation in South Africa.

Punishment for breach of the Act ranges from the death penalty to jail terms to heavy fines.

The Act makes it illegal:
- “To undermine the authority of the president” or “engender hostility” towards him.
- To make abusive, obscene or false statements against the president.
- To disturb the peace, security and order of the public, which includes public gatherings “to conduct riots, disorder or intolerance”.
- To perform acts, utter words, distribute or display any writing, sign or other visible representation that is obscene, threatening, abusive, insulting or intended to provoke a breach of peace.
- The police are given powers to arrest anyone at a public meeting not in possession of an identity card.

Senior police officers will have powers to control and disperse public gatherings and crowds whenever they deem it reasonable to do so and that is a violation of their rights as enshrined in the new Constitution.

NB. It can be observed that it is difficult in Zimbabwe to have freedom to reveal any information related to government operations since one can be found on the wrong side of the law.

**ILO Commission of inquiry, Zimbabwe 2009** the Commission observed that the right to strike was not fully guaranteed in law or practice. In particular, the Commission was concerned that the legislation included disproportionate sanctions for the exercise of the right to strike and an excessively large definition of essential services, and that in
practice, the procedure for the declaration of strikes was problematic and that it appeared that the security forces often intervened in strikes in Zimbabwe. The Commission wished to confirm that the right to strike was a fundamental right to organize protected by ILO Convention No. 87.

ZCTU noted that the period of 14 days’ notice before going on strike in subsection (2) (a) was too long and proposed that it be reduced to 48 hours as provided for by the South African Labour Relations Act.

**Methodology**

**Approach**

Was purely of Qualitative paradigm because the researcher wanted to gain an understanding of underlying reasons, opinions, and motivations. It provided insights into the problem and helped to generate ideas.

**Design**

The Survey design was used because it is a method for collecting information or data as reported by individuals themselves (Kothari, 2014).

**Target population**

This was made up of Ministry of Public Service and Labour and Social Services & Ministry of Finance (Treasury department) officials, Employers Confederation of Zimbabwe (EMCOZ), Civil Service Commission, Zimbabwe Congress of Trade Unions (ZCTU), Zimbabwe Federation of Trade Unions (ZFTU), Civic organization (Human rights organization), Apex Council & Staff associations officials/representatives, Labour experts.

**Sample size and sampling technique**

Eighteen (18) subjects using the non-random quota sampling technique were involved. Quota sampling was done to accommodate the different groups mentioned above for representativeness. The number was based on data saturation technique where the interviewer/researcher felt that there was no need to interview an additional member of a particular group as almost or the information had been ‘exhausted’.

**Research instruments**

Used an unstructured interview guide that allowed free expression of views since the approach was entirely qualitative (Choga and Njaya, 2011).

**Data presentation and analysis**

Results were analyzed using the Content analysis method, involving categorization of data, classification, summarisation and coding (Creswell, 2003).

**Findings**

The study established the following findings. These have been summarised as follows.

**Lack of provision to strike**

A strike was not recognized by most labour laws despite having provisions for it in the National constitution but not for those in the military service.
Essential services

According to the Labour Act 28:01 (Amended 2015), no one classified as proving essential services could strike. This means that all government workers (civil servants) cannot embark on a strike.

Tedious procedures before granting permission to strike

From the participants, the following were the major procedures that should be followed but had their on obstacles again;

- The Workers committee or Trade union should get consent of at least 50% of its members (constituency) who should append their signatures to commit themselves and demonstrate that they are in unison or agreement. A list of members who attended that meeting should be attached to the minutes of the meeting which resolved to embark on industrial action if their grievances were not urgently addressed.

- Writing a letter of intent which should be given to the employer notifying management about the intention to conduct an industrial action (strike). Usually a grace period of 14 days is given for management to address the grievance(s). A copy of the letter can also be copied to the trade union and the relevant national employment council.

- A letter with justification to go on industrial action known as show cause order is normally issued by the Labour relations officer who intervenes should the strike commence or about to commence so that he/she facilitates dialogue/negotiation(s) to take place.

- Notification of impending strike to the police (application letter) to get clearance which is normally difficult to be granted as that could be viewed as a threat to stability and security.

- If impasse continues even after intervention of senior labour relations officer and workers decide to take further industrial action (strike), the Minister Of Public Service, Labour and Social Services can issue a disposal order to call off the strike especially if he or she feels that the service being disrupted constitute an essential service or may contribute to economy ‘malaise’.

- In the event that the strike is likely to paralyse major service areas and even the national economy, the State president could invoke his Emergency (temporary) powers to restore parity (stability). This calls for the state security and the police (Zimbabwe Republic Police) to implement provisions of AIPPA and POSA which are acts (legislation) that prohibit unnecessary gatherings and information sharing that is viewed as; threat to national peace and security or related to economic sabotage motive.

- Use of forced arbitration (e.g. use of the 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 a year before finalisation owing to serious backlog of pending labour cases worsened by shortage of judges and prosecutors etc.

Few cases granted permission to strike

The study noted that it was only on few occasions (cases) that permission to embark on an industrial action (strike) can be granted/given especially under the following cases;

- Where workers strike against threat to health and safety at the workplace. This is where there is high risk of exposure to accidents, hazardous working conditions or threat to loss of human life

- When showing solidarity such as women demonstrating against sexual harassment or abuse
What do pieces of legislation in Zimbabwe say with regard to go on strike?

Apart from the National Constitution which has provision for strike, the other laws have unclear provisions on whether strike is really allowed and for civil servants they should not engage in a strike as they provide essential services. These laws have not yet been synchronized with the National constitution. Even the new Labour Amendment Act 28:01 is still unclear as the Minister Of Public Service, Labour and Social Services still has the power to call off a strike (disposal order) if he/she feels the organization whose workers intend to go on strike, provides essential services.

What procedures should workers follow to embark on a strike in Zimbabwe?

The study was able to establish that there were a lot of prohibitive procedures for employees to embark/engage in a strike. Majority of the procedures were obstacles and difficult to accomplish. For civil servants it was almost impossible as they are classified under the category of essential services providers.

What are the problems facing workers to embark on strike in Zimbabwe?

The diverse range of challenges included;
(i) Bureaucratic structures that make the process of embarking on a strike tedious and killing the zeal or momentum of aggrieved workers.
(ii) Threat of losing employment as not much was done to protect the workers in the event that they went on strike and faced disciplinary hearings or action.
(iii) Minister of Labor's veto powers to call off the strike (disposal order) and his/her discretion to classify any trade or profession as providing essential services which makes it virtually difficult to embark on industrial action (strike)
(iv) Usually loss of pay for the number of days that the workers are on strike.
(v) Use of draconian laws such as AIPPA and POSA which can lead to incarceration (being jailed).
(vii) Industrial action viewed as political at times by the ruling government and seen as a means to sabotage the national economy.
(viii) Noncompliance by the government on observation of International Labour Organisation (ILO) Conventions especially those promoting workers’ rights to organize e.g. a strike.

Draconian laws

The AIPPA, POSA and Temporary presidential powers were seen by workers and human rights activists as draconian laws meant to kill workers’ rights in a democratic society.

Too much ministerial powers

The Labour Act 28:01 and the Public service Act gave too much power to the Minister of Labour, Public service and Social welfare who can unilaterally call off a strike by issuing a disposal order.

Conclusions

These were made in light of the Research questions or sub-problems raised on Section III as suggested by Kennedy (2009)

- racial discrimination especially if practised usually by white management/leadership of an organisation or industry
- demonstration against child labour etc.
From the above it can be concluded that it is very difficult to strike in Zimbabwe as evidenced mainly by the long period that the aggrieved workers have to wait before complying with the procedures, the Minister Of Public Service, Labour and Social Services is given too much powers including his/her prerogative to calling off a strike, the civil servants are not allowed at all and the use of repressive force by the police to deal with strikes as provided for by the laws like AIPPA and POSA.

**Recommendations**

The study recommended the following as means to allow workers their democratic right to lawfully strike.

**Alignment of labour laws to the National constitution**

There is need to realign various legislations as they were not in harmony at the moment. The Amended Labour Act and the Public Service Act should be harmonised on issues critical to freedom of expression so that they are in tandem or synchronised with the National Constitution of 2013 which has provision for freedom of expression, strikes included where justified except for the military and security related professions.

**Implementing ILO provisions in line with best practices**

Implementation of ILO Conventions such as No. 87 and 98 which allows the right to organise, in line with global best practices since Zimbabwe is a ‘bona fide’ member of ILO.

**No victimisation of strike leaders or union elected members**

Removal of fear for victimisation of leaders by protecting them if there was consent by at least 50% of the workers including full pay for days lost due to industrial action if fundamental rights of workers have been violated by the employer who will then have acted in bad faith.

**Streamlining the Minister of Labour powers**

Streamlining the Minister Of Public Service, Labour and Social Services powers should be effected to allow broader consultation among all key stakeholders and not for him/her to just issue a disposal order or classify a service as he or she deems as essential without debate or scrutinising the issues behind a strike.

**Removal of AIPPA and POSA**

The two legislations should not apply to workers who want or are on strike due to their grievances not being addressed by the employer(s). Use of brutal force by the police to repel a strike should be condemned and in order to create a democratic atmosphere rather than a confrontational and repressive approach.

**References**


ILO Convention number 144 (Tripartite Consultancy (1976)) ILO, Geneva.

International Labour Organisation (ILO) Convention 87, Geneva on right to strike


