

INTRODUCTION

Almost all Southern African countries are post-colonial rule. A slight positive change is noted mainly in the progression of black people taking leadership positions in workplaces. Little has changed when it comes to conditions of employment, human and worker rights issues. Of note is that workers are now free to organize and part of collective bargaining units. Most countries have ratified a number of ILO Conventions, domesticated them but don't comply with them.

In sub-Saharan Africa employment by sector is quite different to most developed and middle income countries. There are quite dramatic differences between countries and how precarious work is experienced. If you compare the labour market within Southern Africa, there are both differences and similarities in the nature and form of precarious work. Whilst a regional approach is critical this needs to be supplemented with national approaches that identify particular issues and experiences of precarious work in a particular country.

The ailing economy is a major contributor to unfriendly working conditions in Southern Africa. Precarious work is not isolated from other socio economic issues and struggles in the sub region.

Due to the decrease in new job opportunities, the unemployment rate is high in most countries. Employment opportunities are scarce compared to the rising population. This promotes among others;

- Contractual employment
- Casual employment
- Temporal employment
- Low wages
- Poor working conditions
- Retrenchments

A lot of workers are being retrenched and salaries are eroded. The reduction of the salaried work force in the formal sector, both public and private, is depriving trade unions of some of their membership basis, and has thus reduced the membership levels.

Studies have shown that privatization does not reduce poverty, nor does it contribute to improvement of the employment situation and economic growth.

Most trade unions in Southern Africa enjoy a legal framework that guarantees them full exercise of union rights although in practice they are still faced with numerous obstacles due to the application of the law and to the inefficient monitoring of labour legislation implementation.

Most trade unions face organizational problems due to the reduction of their social base and dropping membership rates, the lack of specialists to advise on union matters, the lack of resources to develop their activities and to maintain the democratic functioning of the unions, and their image among workers. The current trend is to reduce the number of union structures and the number of full-time staff, and to multi-skill existing staff to ensure more pro-active and flexible work practices.

Bargaining Rights

Notably, governments are the most actors in wage determination in most countries of late. Unions have been turned into beggars than bargainers. Workers are made to shoulder and forcefully understand the declining economic situation caused by unnecessary and selfish government expenditures, which only benefits the ruling elite. When all is well economically, workers are not invited to the party but once the opposite strikes, workers are then expected to be understanding and patriotic.

As much as collective agreements exist in most of the Southern African countries, the public employer has not totally abandoned the unilateralism in labour relations. This is evident when government decides to privatize departments. Unions are only invited to negotiate for the exit benefits of workers.

Some Public Sector union like the SNAFP in Mozambique still faces the challenge of proper and meaningful recognition by the state. The right of association is not applicable. The process of transforming the union has taken lower than anticipated.

The issue of existence of recognition agreement affects the organization even in the collection of member subscriptions of late notable is that the considered

democratic governments in the region are showing signs of reviving suppression tendencies to bring strict and unworker friendly policies, like stopping public services workers from saying or rebuking any among doing by governments of the day.

Corruption undermines the system of good governance. Corruption is a very endemic problem which is seriously undermining progress, development, democracy, economic growth and the provisioning of basic services in many Southern African States. It has become the norm and part of our culture and way of life in the workplace, business and government. Even labour organizations are not immune to such.

According to the UNDP, the typical features of system prone to corruption are; concentration of powers in the executive coupled with non-existent checks and balances, poor transparency surrounding executive decisions combined with restricted access to information, elaborate regulatory systems allowing for discretionary decision making, weak enforcement systems and soft social control systems/high tolerance for corrupt activities. These features are available

Confronted by these challenges, the union movement should embark on a strong growth drive and increase the capacity to restore fair labour practices and to influence the government's policies in the fields of socio-economic development, salaries, employment, training, and health and safety.

SITUATION IN SWAZILAND

1. POLITICAL SYNOPSIS

Swaziland has been under an Executive Monarchical dictatorship since the year 1973 to date, thus the new name of the government system adopted in 2013 "MORNACHIAL DEMOCRACY". The colonialists gave us independence in

1968 and this lasted for only 5 years. In 1973, the monarchy staged a coup against the people of Swaziland and introduced the infamous Kings Proclamation of 1973 where he assumed all executive, legislative and judicial authority and further went on to ban political parties.

The situation has not changed even though the country is ruled under a constitutional dispensation. The country still has political prisoners, others are out under stringent bail conditions and their cases have not been heard for close to ten years. These include Thulani Maseko (a human rights lawyer) together with Bheki Makhubu (a journalist) who was sentenced to 2 years without an option of a fine under a guise of contempt of court. The People's United Democratic Movement [PUDEMO] President, Mario Masuku and Swaziland National Union of Students [SNUS] President, Maxwell Dlamini were both arrested for addressing workers during 2014 May Day celebration. They were charged under the controversial and draconian Suppression of Terrorism Act but have since been released following the ILO recommendations.

The country also lost its eligibility to the African Growth and Opportunity Act (AGOA) status due to the inability to meet the required benchmarks. The five benchmarks as set out by ILO and deliberately ignored by government are;

- 1) Amendment of the Industrial Relations Act, to allow for the registration of federations.
- 2) Amendment of the Industrial Relations Act, to ensure that criminal and civil liabilities do not impair the right to freedom of association.
- 3) Finalization of the Code of Good Conduct on protest and industrial action.
- 4) Amendment of the Suppression of Terrorism Act.
- 5) Review of the Public Order Act 1963.

The country has just recovered from a judicial crisis where the courts were not functioning for a period of three months following a lawyers' boycott of the courts pursuant to certain malpractices by the Chief Justice, the Judicial Service Commission and the institution of the Monarchy.

In this year's Geneva ILO convention the resolution to the country's oppression of workers and human rights was to have the country on special paragraph.

Other resolutions were;

1. Free all political prisoners

2. Ensure freedom of association rights in relation to the registration issue.
3. Amend section 32 of the IRA (eliminate commissioner's discretion to register trade unions).
4. Ensure autonomy and independence of organizations (government to refrain from acts of interference).
5. Investigate interference by police in lawful, peaceful and legitimate union activities and hold those responsible accountable.
6. Amend the public order act and suppression of terrorism act in consultation with partners.
7. Adopt the code of conduct practice and ensure effective application.
8. Address outstanding issues in relation to the Public Service Bill and Correctional Services Bill in consultation with social partners.

2. HUMAN AND TRADE UNION RIGHTS VIOLATION

The government as a major employer continues to violate human and workers rights. Union members have been threatened by the employer during bargaining meetings that they should refrain from making political statements in any forum and to be seen associated with political formations. This is viewed by unions as a threat which the employer can enforce at anytime because of the public service bill that has been drafted.

The public service bill is one of the bills that would be discussed in 2015's parliament business. This bill seeks to deprive public sector workers the right to freedom of association and expression. The two PSI affiliates in the country through the assistance of PSI have engaged other public sector unions with a view to make them aware about the negative impact of the bill. The two affiliates are in the process of engaging all stakeholders concerned to make the bill worker friendly.

Swaziland has come out to say that the country is against labour brokers as they exploit workers, the power to organize is taken away and they are also deprived of bargaining power.

In March 2012, there was a launching and registering of Swaziland's first ever labour Centre, TUCOSWA, which was a merger of the then two labour federations (Swaziland Federation of Trade Unions and Swaziland Federation of Labour). The registration only lasted for few weeks as it was deregistered by the government because of a resolution to not to take part in the country's 2013 national elections. Ever since the federation was formed, all may day celebrations were disrupted by police. The federation's banners and fliers were also confiscated by same.

The re-registration of TUCOSWA took place in May 2015 a few weeks before the ILO convention. A new federation has mushroomed with the help of the government. The purpose of having this organization is to divide the workers in the country and destabilize TUCOSWA.

Public Order Act

Freedom of association and engaging on industrial actions is at the liberty of security forces. Union activities are brutally disrupted by security officers in the name of restoring order. They use the Public Order Act, which is said to be in the interest of public safety.

3. COLLECTIVE BARGAINING ISSUES

Public sector unions continue to have negotiations with the employer though they are not treated as equal partners with the employer's representatives. The Joint Negotiation Forum (JNF) is not neutral. This is caused by the fact that the chairperson is the Secretary to Cabinet and is in principle part of the government negotiations team. The secretariat is staff from the Ministry of Public Service with the head of secretariat being part of the government negotiating team, which renders the forum not fairly constituted and it is biased by its nature.

A collective agreement on salary review was signed by the employer and unions. The last salary review was implemented in 2004 yet it has to happen

every after 5 years. The unions are experiencing a hostile situation in the bargaining chambers. Government is refusing to implement the salary review report, and only insist on cost of living adjustments talks. A dispute has been reported by the unions to the Conciliation Mediation and Arbitration Commission (CMAC).

Other Public Services Institutions are regulated by the Public Enterprises Act, 1989 which empowers the minister responsible to make approval of any negotiated settlement i.e. merger which is usually lower than the inflation rate.

Other challenges faced by public sector unions

- They are assumed to be highly political and government regards the unions as opposition. This is due to the fact that political parties are banned in the country.
- The justice system as it stands now is not worker friendly. The judiciary is not independent as it is influenced from other quarters. Union cases are usually not allocated dates.
- Privatization of services is rife in Swaziland thus leaving employees jobless while on the one hand enriching tenderpreneurs at the expense of workers. This cripples union in terms of membership
- High rate of victimization and unlawful dismissals.
- The employer is suppressing workers' rights, which increases the number of employees' disputes and cases. This leads to the increase in budget of legal fees.
- Most government departments are understaffed.
- Government is supporting splinter unions formed within existing public sector unions in a bid to neutralize and control workers in the country, thus weakening the bargaining power unions have.

Conclusion

The issue of trade union rights, organizing and respect for the rule of law in Swaziland remains a challenge and a concerted effort is required to address the challenges.