

# Zimbabwean unions

## *from state partners to outcasts*

Zimbabwean workers face new challenges as the government de-regulates the labour scene, but still does not give unions an effective right to strike.

In this article, PETE RICHER\* argues that the latest reforms will further marginalise unions.

**U**nions in Zimbabwe face an increasingly bleak struggle as Zimbabwe's Economic Structural Adjustment Programme (ESAP) and related labour reforms further marginalise and weaken them.

ESAP's major focus has been the restructuring of Zimbabwe industry and the deregulation of the economy. The most marked features of this programme to date have been rising inflation and widespread retrenchments, further fuelled by devastating drought.

While the Zimbabwean working class suffers under this double assault (ie inflation and retrenchments) the union movement is virtually unable to offer any defence. The reason lies both in the high levels of state regulation over the past ten years and in the nature of the reform of those regulations.

Zimbabwe, both before and after independence, has never had a high level of free collective bargaining nor an open

industrial relations system. The years before independence in 1980 were marked by strict influx controls, the exclusion of agricultural and domestic labour from labour legislation, repression of unions and the criminalisation of strike action. After independence, industrial relations became highly state regulated as the state began to claim exclusive representation of 'national interest'.

### **Patronage, expectations and control**

At independence in 1980 workers expected a rapid change in their standard of living. When these high expectations were not immediately satisfied a wave of strikes occurred and Government ministers called for discipline.

The trade union movement was also caught off guard and found itself in a dilemma - encourage the strikes in order to gain worker support, or discourage them and remain in favour with its new patrons in government?

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Political rivalry between the liberation movements, rivalry for state patronage and diverse tactical positions on how to respond to the strike wave led to a flourishing of splinter unions.

In response, government began to impose severe restrictions on the right to strike and to organise. These were balanced by equally severe restrictions on the employers regarding the setting of wages, dismissals and retrenchments. The Labour Relations Act (LRA) in 1985 gave the Minister of Labour wide powers to determine wage levels, determine what was or was not an unfair labour practice, register or deregister any trade union, approve or disapprove of any dismissal, determine the level of union dues, allow or disallow industrial action, etc.

Initially the trade union movement did not object to these restrictions as they also guaranteed certain legal rights for workers and trade unions which had not existed before. By 1989, however, it had become clear to the union movement that the actual implementation of the LRA was severely impeding their ability to protect workers' rights and further worker interests. The provisions of the state of emergency, which up to 1989 had been mainly used against 'dissident' elements of ZAPU and against South African destabilisation efforts, were being increasingly used against workers, particularly workers in the state sector.

The control of the unions was a function of the rigid state control of the entire relationship between labour and capital in Zimbabwe. By tightly controlling the process of collective bargaining, wage setting, termination of employment and registration of trade unions the Government strongly curtailed and limited the growth of an already weak union movement.

The main government mechanisms, applied through a combination of benefits and ministerial dictates, have been:

1 Usurping the union role by having the state determine wage levels, issues of termination of employment and defending individual worker rights.

2 Restricting union development through strict registration procedures and the legislative requirement of 'one union per industry'.

3 Encouraging the formation of 'worker's committees' divorced from the unions and acting as a counter-weight to them.

4 Prohibiting the right to strike.

### **Workers' committees**

Since Independence the Zimbabwean Government has encouraged the development of workers' committees at every workplace. These committees are legally, and in most cases factually, independent of the trade unions. They may bargain with management on a wide range of plant level matters, but may not combine to bargain at industry level.

Independence from the unions and formal recognition of workers' committees by both management and state officials has resulted in a virtual absence of a shopsteward structure in Zimbabwe. As a result unions have tended to organise on a geographic branch basis without any officially recognised shop floor representation. Although in many instances the unions and workers' committees work closely together, they are not bound to do so and management has frequently been able to drive a wedge between the two structures.

### **Problems for the unions**

Although the right of unions to exist is guaranteed in the Zimbabwean constitution this right is effectively only exercised within very strict confines laid down in the LRA.

The principle of 'one union per industry' is enshrined in legislation. This makes it virtually impossible for another union to be formed in an industry where a union is already registered and makes the already registered unions unchallengeable for all time.

Since 1990 the Minister of Labour began to modify the state approach to this question of 'one union per industry'. Moves were made to allow the registration of additional unions on the national railways. These seemed designed to engender splits in the largest unions in the country as a tactical means of weakening the unions. The government wanted weak unions



*Zimbabwe riot police deployed to deal with railway strikers in Bulawayo in January this year*

*Photo: Bulawayo Chronicle*

in anticipation of popular discontent arising from its economic structural adjustment programme begun in 1990.

Confusingly, both the initial legal entrenchment of a sound union principle (one industry, one union), and its subsequent relaxation were justified as being in the interests of the union movement. However both approaches were grounded in the state wanting to retain authority over unions.

A further problem is that in order to have any effective legal persona and be party to collective bargaining agreements unions must be registered. Such registration requires that the union constitution, structure, finances and office bearers are satisfactory to government.

To have full state and employer recognition a union must be both registered and certified. The latter process effectively means that the union must have satisfied the state during a probationary period following registration. While the registration process was largely unobjectionable, the subsequent certification period seemed designed merely to keep unions in check.

Zimbabwe has just over 30 registered trade unions with a total membership of approximately 163 000. With a formal sector workforce of just over 1,1 million this gives Zimbabwe a union density of approximately 15%. However, this figure is also misleading in that the densities are heavily weighted in favour of industries such as mining (about 50%) and transport (about 45%) and away from agriculture (about 4%) and domestic employment (about 8%).

In theory strike action or other forms of

collective job action are permitted in Zimbabwe in terms both of the constitution and of the Labour Relations Act. In reality no legal strike action can take place.

The outlawing of strikes has been achieved either through extraordinary powers conferred in terms of Zimbabwe's 25 year long state of emergency, which only ended in June 1990, or through the actual application of the LRA. In the case of the Act, the laid down procedure is so cumbersome and administered in such a manner that legal strikes are merely a theoretical possibility and not a practical reality.

Workers wishing to take strike action must (usually through their respective union) give 14 days notice of their intention to strike. Within that period an official from the Department of Labour Relations serves the workers or their representatives with a "show cause order". This requires them to appear before an official of that Department and give good reasons why they should be allowed to go ahead with the strike.

The manner in which this process of "showing cause" is interpreted, is the real stumbling block to legal strike action. For example, after hearing the workers case for the "cause" of the intended strike the official determines whether the employer has breached any legal right - and if so sets it right by administrative order, thus removing the need for strike action. If no right is deemed to have been breached then the officer will order the strike not to take place through a "disposal order".

To date no legal strikes have occurred in independent Zimbabwe, and few attempts have

been made to appeal against strike "disposal orders". Strikes which do occur are wildcat strikes, without union sanction, and often with open union opposition.

Between 1988 and 1990 the state of emergency was increasingly invoked to make strikes in essential services illegal. The definition of essential service was, of course, left to ministerial decree and covered almost every sector of the economy from transport to teaching and from food production to the public service.

### **Job security and retrenchment**

Job security has been promoted in Zimbabwe through very strict legal controls. Until 1990 the law allowed only three methods for the termination of contracts of employment, namely:

- a) by mutual consent of both parties (ie the employer and the worker);
- b) by expiry of the contract where the contract is specifically of fixed duration or for the performance of a fixed task;
- c) by written authority of the Minister of Labour or a specified ministry official.

In terms of the regulations, dismissable offenses were clearly defined and generally followed the standards set by the ILO. In the case of retrenchments, permission was directly required from the Minister of Labour.

These regulations were modified in 1990 to enable employers and worker representatives (not necessarily unions) to develop employment codes entitling employers to decide on termination of employment, and even retrenchments. The new regulations make no mention of unions having any rights in this process - the emphasis is placed on 'workers committees' as the representatives of labour.

### **ESAP and labour reform**

The reform of labour legislation in Zimbabwe, a component of ESAP, has focused on a shift from state regulation to so-called 'self-regulation'. The main features of the new system are that firms, or even industries, may opt out of the state regulation system by adopting a negotiated 'employment code'.

While, theoretically, the employment code may be negotiated at industry level the new regulations have placed the focus of the new system on the Works Council (a plant-based negotiating body comprising management and the workers' committee).

Once an employment code is agreed to at Works Council level (and vetted by the Ministry of Labour) then all issues of dismissal, retrenchment, conduct and discipline may be determined at plant level without further reference to the Ministry of Labour, as was required previously.

In addition, all former restrictions placed on collective bargaining by the state have been removed. The newly reformed system has been presented as a move to a system of 'free collective bargaining'. However, the failure to reform the restrictions on strike action and the greater emphasis on workers' committees, as the foundation of worker representation, has tilted the reforms firmly in favour of employers.

### **Marginalising Zimbabwe's unions**

The effect of these reforms is clearly to marginalise Zimbabwe's union movement by freeing the hand of employers, encouraging the splintering of the unions and by placing additional focus on plant-based workers' committees.

However, while the state's intent may be to marginalise unions, and the current economic decline may also weaken them, the new labour reforms offer Zimbabwe's unions the opportunity for a new beginning. Once the links of state patronage - the major factor in union paralysis - are severed, the unions will be forced to forge fresh links with workers on the shopfloor, develop dynamic relations with workers' committees, and build industrial unions rather than have them legislated into existence.

Unencumbered by their links to state and party, the unions now have the opportunity to become real defenders of worker interests within a less rigid legal framework. Clearly the reforms are double-edged. The challenge for the unions will be to seize the edge of opportunity, rather than be cut down by the edge of state manipulation. ☆