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CONSULTANCY REPORTS

ZIMBABWE INSTITUTE OF DEVELOPMENT STUDIES

**The Protection of
Security of Employment:
The Zimbabwe Experience**

L.M. Sachikonye

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P.O. Box 880 HARARE

CONSULTANCY REPORT

Number 14

THE PROTECTION OF SECURITY OF
EMPLOYMENT: THE ZIMBABWE EXPERIENCE

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L. M. Sachikonye

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HARARE, 1990

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PREFACE

This study was originally prepared as a Consultancy Paper under the auspices of the International Labour Organization (ILO)/Norway Programme for the Promotion of Collective Bargaining and the Protection of Security of Employment in **Ten African Countries**. It was presented as a Zimbabwe Case-Study at a National Seminar **organized** jointly by the ILO and the Zimbabwe Government in Harare in January 1985.

I am grateful to a number of colleagues and seminar participants who commented **on the** original version of the paper. I particularly wish to thank Fanuel Nangati, **A. Rukobo, E. Jassat** for their invaluable comments and encouragement during the writing of **the** paper. The study itself was sponsored by the **ILO**. I am, of course, solely responsible for **any** shortcomings of the study.

LMS

January 1985

INTRODUCTION

This paper is a contribution to the important discussion and analysis of the crucial question of security of employment and its safeguards in contemporary Zimbabwe. In the first part, the framework of the ensuing discussion and analysis is set out; the latter parts focus on the Zimbabwean experience with regard to the underlying causes and effects of dismissals and retrenchments. Government legislation pertaining to job security and procedural issues surrounding dismissals, retrenchment and reinstatement of workers are then examined at some length in relation to problems arising from its implementation. Specific experiences in this respect in mining, manufacturing and agricultural industries are discussed. In the concluding remarks, the critical importance of safeguarding employment security particularly in a society which espouses a socialist orientation is reiterated.

THE FRAMEWORK OF THE DISCUSSION

Relations between employers, workers and governments vary in their content and orientation in different social and political systems. So does the degree of freedoms and latitude which each of these parties possesses in industrial relations. In capitalist systems, governments tend to intervene in the economy and therefore in industrial relations to a lesser degree than in the other social systems. Private enterprise is extolled and granted a greater amount of latitude both in its productive operations and labour relations. In periods of industrial boom the private sector can hire workers and during phases of depression can fire them in accordance with its priorities invariably geared towards profit calculations.

Fundamentally, capitalist systems tend to breed and sustain large reserves of labour in the rural peasant sector and in the lumpen and informal sector of the cities. This is particularly the case with unskilled labour. In boom periods, the capitalists draw from this pool. In a recession, they shed off this labour which refills that pool again. This is a continuous process because capitalism as a system is not a crisis-free system : it develops through accumulation and undergoes depression and recession. There is no capitalism that does not experience these economic ups and downs. But it is often the workers who get fired first thus bearing the brunt of the inherent crisis in capitalism. With the exception of those capitalist societies which possess social welfare systems which cushion retrenched and unemployed workers from naked poverty, workers are left out in the cold to fend for themselves in hard economic times.

In socialism, there exists an awareness of, and revulsion against, the anarchic tendencies of capitalism, to expand and contract, to over-produce and to create scarcities which all affect workers in one way or the other. One of the terrible effects of the capitalist system during recession are the casualties it creates amongst workers. While the workers suffer, the capitalists hardly experience the same amount of suffering and humiliation which result from loss of work. In socialist systems, it is the workers, often with the active assistance or co-operation of the state, who control and manage their firms. The public enterprises, therefore, differ from private enterprises in a qualitative sense : the former are socially owned and inevitably put workers' interests at the forefront. Their social constituency in terms of democratic workers' participation in the control and management of the firms makes them more responsive to workers' concerns and interests. Even if socialist systems are not immune to the effects of the crisis of capitalist cycles of booms and recessions, they

do not fire workers as a response to economic depression. In other words, workers are not merely objects of profit alone : who get the sack once profitability and markets shrink during recessions. In this system, the state reflects the preponderance of working class representation and interests; its intervention in the economy and industrial relations is largely on behalf of this class.

This is a necessarily brief and impressionistic sketch of the different conditions in which the worker finds himself under capitalism and socialism. It is, however, necessary to have this sketch in mind if the discussion on job security should not remain on an abstract plane. The theoretical framework of our discussion has been made explicit, even if briefly, as we have attempted to do here. It would follow therefore that a meaningful discussion of the issues pertaining to the protection of job security in Zimbabwe would have to take as its point of departure the observation that its economy and society are capitalist but in transition to increased state and workers' participation in the control and management of economic enterprises. Whether that transition and in particular those envisaged forms of participation will lead to socialism is a fundamental question which we cannot pursue here. What we wish to underline is that some of the contradictions that are inherent in capitalism can be identified in the problems of capitalism here, in industrial relations and barriers against meaningful state and workers' control and management of economic enterprises.

THE ZIMBABWE EXPERIENCE

Post-Independence History

In discussing the issue of whether the problems of dismissals and retrenchments is deemed a social issue it is apposite to recall that prior to Independence this problem did not possess the social and political dimensions which it has done since 1980. Up to Independence, state intervention in matters pertaining to dismissals and retrenchments was largely coercive. State intervention tended to be confined to the enforcement of such repressive labour legislation as the *Masters and Servants Act* and the *Industrial Conciliation Act*. It often assumed the tactics of deployment of police squads to quell strikes and workers' demonstrations. The ideological basis of the *non-intervention* of the state in the relation? between employer and employee on matters of dismissal and retrenchment and political victimization arose from its consistent tacit support of the class of employers in this country. Thus, the ideological and political framework of the policies of the colonial regime facilitated a laissez-faire approach by employers to industrial relations, in particular to dismissals and retrenchment in periods of economic recession. These problems were not placed on the national agenda as critical social and political issues for resolution.

Why then did these problems emerge as some of the dominant issues in industrial relations at Independence? It may be recalled that the upsurge of industrial strikes by workers in 1980 was unparalleled in the country's recent history. As *The Herald* reflected :

The recent series of strikes throughout the country were certainly the most disruptive &*roe 1964 - probably the worst in the country's industrial history. Up to the end of March, the month when most strikes took place in 1980, a total of 33 637 man-days in production has been lost.'

1 *The Herald*, 17th April 1980.

As we have observed in another study, most of the strikes in March, April and May in 1980 tended to be both contagious and spontaneous and were mostly unanimous on the objectives of increased pay and better working conditions. The demands for the dismissals of abusive managers and supervisory staff and the reinstatement of dismissed militant workers and questions of access to, and conditions relating to, pension schemes. There was a deep and widespread dissatisfaction with the existing wage structure, general working conditions and cumbersome industrial conciliation procedures. There existed revulsion against most aspects of legislation on industrial relations; such legal pieces as the *Masters and Servants Act*, the *Industrial Conciliation Act*, the *African Juvenile Employment Act*, the *African Labour Regulation Act* and the *Foreign Migratory Act* were viewed as an affront to the dignity of the workers. Even weeks before the formal transfer of power to the new Government in April 1980, the country shook from massive withdrawals of labour. At the same time, the upsurge in the strikes revealed the obsolescence of pre-capitalist machinery of the conciliation of labour disputes.

It was against this background of industrial conflict that the post-independence State intervened more directly in a significant way to defuse the situation to stabilize industrial relations. One of its initial responses was the legislation on minimum wages for workers in the different sectors of the economy. The minimum wage legislation was a significant landmark in the history of industrial relations especially in that it set an important precedent in State intervention in wage setting for the low-income categories of workers in particular. There was therefore widespread resistance by the bourgeoisie whose response was the retrenchment of workers just before the Bill on minimum wages became law in July 1980. It even became necessary for the then Minister of Labour to appeal to employers to desist from dismissing workers; and when the appeal fell on deaf ears, he had to warn them to expect "the severest penalties" which amounted to a maximum of \$1 000 fine plus three

^/-months' hard labour. -

The problem of dismissals and retrenchment had now, at least, assumed national dimensions both socially and politically. It is appropriate at this point in our discussion to refer to specific examples of mass retrenchments to illustrate our contention that the bourgeoisie attempted to circumvent or nullify minimum wage legislation. In an appeal for sobriety on the part of the bourgeoisie, The Herald editorialized that:

Zimbabwe already faces a critical unemployment problem and no one with the interests of the nation at heart wished to see that position worsened. There should be sympathy for the appeal by Minister Kangai for employers not to retrench workers.

Press reports in June and July 1980 were nevertheless replete with references to workers retrenched as a consequence of the increased wages as legislated in the Minimum Wages Act, 1980. The Sunday Mail reported that

Thousands of workers were sacked before the Minimum Wages Bill became law last week. Workers throughout the country have been swarming into ZANTU (PF) Patriotic Front offices to complain bitterly. More than 5 000 are "alleged to have joined in Salisbury. Even small towns are reporting more than 100 redundancies. The worst hit are farm-workers, and domestic workers but the sackings have also swept through commerce and industry

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- 2 Sachikonye, L.M. "State, Capital and Trade Unions Since Independence." (ZIDS, October 1984)
- 3 The Herald, 4th June 1980)
- 4 The Sunday Mail, 6th July 1980.

The Minister of Labour observed too that thousands of domestics, farm and industrial workers had been sacked since the beginning of June due to the forthcoming introduction of minimum wages. Bosses who had sacked their workers were considered "hostile and unfriendly" to the State and Country, the Minister said.

There were further reports that some farm-workers who had been laid off had been retrenched because the farmers were allegedly going out of business and that several other farmers producing such labour-intensive crops as cotton and tobacco were considering switching to such crops as maize which would make even more workers redundant.⁵ A Member of Parliament reported that three industrial firms and four mines in the Que Que area had sacked a considerable number of workers since the introduction of the Minimum Wages Act. Minister Shamuyarira expressed his disappointment over the high number of dismissals, ill-treatment and removal of workers' benefits in the Karoi and Sinoia areas because of the advent of minimum wages but more precisely due to the fact that farmers intended to continue reaping huge profits while denying the workers who worked so hard for them their equitable wages.⁶ Another report referred to Gatooma's ZANU (PF) office having to deal with "a minor flood of fired farm-workers allegedly sacked because of the introduction of minimum wages. More than 200 had come to the ZANU (PF) office to put a case for them to their former employers for reinstatement or direct aid in terms of money, food, clothing and blankets."⁷ The Zimbabwe Congress of Trade Unions (ZCTU) announced that 4 000 domestics and hundreds of farm-workers had been laid off because of the minimum wage ruling. In its view this was an alarming trend.

These examples of mass retrenchment were illustrative of social and political implications which the State, trade unions and the employers could not afford to ignore. The observation might be made that the promulgation of minimum wages for the workers in the lowest income brackets triggered off one of the most massive waves of retrenchment which this country had ever experienced. Retrenchment was a response signifying bourgeois resistance to State intervention in the realm of income and wage policy. It was also possibly a reflection of some firms' inability to retain a large workforce any longer as abysmally cheap as it had been prior to the *Minimum Wages Act*.

The introduction of minimum wages was not, however, the only cause of dismissals at independence : strikes often resulted in the victimization of their ring-leaders through dismissal. At Swift Transport Services in Harare, 94 workers including eight members of the workers' committee were dismissed following a strike by 800 workers for higher wages. Indeed, a large proportion of the strikes in 1980 and 1981 centred around demands to employers to reinstate dismissed workers, members of the workers' committee or trade union involved in labour disputes. With regard to Zimbabwe, therefore, dismissals and retrenchment featured very high on the agenda of industrial relations and politics at independence and as a consequence required State intervention to resolve what was becoming a fratricidal conflict between the working class and the bourgeoisie.

5 *The Herald*, 10th July 1980.

6 *The Herald*, 15th July 1980.

7 *The Herald*, 28th July 1980

Security Against Dismissals

Prior to independence, the dismissal and retrenchment of workers had been largely a private affair between the employer and the workers. It sufficed to give the worker the requisite notice - a day, week or month, whichever the case might have been - or cash in lieu of notice. With the legislation of minimum wages, it became imperative for the State to protect the worker from unjustified or unnecessary dismissal and retrenchment. The major instruments in this regard were the *Minimum Wages Act* and the *Employment Act* both passed by Parliament in 1980. The Minimum Wages Act categorically stipulated that

No employer shall otherwise than in terms of an exemption granted to him in terms of subsection (2), terminate the services of an employee solely on the ground of a requirement to pay him a minimum wage in terms of a minimum wage notice. Where a Minister considers that special circumstances exist, he may, by notice in writing and on such terms and conditions as he may specify, grant an employer exemption from provisions of subsection (1). Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and liable to a fine not exceeding \$1 000 or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.⁸

With regard to summary dismissal, the Employment Act of 1980 forbade it except where "it had otherwise been provided for in the contract concerned or in relevant enactment", and

- where an employee was guilty of misconduct, whether in the course of his duties or not, inconsistent with the fulfilment of the expressed or implied conditions of the contract;
- for wilful disobedience to a lawful order given by his employer;
- for lack of skill which the employee expressly or by implication held himself out to possess;
- for habitual or substantial neglect of his duties; and
- for absence from work without the permission of the employer or without reasonable excuse⁹

More explicit and wide-ranging legislation on dismissals and retrenchment was promulgated by the State in the *Employment (Conditions of Service) Regulations 1981* in what was called *Statutor*> *Instrument 894* of 1981 in short. The legislation prohibited the retrenchment of any worker from employment without the prior written approval of the Minister "who shall approve the same, with or without conditions, if he is satisfied that it is necessary for economic or other reasons, including the relative interests of the undertaking, industry, trade or occupation or employees to retrench or lay off such employees."¹⁰ It also prohibited the dismissal of any worker from employment without the prior written approval of the Minister, "who may approve the same with or without conditions, if he is satisfied that such dismissal is not in any way a retrenchment or layoff or an attempt to retrench or

8 *Minimum Wages Act, 1980*

9 *The Employment Act, 1980*

10 *Employment (Conditions of Service) Regulations 1981*

layoff."¹¹ The prohibitions also covered the suspension of workers prior to the written approval of the Minister.

Under Statutory Instrument 894 of 1981, therefore, the Minister possessed substantial powers on dismissals, retrenchment and suspension of workers. It referred specifically to special provisions regarding the dismissal of members of workers' committees and pregnant women:

No employer shall retrench, lay off, suspend or dismiss from employment, or penalise in any way any employee on the ground that (a) at any period before or during the course of the employment of that employee -

(i) he has or is, seeking or sought to become a member of a workers' committee or trade union;

(ii) or takes or took part, or seeks or sought to take part in the activities of a workers' committee or trade union at any appropriate time;

(iii) the employee is pregnant.¹²

In addition to these provisions, some referred to the right of the Minister to make a ruling "as appears to him to be necessary or expedient for the purpose of ensuring that any injustice or unlawfulness is rectified or the provisions of these regulations are observed." Such a ruling could include the reinstatement of the dismissed or suspended or retrenched worker with or without conditions. In those circumstances in which the Minister ordered the reinstatement of the worker "such reinstatement shall have effect from the date of the retrenchment, layoff suspension or dismissal of the employee, and the continuous service or/such employee shall be deemed not to have been interrupted."

These ministerial powers in matters pertaining to dismissals and retrenchment were further augmented by the *Emergency Powers (Termination of Employment) Regulations of 1982* otherwise known as *Statutory Instrument 748 of 1982P*. It stipulated that no employer should terminate any contract of employment by notice unless the employer mutually consented to the termination of the contract, or the employee obtains written approval of the Minister before the termination of the contract. The Minister's approval would be forthcoming if he was satisfied that the period of notice was in accordance with the contract of employment and that it was necessary for "economic and other reasons, including the relative interests of the undertaking, industry, trade or occupation, or of the employee, to terminate the employee's contract of employment."¹⁴

From the foregoing, it emerges that quite substantial powers now accrue to the State through the Minister of Labour in the regulation and control of the dismissal, retrenchment and suspension of workers. It was instructive that much of the legislation to this effect was promulgated after independence to protect workers from unwarranted dismissals. The legislation was also reflective of the socialist aspirations of Government, which have been translated into laws which have a pro-worker orientation in terms of minimum wages, provisions pertaining to dismissals and retrenchments and rights to reinstatement in instances of unfair or unjust dismissals.

n Ibid

12 *Employment (Conditions of Service) Regulations 1981.*

13 *Emergency Powers (Termination of Employment) Regulations 1982.*

14 *Emergency Powers (Termination of Employment) Regulations 1982.*

Unjust Dismissals

Dismissals on racial, sexual, religious and political grounds have been outlawed in the post-independence legislation and they have diminished considerably since 1980. Trade unions and some observers on industrial relations, however, cite instances of dismissals on some of those grounds. One industrial relations officer pointed out that very subtle victimization of workers on the basis of their political views or membership in a trade union or workers' committee was still prevalent. In most of those instances, the recalcitrant workers were faced with the Hobson's choice of either transfer or dismissal. Trade union officials observed that under the *Industrial Conciliation Act* employers needed not refer to any of the adumbrated grounds to justify dismissals to pre-empt being sued for victimization. The dismissal of female domestic workers owing to pregnancy still continued in spite of the existing legislation against it.

With regard to the formidable powers wielded by the Minister of Labour insofar as the dismissal, suspension and retrenchment of workers was concerned, it was the feeling amongst trade union officials and employers' representatives that these were too concentrated in one person. A representative of the Employers' Confederation of Zimbabwe (EMCOZ) observed that there appeared to be the distinct impression in the Ministry of Labour that employers were always ready to dismiss workers on the slightest pretext which was a misrepresentation of the position of the employers.¹⁵ Trade union officials pointed out that as far as security against dismissal from job was concerned, the powers to act were confined to the Minister. There was, for instance, no adequate representation in the legislation for a role by workers' representatives, in particular, at the shopfloor level where workers' committees consisting of workers', representatives existed. The absence of greater workers' representation and involvement at the plant level meant that, in many instances, no prior notification of impending retrenchment was given to the trade unions and, sometimes, even to workers' committees themselves. Some employers unsurprisingly wanted an autonomous role in making decisions on whether or not to dismiss or retrench workers.

The procedures pertaining to dismissals did not include safeguards for workers. Trade union officials asserted that there was no representation with regard to questions of procedural safeguards in spite of the existence of workers' committees. Procedures of appeal were non-existent as far as they knew.¹⁶ One trade union official observed, however, that while some collective agreements possessed provisions against unjustified dismissals some did not.¹⁷ In view of the legislation that we referred to above it was generally apparent that the role of the Minister of Labour and his Ministry was now a preponderant one in the resolution of disputes relating to dismissals and retrenchment.

Notice Periods and Severance Allowances

The existing labour legislation specified the right to a notice period, its length and payment in lieu of notice. According to the *Commercial Undertaking of Zimbabwe Employment Regulations (1983) otherwise known as Statutory Instrument 571 of 1983* this was to be:.

15 Interview with an EMCOZ official, October 1984

16 Interview with Trade Union officials, October 1984.

17 Ibid.

- (a) twenty-four hours in the case of the probationary service referred to in subsection (2);
- (b) not less than seven consecutive days from the day of notice in the case of weekly paid employees;
- (c) in the case of monthly paid employees, not less than 30 consecutive days from the day of notice, unless it is agreed in writing to the contrary by the employer and employee concerned, provided that it shall not be necessary for an employee to give such notice where he is unable to do so because of some emergency or compelling necessity."¹⁸.

It added that an employer could terminate the service of his employee if he paid him his full wages and allowances for, and in place of, the period of notice required to be given.

In instances of summary dismissal, the right to notice a period or payment in lieu of notice was waived: where an employee was summarily dismissed, for lawful cause, he was entitled to the wages due to him up to the time of his dismissal. Workers were not entitled to severance allowances in the event of retrenchment - but they had a right to a certificate of employment in the event of either dismissal or retrenchment. A representative of the Employers' Confederation of Zimbabwe (EMCOZ) contended that although there was no set system of retrenchment allowances management sometimes on its own volition paid out several months' wages to workers. He alleged, however, that the conventional notice period was no longer operative since the relevant labour legislation specified that all dismissals other than summary dismissal required ministerial approval. It was contended that one of the biggest problems which employers encountered, therefore, was the long time lag between the submission of applications to either dismiss or retrench workers and granting of ministerial approval. The exercise normally lasted between two and three months. There was nevertheless no provision for workers to seek other employment during the notice period which would help in cases of retrenchment in particular, according to trade union officials.

In those circumstances where workers were summarily dismissed the usual terminal benefits and rights of notice did not exist. Such circumstances as we outlined above included misconduct, wilful disobedience of a lawful order, habitual or substantial neglect of duties and absence from work without the permission of the employer or without reasonable excuse.

Causes and Effects of Workforce Reductions

Some references have already been made to the content of labour legislation which impinges on retrenchment of workers for economic reasons. Zimbabwe did not escape the full adverse effects of the global capitalist recession in the early 1980s. It was particularly vulnerable to its ravages because it is largely a producer of raw materials whose prices underwent yoyo-like fluctuations in the world commodity markets. The point has been stressed that it is inherent in capitalism that it experiences alternately periods of boom and slump. During recession, thousands of workers are routinely retrenched for economic

18 *Commercial Undertaking of Zimbabwe Employment Regulations 1983*

19 *Commercial Undertaking of Zimbabwe Employment Regulations 1983.*

reasons; the unemployment figure soars and in the current recession, which lately has shown signs of dissipating even, advanced capitalist societies experienced unprecedented levels of retrenchment and general unemployment. The members of the European Economic Community and Southern European countries such as Portugal and Spain were adversely affected. In Zimbabwe the years 1982 - 1984 witnessed the effects on the domestic economy of the international recession compounded by a regional drought of three successive years which severely depleted the agricultural industry and diminished the purchasing power of the peasant population.

The response of the employers to these crises of recession and drought was to retrench the work-force; and it is probable that the number of workers involved might have been much higher if the State had not regulated the whole exercise. Thus the retrenchment of workers for economic and other reasons became subject to State law. As we observed above, any retrenchment of workers had to be first approved by the Minister before it could be legally effective. No employer could retrench or lay off any employee from employment without prior written approval of the Minister who would approve it, with or without conditions, if he was satisfied that it was justified for economic or other reasons including the relative interests of the enterprise and the workers concerned.²⁰ The Minister was entitled to the relevant information pertaining to the justification for the retrenchment; and where this was unavailable, could order the reinstatement of the retrenched employee.

The implementation of the legislation on retrenchment was not without its myriad problems. Employers felt for obvious reasons that retrenchment was their prerogative and that ministerial intervention constituted unwarranted interference. An official of the Employers' Confederation of Zimbabwe asserted that prior to any retrenchment there usually was some consultation over the reasons of the exercise between management and the workers' committee.²¹ It was his experience that applications for retrenchment could not succeed without the prior approval of the workers' committee. Trade unions as a general rule were not involved in discussions on retrenchment at the plant level if a workers' committee was functional there. Officials of the trade union movement, the ZCTU, spoke of a different experience altogether : sometimes, they contended, workers' committees were not even consulted about impending retrenchment.²² Workers often were "merely told" that there would be retrenchment; cases of that nature had surfaced at the tripartite Retrenchment Committee. The unions found themselves in an invidious position of both not being consulted by the employers on retrenchment nor being able or empowered to negotiate the conditions of retrenchment. In this respect they also felt that the role of industrial relations officers, who investigated the causes and background of retrenchment cases, tended to leave much to be desired. Their approach was viewed as "too neutral" and somewhat superficial because they did not explore the full dimensions and "essence" of workers' problems where retrenchment was involved. There existed, the trade unionists reported, the possibilities of some enterprises holding back orders in order to prove that they were in the red. An industrial relations officer confirmed that workers often complained that they were not consulted about impending retrenchment and he cited as the reason for this the "mistrust between them and employers".

20 *Statutory Instrument 894 of 1981*

21 Interview, *op. cit*

22 Interview, ZCTU officials

As a demonstration of its great concern over retrenchment and the possibilities of its abuse the State established a tripartite Retrenchment Committee in which the Ministry of Labour, employers and trade unions were represented to discuss applications for retrenchment. The Minister of Labour had pointed out that:

When it was found that a company was in serious financial trouble, the Government would no doubt recommend that workers should be put on short time and in some cases he had ordered them to be put on unpaid leave for a limited period but had also rejected applications where no valid basis for retrenchment existed. I must make it absolutely clear that the retrenchment of workers is approved when all other avenues have been exhausted and after thorough investigations on whether a company was in serious financial difficulties.²³

The role of the Retrenchment Committee has therefore been pivotal in the perusal of retrenchment applications and submitting recommendations on these. An official of EMCOZ, the employers' organisation, observed that the Committee generally worked efficiently and one of the reasons for this was the greater appreciation of each other's problems by the parties concerned. According to an industrial relations officer, the composition of the Committee includes representatives from the relevant Ministries.²⁵ During the proceedings **of** the Committee all the relevant documents and information pertaining to an application for retrenchment such as balance sheets, bank accounts and order books were assessed. Managers and workers' committees were represented to thrash out the issues and agreements were only reached after a detailed study of the information and submissions presented before the Committee.

The Retrenchment Committee represents a democratic instrument for regulating the retrenchment of workers during bad economic times. Even if an economic upturn follows the recession it might still be worthwhile to retain a similar instrument for the regulation of any considerable layoffs of workers for various reasons. It would appear that there was already some informal understanding amongst the members of the Committee on a variety of matters. One was its recommendation of "last in, first out" as the criterion of selecting workers for retrenchment; and that those near retirement age should be encouraged to retire, and that retrenched workers should be hired first when the economic fortunes of an enterprise improved. Recommendations for short-time; rotational paid leave, and reassignment of workers to other enterprises or firm with diversified operations (such as Anglo/American) had done much to mitigate the impact of the recession on retrenchment. The roles of the Department of Employment Development and Ministry of Lands, Rural Resettlement and Development had been supportive to retrenched workers in that they had been instrumental in encouraging cooperatives in the urban sector (for instance, the Fencing Cooperative in Harare) and in the rural sector (admission of former farmworkers into the various resettlement schemes and co-operatives).

At this point in our discussion, it is useful to illustrate the issues that we have raised with reference to specific examples to highlight some of the problems, causes and effects of retrenchment on a considerable scale. One of the most affected economic sectors during the period under review was agriculture which sustained heavy losses owing to three

23 *The Herald*, 15th March, 1983

24 Interview, op. cit

25 Interview, op.cit.

successive years of a severe drought. Farmers lamented on the combination of uncertain world commodity prices, minimum wages and the drought as dealing devastating blows to their industry. At a recent conference on the viability of the agricultural industry, some strong words emanated from a representative of the Agricultural Labour Bureau (ALB). He claimed that agriculture could increase its permanent labour force by anything up to 10% if farmers were allowed to replace those workers who were unproductive and undisciplined.²⁶ In that respect, the AJJ3 had suggested the introduction of a disciplinary code and grievance procedure to replace "the existing well-intentioned but time-consuming and non-effective legislation".²⁷ According to B. Reed of the Agricultural Labour Bureau: "The existing legislation is certainly effective in as much as it protects a minority of non-productive and ill-disciplined workers ... Every time it does so it triggers a further deterioration in productivity and viability which in turn reduces any hope of expansion and discourages employers from taking on additional employees. The decreased viability in recent years has contributed considerably to the reduction in the total number employed, and that urgent action is required if the trend is to be reversed".²⁸ Available figures on the considerable drop of agricultural labour do indeed point to the viability crisis in the industry: from a peak of 235 710 permanent workers in 1975, some 155 783 were still employed in 1983, a reduction of some 80 000 or 34%. It would be misleading to attribute the problems facing the sector to labour; prior to independence, agricultural labour was paid between five and 10 dollars a month and therefore was not only plentiful but definitely cheap. With the raising of the abysmal wages to a minimum level of \$20,00, then \$30,00 and on to \$50,00 it was only inevitable that farmers would be faced with considerably higher labour costs. The root of the crisis in the industry might actually lie in the inefficiencies within the sector which increased mechanization might be designed to rectify while inducing more labour displacement.

The manufacturing industry, too, has not been immune to the ravages of the recession and in particular the contraction of the domestic market. Particularly affected in this respect has been the clothing industry. In 1982, the National Union of the Clothing Industry was already jittery about the prospects of a massive retrenchment of workers in the industry unless the State intervened to scrutinize and regulate carefully the retrenchment applications. An official of the union observed that there were a group of influential employers in the clothing industry who had organized against State labour policies and were threatening to close down unless Government conceded to withdrawing the retrenchment regulations.²⁹

My union has investigated the issue of whether or not the employers in the clothing industry were not making business. Our findings were that their businesses were not really running at a loss and there is no reason for them to ask for retrenchment of workers."

The sequel to these exchanges were some retrenchments in a number of textile and clothing factories; one figure cited of the total numbers retrenched was 10 000 which, if accurate, underscored the painful impact of the recession in this particular industry.

26 Reed, B. *Supplement to the Fanner Magazine*, 22nd October 1984

27 Ibid

28 Ibid

29 *The Herald*, 17th December 1982

30 Ibid

The State was constrained to step in to enforce the reinstatement of retrenched workers in a number of heavy industries in 1983. A six-week-old dispute between workers and management at Morewear Industries had centred on the application by the firm to lay off 168 workers. The Minister of Labour refused the request, ordered the full reinstatement of the 168 and the payment of their six weeks' unpaid leave. Earlier, Morewear Industries in Bulawayo had locked out its workforce of 200 men and notified them to turn up the following day to collect their redundancy pay. The Minister of Labour reacted by ordering the company to reinstate the retrenched workers. These examples illustrate the necessity of forceful intervention by Government where retrenchment involved hundreds of workers. Such intervention might have had a deterrent effect on those enterprises which also intended to undertake wholesale retrenchment.

It was, however, in the mining sector where the combination of the global recession, shrinking markets, spiralling production costs and general depreciation of some of the mines which experienced the most traumatic layoffs of workers. That was particularly so in those mines owned by Rio Tinto (Zimbabwe) and others where thousands were either put on rotational short-time or encouraged to resign on "inducement" schemes such as those at the Shabani and Mashaba Mines. The State was extremely worried over the magnitude of the numbers of the workers involved so much so that it pledged to provide loans to Rio Tinto to keep Empress Mine functional, for instance. There were some 1 000 miners who faced the prospect of retrenchment on the closure of the mine. The then Minister of Mines reflected Government conscience on the matter by informing the Chamber of Mines that the country could not afford wholesale closures of mines and retrenchment of mineworkers, especially at a juncture when the country was experiencing a severe drought as redundancy would not only affect workers but their families as well. . Emphasizing that the State should first approve the closure of any mining undertaking the Prime Minister pointed out that:

The Government fully appreciates the tremendous contribution which you have all made, are making and will make towards the economic and social development of our country and we will give every assistance possible to help you steer a course through the present doldrums and maintain employment.³¹

The Empress Mine could not, however, be saved. The Ingezi Chrome mine closed but was re-opened to be run by a 69-member cooperative. The Shabani and Mashaba Mines **severely** reduced their staff through inducement schemes which the Associated Mineworkers' of Zimbabwe termed "pitiful."³³

This extended discussion on the causes and effects of retrenchment was necessary in order to throw some valuable light on both the impact of global economic problems on the domestic economy and the role of the State in assuaging what might have been more traumatic layoffs of workers both in terms of the magnitude of their numbers and the conditions of their retrenchment. The conscience of the State was needled and it acted as a brake on some enterprises which lacked that "social conscience" where workers' welfare was concerned. The role of the Retrenchment Committee was an innovative response to

31 *The Herald*, 22nd April 1983

32 *The Herald*, 26th June 1982

33 *Business Herald*, 26th May 1983

the crisis and it sensitized the tripartite partners on the nitty-gritty of the economics and politics of retrenchment.

CONCLUSION

There is a sense in which industrial relations and therefore labour legislation pertaining to job security are in some transition. Issues relating to job security, collective agreements and institutions with responsibility in this area were elaborated in the Labour Relations Act which has had an arduous gestation period of over four years. The length of that period constituted testimony to the complexity of the issues covered in the new Labour Law and the cumbersome processes of consultation with the parties closely involved in the drafting, and administration of the legislation and resolution of industrial conflicts. There was therefore nothing authoritative that we could present here insofar as a possible national system of job security is concerned. The former Minister of Labour was, however, on record as remarking that the envisaged Labour Law would empower the Minister to make regulations on the protection of workers' rights and control of employment.³⁴ The Minister could, for instance, make regulations on the establishment of pension, social security, sick, medical, holiday, provident, insurance and other funds for employees and the levying of contributions by employers and employees.³⁵ There was no specific reference to the protection of job security in this particular pronouncement but it could be surmised that since such legislation existed in the form of Statutory Instruments 7148 of 1982, 894 of 1981, the Employment Act of 1980 and the Minimum Wages Act of the same year, it would be incorporated into the new comprehensive Labour Law. These various Acts were subsequently incorporated into the Labour Relations Act of 1985.

In discussions with trade unionists, however, there was a strong feeling that the reference of industrial relations cases to criminal courts was problematic owing to the long delays, sometimes of eight to nine months, before the trial of the cases could go ahead. Another aspect with the present situation was that the police were not sufficiently versed in industrial relations to be able to handle the prosecution of the cases expertly. It was expected that the Labour Law would contain provisions pertaining to industrial tribunals or courts whose function would be to deal specifically with industrial relations cases.

In sum, this paper has attempted to discuss problems relating to the protection of security of employment in Zimbabwe within a theoretical framework which clearly distinguishes the different emphases which capitalist and socialist systems place on the job security and welfare of workers. References were made to workers' struggles for better working conditions, wages and job security in 1980 which assumed the form of widespread and prolonged strikes. The response of the State was generally favourable if, however, limited in some cases, to the interests of the working-class as a whole. Legislation, some of which was assumed under emergency powers, on minimum wages, conditions of employment, termination of employment, procedures for the dismissal, suspension and retrenchment of workers reflected a bias towards workers by a popularly elected government with a social conscience as far as workers were concerned. State intervention particularly over the enforcement was not only inevitable but necessary to consolidate the gains, never mind

34 *The Herald*, 19th March 1983

35 *Ibid*

how limited, which the workers had achieved as a result of the political victory over colonialism. These gains required consolidation if further advances were to be made in the struggles of the working-class.