

Collective Bargaining in the current volatile environment - Part 1

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“Collective bargaining is a process of determining the terms and conditions of employment in your workplace by agreement with your employees.” -International Organisation of Employers (IOE). In Zimbabwe, it takes place at firm level or at sector level {National Employment Council-NEC}. The Constitution of Zimbabwe under Section 65 gives employees the right to collective bargaining. This is supported by s24, s25A, s74 of the Labour Act. The above implies that an employer cannot refuse to bargain and must make an effort to bargain in good faith {s75}.

Section 65 of the Constitution provides other rights such as safe labour standards and the right to a fair wage. The question is do employees have a right to demand a “living wage”? SI 33 of 2019 gave false value to the local currency versus USD. The consequence was that the local currency lost value. Further monetary policy changes through SI 42 of 2019, banned forex trading as legal tender for all local transactions. The consequences were that people lost confidence in local currency. It continues to lose value. Is it then a good store of value? The fact that the general populace is questioning its ability to store value brings with it a number of challenges for workplace collective bargaining. This is why workers have been clamoring for employers to peg their salaries against the USD. A request very few employers can afford.

Collective bargaining in the current environment is further complicated by the fact that most goods and services are tracking the exchange rate. Question is for how long and is it sustainable? Wages and Salaries are not tracking the exchange rate because it is not sustainable. There many more other challenges impacting on collecting bargaining and I list them below:

- At NEC level most employers send junior staff for collective bargaining. The process is cumbersome because most of these people do not have the power to make decisions
- The general trend of wage increase is random and not related to productivity improvements
- Where wage increases are given they do not take into consideration individual performance
- Despite the new amendment to the Labour Act emphasising the need to take into consideration productivity when bargaining, this is not happening
- Governance challenges: Although the new Labour amendment {audited accounts} tried to breath fresh air on governance at the NEC level a lot still needs to be done
- The governance structures in most organisations make it difficult to make decisions related to collective bargaining. Most Boards want to approve the staff budget and in most cases, bargaining changes are not factored in advance
- Bargaining at the industry level is constrained because employers in the same industry are competitors. They rarely share important performance information required for collective bargaining

- There is scarcity key performance data for most sectors to enable effective collective bargaining at the sector level. The default position for most NECs is to use national data e.g. inflation, the food basket and now forex rate {all outside the control of the employer}
- While statutes give scope for firm-level collective bargaining; decisions and firm-level are non-statutory
- The Labour side seems more prepared when it comes to collective bargaining than the employer side { they understand labour statutes better}
- Most of the unions are militant and prefer an adversarial approach to collective bargaining likely scaring away some of the executives from this process
- Most people on the employer side benefit from most of the collective bargaining agreements by default e.g. when non-managerial employees make noise, adjustments are done which in most cases also extends to managerial employees. We have heard cases where very senior managerial employees pass on information to non – managerial employees to strengthen their bargaining position because in the end they benefit
- Most Board members have scant knowledge of labour statutes. Only 13% of Boards in Zimbabwe have an HR Expert on the Board. Less than 5% of HR Board Committees are chaired by an HR Person. Over 90% of HR Board Committees have no single member with HR background
- *Restive workforce*
- Everyone depending on fixed income supply such as wages and salaries is struggling to survive as the wages and salaries have been eroded by inflation and currency depreciation
- It is a process - Employers should understand this process, understand the opportunities it presents and use it strategically. It is a regulated process, and it is important to know what the law does and does not allow
- Collective Bargaining agreements result in legal obligations to the employer. Look at the implications and factor them in your business. More importantly once agreed comply.
- It is too inflexible and slow to change in the face of rapidly changing markets and commercial environments.

Over and above, the challenges outlined above the National Employment setup fails to recognise and accommodate the diversity of businesses, even within one sector. This includes issues such as the capacity to pay. In the next installment, we look at the strategies employers can use when collective bargaining.

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