

The impact of state legislation on the organisation of trade unions: the case of the Botswana Federation of Trade Unions (BFTU) in Botswana

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Labour legislation is the unique device governments use to lay down standards and conventions in the workplace and to control industrial relations. Using focused interviews with unionists, government officials, employers and other relevant parties, this field study investigated the way in which labour legislation in Botswana affects the organisation of the country's federation of unions. The findings indicate that the BFTU's organisation is affected by the Trade Union and Employers Organisation Act. In particular, the restrictions in this Act separate policy and administration in the BFTU and this has had negative implications for the union's effectiveness. The fact that its policymaking body is part-time negatively affects coordination, communication and cooperation processes in the BFTU. According to the Act, public sector workers are not technically employees and therefore cannot belong to unions. This gives the impression that the state is not particularly convinced about the benefits of unionisation. This may create a difficult environment in which the BFTU and other unions must operate.

1. INTRODUCTION

Although authority may be vested in various institutions, the state is usually the main depository of authority because its agencies can legitimately exercise force to enforce the social code. Trade unions are constantly experiencing the power of the state through labour legislation - the unique device the state uses both to lay down standards and conventions in the workplace and to impose social control (Jackson, 1988; Goodman, 1984).

As Goodman (1984) points out, labour legislation plays an important role in regulating employment relations in both industrial and industrialising society. It constrains employers in such areas as dismissals, redundancies, leave pay and hiring practices; it also constrains employees in terms of their right to strike, latitude to seek compensation, etc. Legislation is central to upholding institutions

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such as collective bargaining, income policies and tripartite bodies involving the state, labour and employers.

There are several reasons why legislation has become more prominent in recent years. The state's chief motivation for intervening in industrial relations is of an economic nature (Crouch, 1979); it wants to create an environment of economic stability and productivity. Left alone, unions tend to demand excessively high wages, which may trigger inflation and reduce funds for investment. Similarly, employers tend to be too concerned with profits at the expense of safety and the rights of the individual in the workplace. Government intervention is in the national interest, for it balances these sectional interests (Salamon, 1987). In addition, many states have, with the demise of the communist bloc, become averse to anything hindering the operation of the free market. Unions, therefore, in so far as they introduce rigidities into pay structures, are seen as negatively affecting the market. Union insistence on higher wages is regarded as being a leading cause of unemployment, and union mobilisation a threat to individual freedom (Jackson, 1988). For conservative governments, these are reason enough to intervene in industrial relations.

Crouch (1979) sets out four ideal, typical situations in the ordering of relations between the state and trade unions:

- The first occurs in liberal political systems where unions are powerful entities and government intervention is limited.
- The second is also found in liberal political systems, but here the state maintains a low profile. The state influences industrial relations only indirectly by controlling the money supply, the level of state spending, the level of employment, and so on. This more or less *laissez faire* situation favours employers and results in weak unions.
- The third occurs in corporatist societies where there is a close connection between politics, economics and moral forces, and also results in weak unions. Union leaders use their positions to bring their rank and file in line with government policies rather than to protect sectional interests.
- Lastly, in a situation of bargained corporatism the state pushes for a strong central course but is forced to bargain for the cooperation of strong unions (Jackson, 1988).

In Africa, the debate on these and related issues of corporatism has focused on state-society relations in the context of economic crisis and economic reforms known as structural adjustment policies (SAPs), which are inspired by the International Monetary Fund (IMF). The argument has been that the relations between the state and society (and therefore between governments and trade unions) can only be understood if one takes into account the fact that the state's capacity to deliver is under severe strain as economic crises and SAPs take root. States have tried to establish tripartite social contracts involving governments, unions (representing labour) and employer federations (representing capital) to

underwrite SAPs. The focus has been specifically on restraining labour demands for higher wages and the penchant for capital to raise prices in order to control inflation.

Things have not exactly worked out in this way. Authors such as Beckman (1992) and Akwete (1994) have argued that SAPs have accelerated the erosion of political legitimacy in many African countries. Trade unions represent wage earners who are acutely affected by SAPs which are associated with cuts in the public sector (and hence unemployment), a fall in industrial production, removal of price and rental controls, removal of subsidies and a rise in costs of inputs. These issues also affect the general populace and, therefore, while unions may be said to articulate the 'narrow interests' of bread-and-butter issues, they also state wider popular aspirations (Beckman, 1992). Unions also tend to be nationalistic which, by definition, is opposed to the foreign dependency promoted by SAPs. In the end, trade unions which oppose SAPs find themselves opposing governments that implement SAPs. Governments react by suppressing growing resistance and opposition to the SAP and those in power. Inevitably, democracy is also suppressed (Beckman, 1992). In this situation, the social system is caught between the rock of political control and support for the SAP and the hard place of resistance. The state veers between repression and concessions (Beckman, 1992). Akwete (1994) demonstrates how this has happened in such diverse situations as found in Zambia and Ghana, and argues that the adoption of SAP-stifled democratic reforms in these countries favours authoritarian control.

This rendition of state corporatism in Africa and the impact of economic liberalisation on labour and unions does not necessarily apply to Botswana. For one, Botswana has never adopted an SAP. What has been remarkable about this country has been its dramatic rate of economic growth. From 1966 to 1986, Botswana's economic growth exceeded that of any other country in the world. In this period, the gross domestic product (GDP) trebled in real terms. Although economic growth slowed around the early 1990s, it was still higher than in any other African country, with the country experiencing an economic growth rate of 8 per cent in 1997. This growth has been accompanied by tremendous growth in employment. Formal sector employment grew from 48 000 in 1972 to 228 900 in 1991 (Hope, 1996), representing an average growth rate of 8,6 per cent over the 19-year period. According to Hope (1996), for the period 1985-91 the average growth in employment was 12,5 per cent per year. From September 1991 to March 1993, however, private sector employment decreased from 144 600 to 131 800, which is a decline of 8,8 per cent. By 1991, the private sector accounted for 64 per cent of total employment, followed by central government (25 per cent), local government (6 per cent) and parastatal organisations (5 per cent). With its 25 per cent of total employment the government is still the largest single employer in the country (CSO, 1991). Commerce, construction, manufacturing, finance and business are the five dominant employment sectors. For the most part, Botswana has not experienced as much strain as other countries in Africa in

the delivery of goods and services to the population. Partly as a consequence of this, Botswana is one of the few African countries which have practised liberal democracy in a multiparty situation since their independence.

Among the many studies which have considered the role of the state in regulating industrial relations, only a few have systematically looked at the effects of such regulation on the organisation of unions. This field study investigates how labour legislation has affected the structure and organisation of organised labour in Botswana. More specifically, the authors investigated how the activities of the Botswana Federation of Trade Unions (BFTU) are affected, and the implications of the resultant structure and work procedures for union effectiveness.

2. METHODOLOGY

This study was mainly participatory in nature, involving in-depth (focused) interviews. The focused interview is a semi-structured interview in which researchers know in advance the areas to be covered and the people interviewed are known to have been involved in a particular situation relevant to the research. The interview itself focuses on the subjective experiences of people exposed to the situation in order to ascertain their definition of it. Responses to questions help to test hypotheses while unsolicited responses give rise to fresh hypotheses for more systematic and rigorous investigation (Merton et al, 1956).

In this study, in-depth interviews were conducted with current and retired leaders of unions, representatives of relevant employer agencies, including the government, and donors such as the International Labour Organisation (ILO) and the Frederick Ebert Stiftung. All in all, the researchers interviewed 151 union leaders at branch and national levels, ten government officials in the Ministry of Labour, ten representatives of the Botswana Chamber of Commerce, Industry and Management (Boccim), and seven representatives of donor agencies. They sought detailed information on the legislation, structure and process in the BFTU, and how these affected union performance. The researchers also had the opportunity to attend two important conventions where they held discussions with union leaders. They organised their fieldwork so that each interviewed individuals from various organisations.

The secondary method used in the study was documentary in nature. The¹ researchers made use of the BFTU's annual reports, reports of workshops, seminars and conferences, constitution, project proposal files and newsletter. These documents were important for verifying information gathered during interviews, and for understanding the BFTU's structures and processes more fully and thus minimising errors of interpretation.

3. GENERAL BACKGROUND

3.1 Unions in Botswana

The first trade union in Botswana was the Francistown African Employees Un-

ion (FAEU), which was formed in 1949. Before then, there had been virtually no working class to support union activity as most Batswana were employed in South Africa as migrant workers. Because of limited industrialisation, FAEU membership was concentrated in the unskilled and semi-skilled ranks of the private sector (Mogalakwe, 1995). Many of these members had no formal education. According to Simkins (1975), after operating for six years, the FAEU all but collapsed as a result of poor leadership and a lack of and poor use of resources. The next union of note was the Bechuanaland Protectorate Workers Union (BPWU) formed in 1959. Like the FAEU, the BPWU was generally perceived as conservative and aligned to the Botswana Democratic Party (BDP) which became the ruling party on independence in 1965.

The Bechuanaland Trade Union Congress (BTUC), formed in 1963, was instrumental in forming the Bechuanaland General Workers Organisation (BGWO) in 1964 (Mogalakwe, 1995). Both the BTUC and BGWO were aligned to the more radical nationalist Botswana People's Party (BPP). Towards the end of 1965, the FAEU and the BPWU merged into the Bechuanaland Federation of Labour (BFL), which was aligned to the International Confederation of Free Trade Unions (ICFTU) based in Brussels. The BTUC was linked to the World Federation of Trade Unions based in Prague (Mogalakwe, 1995). Thus, from their beginnings, unions in Botswana were small, ideological and aligned to political parties. Upon independence, the new BDP government was quite suspicious of unions which were too independent of government and aimed at making state control more effective by restructuring the unions.

3.2 The Botswana Federation of Trade Unions (BFTU)

The efforts of the Botswana Trade Union Centre to bring together the rival union blocs of the Botswana Federation of Labour and the Botswana Trade Union Congress culminated in the establishment of the BFTU in 1977 (Ananaba, 1979). Its formation was facilitated by the 1969 Trade Union Act which provided for the establishment of a national union federation voted for by constituent unions. This law also abolished enterprise unions and introduced industrial unions.

Membership of the BFTU is open to all legal unions in the country. Among the federation's objectives are organising workers into unions and coordinating unions into an effective force; improving conditions of service and providing assistance for employed and unemployed workers; promoting collective bargaining, collective agreements and the settlement of disputes through negotiations; promoting cooperatives and other enterprises in which workers have a share; promoting and protecting democratic unionisation; securing the ratification of ILO conventions; and promoting legislation protecting labour rights and interests. At present, the BFTU groups together more than twenty unions ranging from 30 000 to 40 000 in membership.

In recent years, however, the largest constituent union - the Manual Workers Union which represents about 40 000 manual workers or labourers in the public

sector - has suspended its membership. This is quite serious, as the union constitutes about 57 per cent of the BFTU and represents approximately 41 per cent of the employees in the public sector. Most of these, however, are 'low-level' employees, like cleaners - not even government clerks are represented by the union. Among the other significant members of the BFTU are the Mine Workers Union (3 401 members), Railway Workers Union (1 125), Meat Workers Union (1 665), Constructional Workers Union (8 234) and the Commercial and General Workers Union (8 890). Other members include the Bank Employees Union, Diamond Sorters and Valuers Union, Central Bank Union, Telecommunications Workers Union and the Housing Corporation Workers Union. Each of these unions has fewer than 500 members. In total, BFTU membership is around 70 000. This figure represents only 30 per cent of eligible people in employment, thus union density is low.

3.3 Relations between the state, capital and labour

As Mogalakwe (1995) has argued, state-labour relations in Botswana must be seen in the context of the government's stated desire for economic growth with the help of private (in effect, foreign) capital. In its first economic policy document, *The transitional plan for social and economic development*, the Botswana government 'committed itself to assisting the private sector in every conceivable way consistent with the attainment of its national development goals of rapid economic growth' (Tsie, 1996: 606). In a document called *Why we need an incomes policy*, the government informed workers that 'foreign capital would only come to Botswana if there was a reasonable return on capital' (quoted in Mogalakwe, 1995: 152).

True to these policy prescriptions, the government has had a close relationship with private and foreign capital. For instance, the Botswana Federation of Employers, which later became the Botswana Confederation of Commerce, Industry and Manpower (Boccim), has played a crucial role in important state organs such as the Wages Policy Commission (WPC) and the National Employment, Manpower and Incomes Council (Nemic) (Tsie, 1996: 606). Although Boccim has a local director, it is dominated by foreign advisers. It has been generously funded by foreign capital, including De Beers whose diamond mines are the linchpin of the economy. This position is in contrast to that of the labour movement under the leadership of the BFTU: it is the weakest link in the tripartite system, its funding is puny and it struggles to be taken seriously in various bodies of national importance (Tsie, 1996; Mogalakwe, 1995). Clearly then, the BFTU is seen as the junior partner in the tripartite system.

4. STATE LABOUR LEGISLATION IN BOTSWANA

Botswana government policy has it that both workers and employers should establish representative organisations to take care of their interests and work in tandem with the government as partners in development. To this end the state has provided a legal framework for settling disputes and the administrative machin-

ery by means of which social partners (ie unions, employers and the state) can operate. Four Acts govern the industrial relations system: the Employment Act, the Trades Disputes Act, the Workmen's Compensation Act, and the Trade Unions and Employers Organisations Act. A brief summary of each follows:

4.1 Trade Unions and Employers Organisations Act of 1992

The TUEO Act first came into being in 1983, replacing the Trade Union Act of 1969. This Act provides procedures for unions' registration by government and their recognition by employers. Union and employer organisations must register under this Act which provides them with rules and regulations governing their operations, rights, immunities and privileges. Thus unions and their members cannot be sued for any alleged wrongdoing if this action takes place in the furtherance of a trade dispute. The Act requires unions to submit a constitution, a list of members, balance sheets and audited accounts to the Registrar of Unions and Employers Organisations. A number of sections in the TUEO (Amendment) Act are pertinent to trade union organisation. These are set out below.

Upon registration in accordance with the Act, a registered trade union and its members and officials will enjoy certain rights, immunities and privileges. These benefits are spelt out in section 17. Legal protection of a trade union includes protection from charges of conspiracy, procuring breach of contract and unlawful interference with trade, if these actions take place in the furtherance of a trade dispute. These privileges are extended only to registered trade unions, their officials and members.

Section 21 spells out the restrictions on membership of trade unions. The Act categorically states the following:

- No individual shall be admitted to membership of trade unions unless he or she is an employee in an industry with which the trade union is directly concerned.
- Upon ceasing to be an employee in an industry with which the trade union is directly concerned, a member of a trade union shall immediately cease to be a member, provided that where the member is being dismissed, he or she shall be entitled to representation by the union for the purpose of any appeal against or in respect of such a dismissal.
- No employee of a trade union shall be admitted to membership of the trade union.
- Upon becoming an employee of a trade union, a member of the trade union shall immediately cease to be a member of the trade union.

Section 22 spells out the restrictions on officers of a trade union or federation of trade unions. No person can become an officer of a trade union or federation of trade unions if he or she is not a member of that trade union or federation, if he or she already is an employee of the trade union or federation, and if he or she has worked for less than one year in an industry with which the trade union is directly concerned.

Section 61 deals with restrictions on membership of negotiating bodies (ie trade unions) by members of management. This section states that no member of management shall be represented by a union or any other negotiating body. A 'member of management' is defined as an employee who has authority, on behalf of his or her employer, to employ, transfer, suspend, lay off, recall, promote, terminate the employment of, reward, discipline, or deal with the grievances relating to the employment of any fellow employees or effectively to recommend any such action. A 'manager' is also any employee participating in formulating general policy affecting employees, or an individual employed in a capacity that requires him or her to have financial knowledge of the undertaking, or gives him or her access to confidential information relating to the conduct of the employer's business.

4.2 Trades Disputes Act of 1992

This Act replaced the Trades Disputes Act of 1984. It offers a framework for solving disputes between employees and employers. It provides for strike action, except in the case of essential services workers, and outlines the procedures to be followed for a strike to be legal. It also empowers the Minister of Labour to declare a strike illegal. In a nutshell, the Act specifies the procedures for settling disputes, including the respective roles of the Minister, the Commissioner of Labour and the Industrial Court. It also states the conditions under which disputes can be arbitrated and mediated and a board of enquiry appointed.

4.3 Employment Act of 1982

The Employment Act is an improvement on the Regulation of Wages and Conditions of Employment Act of 1969. It applies to all employees except agricultural workers, those in domestic service and public officers. The Act lays down the conditions of service and dismissal, and also deals with aspects of employee welfare such as wages, other payments and rest periods. It protects employees against discrimination, provides for appeal procedures in cases of termination of employment and details the role of the Labour Office.

4.4 Workmen's Compensation Act of 1975

This Act deals with issues of sickness and injury arising in the workplace. It describes the conditions under which employees are entitled to compensation, details the types of compensation available in the case of death, permanent and/or mild injuries, and alludes to calculations of claims by the affected.

5. STATE LEGISLATION AND THE ORGANISATION OF THE BFTU

5.1 The organisational framework of the BFTU

The framework of the BFTU follows the format stated in its constitution, which specifies authority relationships for making and implementing policy:

- The supreme authority of the BFTU (which appears at the apex of the organisational chart) is the Delegates Congress. Its major functions include deter-

mining policy, supervising the General Council and the executive committee, and checking on the welfare of the union movement.

- The General Council is just below the Delegates Congress and is identified as the organ, 'in which shall be vested the power and authority to carry out the business of the BFTU in accordance with the resolution and motions of the biennial Delegates Congress'.
- Below the General Council is the executive committee, comprising the principal officers of the organisation: the president and his deputy, the Secretary-General and his deputy, and the Treasurer-General.
- The executive committee manages the BFTU and is charged with implementing decisions and carrying out administrative tasks emanating from the General Council.
- Below the executive committee are the finance and general purposes committee, the education and research committee, the labour and wages advisory committee, the industrial relations committee, the regional committee and the women's committee.

Constitutionally, the Secretary-General is responsible for managing the daily affairs of the BFTU, such as meetings, correspondence and record-keeping. In practice, however, he cannot do it because the TUEO Act specifies that an executive of a union must be a full-time employee in an industry to which that trade union belongs. Thus it does not allow for a full-time occupant of this office. As full-time employees, the Secretary-General and others in the BFTU executive cannot carry out the day-to-day administration of the union for two reasons: as employees they have to work and, related to this, they are scattered all over the country. The only time they can commit to the BFTU is after work or on weekends. In practice, therefore, elements of the TUEO Act entail a separation of policy and administration in the BFTU. Consequently, the BFTU employs an Executive Secretary to assist the Secretary-General and others with the administration. In fact, this person sees to the work of the BFTU.

According to unionists, problems arise because the Executive Secretary cannot deal with certain issues as he does not have the mandate to do so. For one, as a non-member of the executive committee he cannot indulge in policy matters. Secondly, sections 21 and 22 of the TUEO prevent him from being a member or an officer of the BFTU as he is its employee. Non-members of the BFTU cannot deal with union matters because they are not protected by the law to the same extent as union members. Section 17 of the TUEO Act states that 'no suit against the registered trade union and its officers and members thereof on behalf of himself and all other members of the trade union in respect of any delictual act alleged to have been committed by or on behalf of the trade union shall be entertained by any court'.

On the other hand, employees of the BFTU can be sued on these grounds, making it difficult for the Executive Secretary to do his work. The BFTU's dilemma is that its policymaking body is scattered and part-time, and hence cannot be

effective in policy formulation, necessitating reliance on the Executive Secretary. Yet, on the other hand, the Executive Secretary has neither enough authority to make certain decisions nor appropriately trained staff. As a result, the BFTU suffers from delayed decisionmaking which affects the implementation of resolutions. Focused interviews with labour experts and donor representatives revealed that the authority of the Executive Secretary is not only constrained by the labour laws, but also by the constitution of the BFTU itself. The BFTU's -specification of the Secretary-General's duties includes a great deal of the day-to-day administrative work, and thus his duties overlap with those of the Executive Secretary. The Executive Secretary thus feels constrained and is less effective than others in organisations with a structure similar to the BFTU.

5.2 Labour legislation and the BFTU's organisational processes

Coordination, communication and cooperation are processes that unions carry out to ensure their own effectiveness. These processes measure effort and not effect, although in some cases they are valid indicators of performance (Scott, 1987: 331). Coordination, communication and cooperation are especially important, as the goal of efficiency has been part of the rationale of most changes in the internal organisation and functioning of trade unions since the early 19th century (Hyman & Fryer, 1978: 160). In this section, the authors used these three processes to assess the amount of effort exerted by members of the BFTU and to determine how they are affected by labour legislation.

To *coordinate* means to make groups come together. According to its constitution, the BFTU is responsible for uniting all registered trade unions, organising all workers and smoothing over their differences, encouraging good industrial relations, and representing the workers' cause to government and other employers. The coordinating task of the BFTU demands that it reconciles the various unions' differences in effort and interest while harmonising their individual and cooperative goals. An extremely important instrument for ensuring effective coordination of activity is communication. *Communication* refers to the flow (up, down or lateral) of material, information and/or understanding between an organisation and its affiliates. It can be in the form of speaking, listening, reading or writing; it can be interpersonal, interorganisational or via the media. Intensive use of memoranda, conferences, meetings, correspondence, etc ensures that everybody is aware of stated policies, plans and their implementation. Where self-appraisal and monitoring of action are in place, performance data can be known and thus affect corrective action. Part of the purpose of coordination and communication is to achieve cooperation. *Cooperation* refers to joint action. Affiliated unions must act together to promote the aims and objectives of the BFTU. The BFTU has specifically recognised the importance of these functions in its aims and objectives.

Data from focused interviews with unionists, government and employer representatives, and donors are brought to bear in investigating the way in which la-

bour legislation in Botswana impinges on the effectiveness of the BFTU as it coordinates, communicates and cooperates with its affiliates.

5.2.1 Coordination in BFTU

Executive members of the BFTU have little doubt about the effect of labour laws on their capacity to coordinate their organisation. As their chairperson put it:

Coordination may not be the proper concept for what is happening or is supposed to happen between the BFTU and its affiliates. Coordination implies authority over affiliates who can be influenced. As matters currently stand, the BFTU's constitution prohibits it from having too much authority over affiliates. Thus, we are constitutionally limited in terms of how we can influence our affiliates. At the national level, the relevant legislation [ie the TUEO and TDA] does not give the BFTU any legal status in so far as affiliate operations are concerned. Given these limitations, all that the BFTU can do is to be of service to its members.

The chairperson of the BFTU may have overstated the issue here because nowhere in the world do unions require a legal status to influence their affiliates. The fact that affiliates elect BFTU office-bearers should be enough, since it reflects the confidence members have in their leaders and affirms their authority. Most BFTU officials concede that the organisation is not doing too well in servicing its members. They argue that, as an umbrella organisation, the BFTU is facing constraints that hamper its service to affiliates. A prominent executive member had this to say:

The problem has a lot to do with how BFTU is manned. In the region you find that organisations like ours have a full-time secretariat but it is not permissible bylaw here to have one. This hampers coordination. As a consequence, unions complain that they do not receive enough service from the national centre ... The BFTU cannot do much because it is financially weak. Affiliated unions do not readily contribute to its coffers, as the BFTU has no legal way of forcing subscription from members. Affiliates are supposed to subscribe according to the number of members they have.

Despite changes in employment figures and union membership, affiliates are still subscribing on the basis of figures supplied to the BFTU some years back. Many of these unions are themselves financially weak and therefore cannot increase their subscriptions. The BFTU has no legal way of ensuring a 'check-off' system in the country. Consequently, it has had to rely on donor agencies for finances. However, donor fatigue is making it difficult for the BFTU to acquire enough funds to service unions as in the past.

By most accounts of union leaders at both the national and local levels, the BFTU has done very well in coordinating educational programmes of unions,

although there are now fears that it is slackening somewhat in this regard due to a lack of funds. The exception, as expected, was from union leaders of former affiliates who alleged that the BFTU had failed to help them with a multitude of cases against the government and other employers. Donor and employer representatives' views echoed those of BFTU leaders; they are quite happy with the BFTU's efforts in education, but feel that the organisation liaises better with larger unions than with the smaller ones. Although legal and constitutional constraints have played an inordinate role in inhibiting coordination, most of the representatives felt that the BFTU's dependence on donor funds should not be underestimated. Diminishing funds have seriously affected the BFTU's operations, including the coordination of educational programmes.

5.2.2 Communication in the BFTU

Information between the BFTU and unions is transmitted by way of correspondence (postal and hand delivery), telephones, meetings, workshops, seminars, newsletters and other media sources. Officials and members also communicate through more informal channels. Interpersonal relations (human interface and/or word of mouth) and visits have been utilised in this regard.

The majority of BFTU executives claim that most communication is by correspondence (ie letters and memoranda) and by telephone. The Executive Secretary of the BFTU is relied on a great deal to distribute whatever information there is throughout the BFTU's structure. In cases of important meetings he sends memoranda to executive members and to union leaders, instructing them to spread the information to their membership. He also follows up these memoranda with telephone calls. Most officials say that this kind of communication is hampered by the fact that most affiliates do not have full-time staff or physical structures of their own from which to operate. According to the Executive Secretary, contact is not easy. It often takes up to two days or more to contact individual unionists at their workplace, as some are field workers and are not in their offices all the time. This is definitely a drawback when the information being communicated is urgent.

In the case of the BFTU, this kind of communication is top-down and very little information comes from affiliates. Most unionists simply do not have the time to collect information for the BFTU. Although constitutionally required to send news of their activities to the BFTU, most affiliates are too poorly organised to do so - they do not have full-time staff or structures from which to send information. Furthermore, the TUEO Act (section 61) prohibits members of management from holding membership in unions. 'Management' is broadly defined to include all people in a supervisory capacity. According to the BFTU's action programme, this section of the Act hampers effective union organisation because it bars workers in a supervisory capacity from union activity, and gives the employer the chance to get rid of any active unionists simply by promoting them to a pseudo-supervisory position (BFTU, 1991). One way in which this ruling

negatively affects unions is that it leaves them with very few people with the capacity to engage in written communication with the BFTU. This is especially important, given Botswana's literacy rate of 40 per cent (CSO, 1991). Many workers on the lower rung of industry are illiterate, as are many members of small and less well-organised unions.

Still, this does not absolve the BFTU of all blame for the gaps in communication. As Ministry of Labour officials pointed out, even those affiliates who could otherwise send information to the BFTU do not because they are unlikely to receive feedback.

Donor, government and employer representatives point out that communication by the BFTU is neither regular nor planned, and therefore cannot be evaluated in terms of its effectiveness (although indications are that there are many gaps). One way in which to plan and regularise information is through a newsletter, magazine or radio programme. In the past, the BFTU had a magazine and a newsletter (*Labour News*), funded by the Frederick Ebert Stiftung which also provided a person to run the newsletter. As soon as they stopped their support, the newsletter lapsed. At present, the BFTU does not have the monetary resources or manpower to look for information. Neither does it have the paper, stationery and the like required for running a newsletter. In the past, the BFTU was given airtime on the Labour Department's 15-minute weekly radio programme. Nowadays, however, the procedures involved have become too complicated. As a BFTU official put it:

Whatever we air has to be pre-recorded and censored. It is definitely not the BFTU's baby. They avail us of the service whenever there is a crisis in industrial relations. Otherwise, if the BFTU wants to use the radio programme, it has to apply to the Minister of Labour. They changed because they thought we were advertising ourselves too much.

Apart from the BFTU's lack of funds and inefficiencies, labour laws also contribute to the organisation's communication problems. A bottom-to-top flow of information is absent, partly because of a lack of qualified personnel. The TUEO Act bars workers in a supervisory capacity from union activity on the grounds that they are privy to management information. Yet these are the very people with the capacity to collect and transmit information. Their absence from union activities creates a lack of qualified personnel to perform such duties. Lack of full-time staff further exacerbates the problem.

5.2.3 Cooperation in the BFTU

'Unity is strength' is a common union maxim, and cooperation is a natural organisational goal of trade unions. Theoretically, cooperation can occur between the BFTU and its affiliates, or between affiliates themselves. By law, certain forms of cooperation are prohibited, as is the case in many other countries. For

example, unions are not supposed to indulge in sympathy strikes. Cooperation between the BFTU and its affiliates has mainly been in terms of joint action with regard to labour laws, and in consulting international bodies and employers, including government.

Most BFTU officials indicated that their organisation provides a forum for worker cooperation and that such cooperation is very important in influencing labour legislation. The BFTU has a specific mechanism for achieving cooperation in this area. Thus the executive committee is responsible for giving direction to the various BFTU committees to monitor changes in labour laws and recommend action accordingly. This is really a two-stage operation: firstly, the BFTU's executive meets to consider which laws need reviewing according to the reports and recommendations of the technical committee set up for this purpose. Secondly, a General Council meeting is organised to ensure that a representative forum of member unions is brought in. The General Council formulates a consolidated submission to the Ministry of Labour or any other relevant authority.

At the time of this study, BFTU executives, committee members and national union chairpersons and secretaries (ie the General Council) were meeting in the northern town of Palapye to discuss the proposed amendments to labour laws and to promote a joint strategy for dealing with them. They aimed at consolidating a position which could influence the proposed amendments. The researchers observed enthusiastic and, at times, heated discussions of these deliberations. The only complaint was that the meeting had been organised rather late, as the Bill with amendments to the labour laws had been discussed in parliament and gazetted some months back.

Most union leaders also reported that the BFTU had been fairly useful as a meeting point between unions, and between unions and relevant national and international bodies. The BFTU is also seen as having played a useful role as a representative of workers to tripartite bodies. Donor agencies and employers agree that there is a fairly good level of cooperation in the BFTU, although there is room for improvement. They argue that cooperation could be extended to smaller unions that find it hard to pay their dues.

Thus it appears that labour legislation has not negatively affected the level of joint action (ie cooperation) between the unions which currently constitute the BFTU with regard to labour laws. This is quite understandable, as joint action is not something which occurs daily and unions in the BFTU can therefore plan for it well in advance. It will, however, take more than the fact that union leaders are part-time and scattered for cooperation to be disrupted. Moreover, the BFTU's headquarters in Gaborone, under the authority of the Executive Secretary, can be charged with arranging for a technical committee and meetings over weekends when it is convenient for leaders to discuss the recommendations of the technical committee.

However, it has been a different matter in other areas of cooperation. Manual workers and their union have pulled out of the BFTU on the grounds that the

federation was not helping them very much. In their strike against the government in 1991, the Manual Workers Union denied the BFTU any meaningful role in negotiations, thereby revealing problems with cooperation. Similarly, smaller unions complain that the BFTU has not been very forthcoming when they negotiate specific collective agreements with employers. The BFTU, however, maintains that it is constrained by the law which excludes outsiders to the specific industry from helping given unions.

5.3 Labour legislation, the BFTU and the organisation of public sector employees

Botswana has about 85 000 public sector employees. According to the TUEO Act, however, not all of these people can belong to trade unions because they are not all technically defined as employees. For example, manual workers can belong to trade unions while those who are permanent and pensionable cannot. According to this Act, an employee is defined as any individual who has entered into a contract of employment for hire of his or her labour, provided that the expression does not include a public officer, or a person employed by a local authority, unless he or she belongs to the industrial class.

Public officers are governed by the Public Service Act. The term 'public officer' is so wide and all-embracing that it includes everyone, from the most junior clerical assistant to a ministry's Permanent Secretary and the Secretary to the country's cabinet. The meaning of the term is to be inferred from the constitution of Botswana, which states that public office means 'an office of emoluments in the public service' and a public officer is 'a person holding or acting in any public office'. Thus, since these people are not employees, their industrial relations are not governed by the TUEO (Amendment) Act and as such they cannot belong to unions.

Interestingly, although public officers are excluded from the definition of 'employee' in terms of the said Act, their employer (ie the government) is stipulated as such in the same Act. BFTU officials have argued that it is not clear why the government is defined as an employer, yet its employees are not defined as employees and are therefore ineligible for trade union membership. In other words, in terms of the TUEO (Amendment) Act, the relationship between the government and its workers is not an employer-employee relationship and therefore these workers cannot belong to unions. The Act further defines a trade union as 'an organisation consisting, wholly or in part, of more than thirty employees, the principal objects of which include the regulation of relations between employees and employers or employers' organisations or between employees and employers'. Thus by a legal sleight of hand, a very large section of Botswana's workers have been denied the freedom to bargain for their wages and conditions of service. Neither the Public Service Act nor the country's constitution provides a machinery for collective bargaining. The Public Service Act empowers the President of the country to make regulations for setting up a 'body' for the purpose of

'consultation' between the government and members of the public service. Five such associations have been set up: the Botswana Civil Servants Association (BCSA), Botswana Teachers Union (BTU), Botswana Federation of Secondary School Teachers (Bofesete), Botswana Nurses Association (BSA) and the Botswana Primary School Teachers Association (Boprita).

This situation has several implications for the organisation of unions (including the BFTU) in Botswana. The government is important in influencing unions, not simply in the 'way in which it can introduce legislation to curb the activities of trade unions: it is also important in the way it can set the tone for other employers' (Jackson, 1988: 168). The fact that the government of Botswana through the TUEO (Amendment) Act, has denied public service workers (nurses, teachers, etc) the right to join unions gives the impression that it is not convinced of the benefits of unionisation. This impression is not lost on some private sector employers who do not take unions seriously. The impression is also given that unions are not that relevant after all, because the government's reward package and employment setting is on average better than in many cases in the private sector. Thus workers would rather leave unionised industries for government employment. Moreover, for the BFTU, lack of unions in the public sector has robbed the union movement of potential funding through subscriptions, as public sector workers are much better paid than others. Public sector workers also happen to be more educated and their presence in the BFTU could certainly have strengthened the organisation's operations.

6. CONCLUSION

As mentioned, Botswana does not neatly fit the descriptions of corporatism in Africa given by such authors as Beckman (1992) and Akwetey (1994). This is because it has not undergone an economic crisis and the government's capacity to govern and deliver on its promises has been pretty good. In comparison with that of other African governments, Botswana's legitimacy has also remained fairly high. It seems to the authors that the ordering of relations between the state and trade unions in Botswana resembles that described by Crouch (1979). More specifically, the situation in Botswana seems to demonstrate a strong connection between politics, economics and moral forces, thus resulting in weak unions. Although the government promotes itself as a liberal democracy it has a strong stake in the commanding heights of the economy: it is the country's wage leader, it happens to be the single largest employer, and it is not reticent in intervening in the industrial relations system in the name of 'national interest'. On the other hand, unions are quite weak: most rank and file members have little education, many unions have yet to negotiate collective agreements with their employers and union density is quite low.

The Botswana government strongly intervenes in the country's industrial relations system. Its labour legislation is designed to attract foreign investment and promote economic growth. In this regard sections 17, 21, 22 and 61 of the TUEO

(Amendment) Act are important. They prohibit supervisors from joining unions, discourage union leaders from devoting most of their time to union matters, and prohibit those in specific industries from working for the unionisation of other industries. Wittingly or unwittingly, these restrictions have affected union organisation. Evidence from such data shows that the umbrella union, the BFTU, needs a great deal of work to improve its coordination, communication and co-operation with its members. Although the government would like unions to promote what it calls 'national interest' rather than 'sectional interests' (ie the limited interest of workers as against those of other sections of society, such as rural peasants), unions and their leaders have been less than forthcoming on this. For example, the government sees foreign investment - the attraction of which is said to require wage restraint and industrial peace - as a national interest whereas unions believe that wage restraints may be too high a price to pay for attracting foreign capital (see Mogalakwe, 1995).

Unions have not been slow in making their views known. As mentioned, the largest union, the Manual Workers Union, suspended its membership of the BFTU because it felt that the mother organisation was not particularly supportive of its strike against the government. In 1991 alone there was a loss of 10 693 936 man-hours largely because of the Manual Workers Union strike (Mogalakwe, 1995). Industrial action figures are hard to come by in Botswana because of the declared policy of the government not to publish them. Quoting an annual report of the Department of Labour and Social Security, Mogalakwe (1995) claims that in the period 1991-4 there were 35 strikes, involving about 64 585 workers: So far, all these actions have been declared illegal but they have in fact encouraged the government to withdraw from too much direct intervention in industrial relations.

The changes to the Trades Dispute Act of 1992 should be seen in this light. The amended Act provides for an Industrial Relations Court instead of a Permanent Arbitrator attached to the government; it also diminishes the role of the Minister of Labour and the Commissioner of Labour in dispute resolution. Over the years unions have also won the right to be represented in important organs such as Nemic and the Wages Council. Despite this, union leaders would like to see strong unions capable of bargaining the central issues of industrial relations which include wages and industrial peace. This concern is likely to be a major focus of future government-union relations in Botswana.

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