Collective bargaining in small to medium enterprises (SMEs) at Mataga growth point in Mberengwa District: A myth or reality?

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ABSTRACT

This article explores employee representation and voice in SMEs in Zimbabwe, particularly at Mataga Growth Point. The spectacular development of the SMEs sector in twentieth century was investigated in light of changes in labour relations and collective bargaining practices. An examination of the relationship between the regulation of employment relations and employee representation and voice was given. The study employed both quantitative and qualitative research methodologies. A questionnaire and an interview were used as the main data gathering instruments. The study observed that the absence of formal channels of representation in SMEs, failure to implement legislation regarding collective bargaining and failure to bargain in good faith hides the existence of a number of informal compromises between employers and employees over matters such as wages, working time, and health and safety conditions. The study recommended that law enforcement agents should ensure that all labour law provisions be implemented by all firms irrespective of their size. Future trade union strategies should be based on a clear understanding of the labour laws in force.

Key words: Collective bargaining, SME, negotiation.

INTRODUCTION

Human resource functions, such as collective bargaining, are normally thought to apply to only large organizations and as a result tend to bypass small to medium firms (Lynch, 2001). Very little has been documented about collective bargaining in SMEs. Studies have suggest that small companies operate on a familial basis and have minimal collective bargaining because everybody is assumed to know and understand the direction that the business is trying to pursue. Traditionally, decisions in SMEs are usually centred on one or two individuals, which make collective bargaining difficult to take place. The SME sector in Zimbabwe has become the biggest income and employment generator for many people and it subsequently contributes immensely to the growth and sustainable development of the economy. At Mataga growth point small and medium sized enterprises that trade on street of the central business centre. The traders started as family businesses but later grew to become employers of quite a number of diploma and degree graduates. The employment of many employees who hold relatively high qualifications (diplomas and degrees) in various fields has made the issue of collective bargaining pertinent. Failure by SMEs to properly bargain with their employees has serious negative ramifications to sustainable development at Mataga growth point in Mberengwa. Employees can contribute meaningfully to economic and sustainable development of the nation only if they feel that their employer values their views and ideas which in most cases are expressed during the collective bargaining process.

Zimbabwean legislation, starting from the constitution to the smallest labour instrument recognizes and provides employees and employers with the right to engage in collective bargaining. Collective bargaining is the process of negotiation between unions and employers, usually on
working conditions and terms of employment (Grogman, 2003). Collective bargaining can be used as a driver for managing the fragmented reality of SMEs on employee welfare and general employer-employee relations. According to the International Labour Organization (ILO) Convention No. 98, collective bargaining is viewed as a voluntary negotiation between employers’ organizations and workers’ organizations with a view to regulating terms and conditions of employment by collective agreements. The implication of the above definition is that employees do not necessarily represent themselves but are rather represented by employee unions. It is rather too ambitious to expect an individual SME to have an employee union; therefore it is quite unlikely that any meaningful collective bargaining will exist in SMEs.

Collective bargaining in Zimbabwe is done at both enterprise and industrial levels. The two main labour legislations in Zimbabwe, the labour Act chapter 28:01 and the Public Service Act chapter 16:04 clearly set out the provisions for collective bargaining between employers and employees. While on paper the Acts seem to cover all the workers, the same seem not to apply in Small to Medium Enterprises (SMEs) in Zimbabwe. The failures by the employers and employees in SMEs to engage in serious collective bargaining is mainly attributed to limited bargaining power on the part of the employees (Barret and Dowd, 2005). The labour Act makes it mandatory for employers and employees to engage in collective bargaining and reach an agreement that is binding and enforceable (labour Act chapter 28:01). Studies carried out by several researchers (Nyanga and Chifamba, 2012; Fowler, 1986; Storey, 1995) show that most SMEs employees are paid salaries that are well below the poverty datum line. Some employees get as low as USD 50-00. Media reports show that there is high labour turnover in SMEs in Zimbabwe mainly owing to poor working conditions and low salaries (Mandoro, 2006). What remains unclear is whether there is serious and meaningful collective bargaining taking place in SMEs. If there is, it is of interest to then find out the reasons for the persistent low job satisfaction in employees in the SMEs which has resulted in high labour turnover, high rates of pilferage, increased rates of absenteeism and the staging of collective job actions such as strikes and work to rule and sit ins. The purpose of this study is to establish whether or not there is any form of collective bargaining that takes place in SMEs. The study also examines the challenges faced by SMEs employees in collective bargaining.

**Research objectives**

The study is guided by the following objectives:

- To investigate and document the challenges faced by SMEs in collective bargaining.
- To recommend appropriate strategies that can be employed to improve the collective bargaining process in SMEs.

**RESEARCH METHODOLOGY**

**Research design**

The case study was used as the framework for data collection. The research took a qualitative orientation. The Qualitative approach helps to understand behaviour and institutions by getting to know the persons involved and their values, rituals, symbols, beliefs and emotions, (Punch, 2004).

**Participants and settings**

Twenty (20) SMEs employees were conveniently sampled (12 male and 8 female). Participants were aged between 18 to 57 years. Of the 20 participants, 4 were from the electrical and mechanical companies, 3 food and beverages, 4 small scale mining, 4 clothes and 5 from the construction companies. All the participants based at Mataga growth point and their educational qualifications range from A' level right up to Masters degree.

**Research instruments**

Researchers utilised in-depth interviews, focused group discussions and semi-structured questionnaires to collect data. The above instruments were preferred because they allowed researchers to get in-depth and subjective views of collective bargaining from the concerned subjects.

**Data collection procedure**

The researcher distributed questionnaires to all 20 participants. Participants were given an hour to complete the questionnaire before the research could collect the completed forms. Furthermore, participants were interviewed individually. In addition, two focus group interviews were also engaged. The interview questions were largely semi-structured. The following areas were probed: biographic data, how their salaries were determined and challenges encountered during collective bargaining. Interviews and focus group discussions were held at work places and responses were recorded using tape recorders as the interview progressed. The use of the tape recorders was done so as to avoid loss of information.
RESULTS AND DISCUSSION

The study revealed a plethora of collective bargaining challenges in SMEs at Mataga growth point in Mberengwa. These challenges directly or indirectly affect employee and organisational performance. This study showed that in reality collective bargaining in its strictest sense does not exist in SMEs in Mberengwa. This is in line with Bendersky (2003) who argues that collective bargaining is not as widespread in SMEs as in larger companies. In the UK, for example, it was observed that collective bargaining exists in only 3% of SME workplaces, covering 5% of workers, as compared with 25% in larger workplaces, covering 35% of employees (Hewit, 2010).

The challenges in SMEs unveiled in this study are presented in Figure 1. Figure 1 shows that about 85% of employees (17) indicated that poor employee representation was a major challenge. Most respondents indicated that employee representation was affected by the small population of employees which also linked up with fear of victimisation. Poor employee representation appears to be a common phenomenon in SMEs. The findings confirmed Weiss (1993)’s observation that “when it comes to small enterprises in Europe, unions are poorly represented and the law alone is not sufficient to ensure compliance with its provisions”. Failure to interpret laws and policies is one of the challenges affecting proper collective bargaining in SMEs in Mberengwa. This challenge was also observed by Ferner and Hyman (1993), who argued that small enterprises escape the regulatory net, even where the institutional power of trade unions and employers’ organisations is relatively strong and legislatively guaranteed. With wrongly interpreted laws, the employee is at the disposal of the employer. Employees in SMEs end up failing to get an opportunity to engage in collective bargaining since they will be exposed by the law. What has also worsened the employees’ bargaining position is the lack of information and knowledge about how to engage in collective bargaining. SMEs employees have remained submissive to the employer as the later enjoys greater social and economic power than individual workers. The contract of employment is by nature imbalanced due to the fact that its content is largely determined by the employer by virtue of him or her owning the means of production. Being the owner of the means of production places the employer in a stronger bargaining position, (Wedderburn, 2000). As employees need work more than the employer needs the services of a particular employee, they tend to accept any terms and conditions offered to them, even if they turn out to be exploitative. This is especially true of employees in SMEs who enter the labour market without special skills. The high unemployment rate facing most developing countries, Zimbabwe included, also leaves employees with very little choice but to accept whatever is on offer (Frenkel and Peetz, 2000).

The study also showed that as many as 70% of the small businesses were owned by families and very few had formal structures. The main characteristic seen on small firms is the fact that they are very informal when it comes to employer-employee relations and collective bargaining. There are very few policies and procedures in SMEs that relate to collective bargaining. Those SMEs that have these, have very informal schemes as compared with large organizations. Evidence has shown that only few SMEs
staffs are union members and only half of these SMEs recognize trade unions (Bendersky, 2003). The fact that there is no trade union representation and businesses operate in an informal way makes employees find it difficult to voice their concerns or engage their employers in salaries and conditions of service negotiations. Without a formal organisational structure, it makes it difficult if not impossible to institute a proper negotiation structure. In family owned businesses such as at Mataga Growth Point, there are no negotiations for salaries. The owners unilaterally decide on how much each employee should be paid and under what conditions. Employees are not accorded the opportunity to practice their legal right to negotiate for their salaries, which entails that the power imbalances which are supposed to be addressed by collective bargaining remain unresolved. Rowe (2003) argues that intervention either in the form of statute or a collective bargaining agreement is necessary to act as a countervailing force against the powers of management. Collective bargaining has proved to be an effective tool in redressing the inherent power imbalance in the employment relationship, and placing restraint on managerial prerogative. Managerial prerogative however remain in full force in SMEs since no real collective bargaining exist.

The other challenge that was established by this study is that negotiations are not carried out in good faith. Employers refuse to bargain collectively or in good faith and limit the issues that can be negotiated. This is contrary to the provisions of the labour acts which say that both parties should negotiate with the expectation and willingness to discuss, compromise, and reach a mutually agreed solution. All terms and conditions of employment should be subject to negotiation (Makweva, 2001, labour Act 28:01). Collective agreements should only include terms that are at least as good as the terms and conditions required by the national law. The situation is however not the same in SMEs where most workers are not given the freedom to negotiate their salaries and conditions of service in a free environment. To make matters worse, most employers do not share or present an accurate financial position of the business which therefore makes negotiations difficult if not impossible to handle.

The study also showed that there is lack of well documented and defined policies and practices to guide SMEs employers and employees in conducting collective bargaining business. As can be observed, HR practice and policy are pivotal issues and concerns for employers of small firms in Zimbabwe and are of immediate concern. These policies should be implemented to suit the needs of the business and its employees and may help to reduce the need for further changes in legislation in the short term (Madhuku, 1997). Introducing human resource policies and procedures can give smaller companies an opportunity to offer a fair and consistent approach to managing staff relations. Collective bargaining policies and procedures are relevant to all organisations as law requires them to be put in place for the promotion of good employer employee relations (Mayo, 2004). According to the Chartered Institute of Personnel and Development (CIPD), a small organisation should have a selection of a few relevant policies and procedures which should be increased and/or amended as the organisation grows when necessary. The unavailability of clear cut policies and procedures for collective bargaining in SMEs makes it remain more of a myth than a reality.

Freedom of association which refers to workers’ right to create organisations (unions) that represent them is a fundamental element to collective bargaining. Collective bargaining cannot be operationalized without freedom of association because workers’ views cannot be properly represented. Workers must be free to choose how they are to be represented and employers must not interfere in this process (Banda, 2006, Barret & Dowd, 2005). Contrary to this view one of the respondents remarked that unions in SMEs are denied the freedom of association. Unions do not operate free from employers interferences when organizing themselves, making decisions, and conducting their activities. Moreover, one of the participants also said that one of the challenges of collective bargaining in most SMEs is that employees are discriminated based on their union membership or activities. Unionists are punished through termination, transfer, demotion, denial of overtime, reduction in wages/benefits, or changes to their conditions of work. This view is in line with the findings of earlier researchers (Oliver, 2006; Ntumy, 2006) who observed that employers harass and even threaten to terminate workers who participate in union activities. Wedderburn (2000), Ntumy (2006) and Nyanga and Chifamba (2012) observed that workers should be allowed to freely form and join unions, including minority unions or worker associations. Denying employees access to join unions violates a union’s right to carry out its activities freely especially in collective bargaining. In Austria, trade unions have indicated that they would like to see an increase in employee representation in particularly smaller SMEs in the form of more works councils (Jacobson, 2007). The availability of bipartite bodies (employers and trade unions) helps to create an enabling environment for employee involvement in SMEs.

The other challenge of collective bargaining in SMEs is that, where there are union members, these are bribed by the employers thereby stalling the bargaining process. Employers grant job advantages or privileges to union leaders such as promotions or ventilated and carpeted offices as a way of enticing unionists not to demand better salaries and working conditions. One of the respondents said that unionists were given a lot of money by the business owners so as to make them support their unilateral decisions or those made by senior management. This implies that some unionists end up not fulfilling their responsibilities and mandate of representing their
constituencies due to fear of losing out on the additional benefits. The findings confirm earlier studies by Oliver (2002) who reports that employers bribe union members by offering them good packages and promotion and end up rendering collective bargaining useless.

SMEs employees do not have access to the use of collective job actions as tools to coerce the employer to accede to their demands and also to negotiate in good faith. The failure by employees to fully utilise this facility as provided for in section 104 of the Labour Act makes collective bargaining remain on paper and difficult to operationalize. Employers get to the extent of hiring workers to replace those on strike. In defending the conditions of service they offer, the SMEs directors usually quote big organisations in Zimbabwe that go for months without paying salaries. They therefore consider their employees lucky as they, at least, get their monthly salaries without fail in most cases. As a result, the employers punish workers who participate in strikes, even though the workers have not engaged in serious misconduct or criminal acts.

CONCLUSION

Based on the findings of the study, the following conclusions were made: at workplace level, employee representation and collective bargaining arrangements are not as widespread in SMEs as they are in larger companies, trade union density is extremely low in SMEs, especially in the smaller firms which often tend to be individually or family-owned and that there is lack of transparency in collective bargaining. Employees are denied access to accurate information that is useful for meaningful collective bargaining to be instituted. Employees are also not fully represented by unions since there is an uncontrolled interference from management. Generally, it is concluded that collective bargaining is more of a myth than a reality in SMEs.

RECOMMENDATIONS

- The state as part of the labour relationship needs to train SMEs directors so that they can appreciate the importance of collective bargaining to both the employer as well as the employees and eventually benefit sustainable development of the nation.
- Employers should also enable workers to form or join unions of their choice. Furthermore, employees should be allowed to meet freely without any interference from any member of management.
- Both employers and employees should comply with national laws and international standards in relation to collective bargaining and industrial action.

- During collective bargaining, employers should not limit the issues to be negotiated.

REFERENCES

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