

Lewis B. Dzimbiri

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# **Industrial Relations in a Developing Society:**

**The Case of Colonial, Independent One-party  
and Multiparty Malawi**

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Cuvillier Verlag Göttingen

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## **Bibliografische Information der Deutschen Nationalbibliothek**

Die Deutsche Nationalbibliothek verzeichnet diese Publikation in der Deutschen Nationalbibliografie; detaillierte bibliografische Daten sind im Internet über <http://dnb.ddb.de> abrufbar.

1. Aufl. - Göttingen : Cuvillier, 2008

Zugl.: Malawi, Univ., Diss., 2008

978-3-86727-609-2

© CUVILLIER VERLAG, Göttingen 2008

Nonnenstieg 8, 37075 Göttingen

Telefon: 0551-54724-0

Telefax: 0551-54724-21

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1. Auflage, 2008

Gedruckt auf säurefreiem Papier

978-3-86727-609-2

## **Dedication**

To my late father Baison Pelusi whose determination to have me go on with education beyond just reading, writing and arithmetic was never hampered by his occupational or geographical disadvantage at the foot of Mulomba hill in rural Malawi.

May his soul rest in peace!



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## Preface

As Schaffer (1969:184) observes, developing societies are characterized by a peculiar combination of factors such as ‘extensive needs, low capacities and severe obstacles’ and these factors make industrial relations more complex and controversial. Apart from these factors, there are already known contradictions in the needs and expectations of the major actors in industrial relations-employers, employees and the state. The state wants economic development through public and private sector investment and higher worker productivity. It performs several functions- an employer, economic manager, arbiter in trade disputes and provider of a legal framework for industrial relations. It is also concerned with the welfare and standards of living of the majority of the citizens who constitute the largest proportion of voters. While employers in the private sector are keen to produce goods or offer services at a more competitive price and are anxious to maximize profits through higher productivity and lower costs, employees are keen to enjoy a living wage, better conditions of employment including participation in decision-making processes related to their wages and conditions of employment. However, high wages, fringe benefits among other ‘goodies’ are a cost that reduces the profits of the employer. The need of the employers for more investment which in turn creates additional employment for jobseekers pleases the state which is not only anxious to get corporate as well as pay as you earn tax, but also wants to ensure improved standards of living of the majority poor. The needs by different actors create tensions, dilemmas and hence conflict in industrial relations. Attempts at managing this inherent conflict at the workplace and in the wider society generally, is the major preoccupation of industrial relations. One of the central points in the book is that the state is the most powerful actor that determines the terrain of industrial relations in any country. In a developing country the influence of the state is even stronger given its central position it occupies in economic development and its anxiety to maintain political stability. Additionally, the influence of the international donor community on the behaviour of the state in developing societies which in turn has a bearing on industrial relations is acknowledged.

Employment relations issues need to be understood by employers (employers’ associations, human resource managers, general managers and chief executives, industrial relations managers, company presidents and Board chairpersons), employees (in the broadest sense of the word from the rank and file to top management, union leaders and members) and government officials( dealing with employment issues in ministries and government departments, labour ministry officials, ministers and their advisors and all involved in third party roles to employment disputes).This book will benefit not only the above groups but also students at universities or training institutions as well as lecturers in the field. It is a product of the author’s reflection of his experience of the extent of helplessness experienced by many actors in employment relations when Malawi was thrown into an industrial relations ‘tsunami’ in the early 1990s when the country witnessed

unprecedented strike activity in the midst of political change. My research on Joint consultative committees and the presentation of the same at the labour law reform workshop in June 1995 at Nkopola Lodge in Mangochi was the beginning of my interest in industrial relations. Following on this interest, I introduced Industrial Relations as a course for the BA HRM students in the department of Political and Administrative Studies at Chancellor College, University of Malawi. Assignments done by my students deepened my interest further. This culminated into a three year research which was in fulfillment for the award of a doctoral degree in industrial relations at Keele University in England. This book represents tangible evidence of interest in the subject. Special care has been taken to clarify key concepts and roles of actors and some theoretical frameworks for understanding industrial relations processes. The role of the state and its transformation in Africa over the past decades and its impact on industrial relations in Africa in general and Malawi in particular, has been examined. An attempt to demonstrate worker militancy in reaction to poor conditions of employment during the colonial, independent one party and multiparty Malawi has also been shown. This book demonstrates the value of a multidisciplinary approach to unravel complex forces within the political economy of a developing society. The use of industrial relations theory, public administration, law, economics, history, research methods and political science has provided deep insights into the peculiarity of industrial relations of a developing society over a period of seventy years. This covers the colonial, the independent one party and the multiparty periods. While it may not be too comprehensive to cover every aspect of the subject matter, the book does claim to be a product of extensive research. Apart from extensive interviews with key actors and analysts of industrial relation in Malawi and review of the literature on the subject, the book has relied on extensive review of documents, official statistics, newspapers and questionnaire responses to generate data. I have deliberately avoided many citations inside the text in order to make it more reader friendly. It should be mentioned that although the case studies and most materials in this book are selectively Malawi and Africa in scope, the relevance of the content goes beyond the African continent.

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2008

## Acknowledgement

This book is a product of contributions from individuals and organizations too many to mention but who nonetheless deserve my heartfelt gratitude and sincere thanks. I thank the Commonwealth Scholarship Commission in London for awarding me a scholarship to undertake an in-depth research on industrial relations in Malawi during 1999-2002. Thanks to the University of Malawi for the generous paid study leave and my colleagues at Chancellor College - in particular Dr Mustafa Hussein, Prof.Z.D. Kadzamira, Prof Kings Phiri, Prof. Paul Kishindo, Prof. Wapulumuka Mulwafu, Ms Cecilia Makupe, Mr Mandiwa, Mrs Nkomba and many more - for their support. I recall with gratitude staff of Chancellor College Library (Mr Vuwa Phiri, Mr Chabwera, Mr Chalera) and the Institute of Commonwealth Studies Library in London for their promptness in helping me. I do not forget hundreds of mature entry HRM students who shared their experiences with me. Staff of the Centre for Industrial Relations at Keele University Dr Stephen Jeffreys, Dr Carole Thornely, Colin Whitston, Mike Ironside, Dr Paul Smith, Dr Steve French, Dr Wendy Richards, Prof. Frank Burchill, and above all Dr Dave Lyddon, who supervised my research, deserves my sincere gratitude for stimulating my growing enthusiasm in industrial relations. I am greatly indebted to Prof. Roger Seifert and Prof. John McCracken of Keele University and Stirling University respectively for stretching my imagination beyond the PhD thesis. I say thank you. I am further indebted to Prof Roger Seifert and Associate Prof. James Chipeta for their stimulating comments on original manuscript of this book. Thanks to other anonymous reviewers for their invaluable comments and suggestions.

Many more thanks go to all my interviewees in the trade union movement mostly the Malawi Congress of Trade Union's former president Ken Mhango, former Secretary General Francis Antonio and various leaders in the Civil Service Trade Union, Teachers' Union of Malawi and others in the private sector. The Ministry of Labour officials and the Department of Human Resource Management and Development deserve my sincere thanks for their invaluable assistance. I also wish to thank the Employers' Consultative Association of Malawi and its members for opening their offices to me. Mr B. Chilabade deserves a big thank you for all you did both in England and Malawi to make my research and writing of this book, an enjoyable task. Finally, I wish to thank members of my family and in particular my dear wife Mavis and my daughters and sons Jane, George, Joyce, Lewis Jr, Joel and not forgetting my brother Justin Dzimbiri for the moral support during the research and drafting of this book. It is my pleasure to dedicate this book to my late father Baison Pelusi who instilled in me at the tenderest age the spirit of 'learning how to learn'.

Lewis B Dzimbiri

## Abbreviations

BCCEWU	Building Construction Civil Engineering and Allied Workers Union
COMATU	Congress of Malawi Trade Unions
EA	Employment Act
LGWU	Local Government Workers Union
NWB	National Water Boards
RWU	Railway Workers Union
TGWU	Transport and General Workers Union
CEARWU	Central and East African Railway Workers Union
HFCWU	Hotel Food Catering Workers Union
ESCOMWU	Electricity Service Commission of Malawi Workers Union
MHCWU	Malawi Housing Workers Union
TTWU	Tobacco Tenants Workers Union
MPTCWU	Malawi Posts and Telecommunication Workers Union
UN	United Nations
LRA	Labour Relations Act
IRC	Industrial Relations Court
NBMWU	National Bank of Malawi Workers Union
CIWU	Commercial and Industrial Workers Union
CGWU	Commercial and General Workers Union
HRC	Human Rights Commission
MPSR	Malawi Public Service Regulations
SDI	Staff Development Institute
JCC	Joint Consultative Committee
MIM	Malawi Institute of Management
NAC	Nyasaland African Congress
MCP	Malawi Congress Party
AFORD	Alliance for Democracy
UDF	United Democratic Party
GoM	Government of Malawi
NCC	National Consultative Council
NEC	Nation Executive Committee
MDC	Malawi Development Committee
GDP	Gross Domestic Product
ZCTU	Zambia Congress of Trade Unions
UNIP	United National Independence Party
TANU	Tanganyika African National Union
KAWU	Kenya African Workers Union
KFL	Kenya Federation of Labour
ZTUC	Zimbabwe Trade Union Congress
TFL	Tanganyika Federation of Labour

NUTA	National Union of Tanganyika Employers
JUWATA	Jumuiya ya Wafanyakazi Tanzania
ARDL	Annual Report of the Department of Labour
ILO	International Labour Organisation
TUM	Teachers Union of Malawi
MYP	Malawi Young Pioneers
OPC	Office of the President and Cabinet
DHRMD	Department of Human Resource Management and Development
OATUU	Organisation of African Trade Union Unity
DWS	David Whitehead and Sons Ltd
CHAM	Christian Health Association of Malawi
WACS	Wages Advisory Councils
WAB	Wages Advisory Board
MANEB	Malawi National Examination Board
MBS	Malawi Bureau of Standards
UMAASCC	University of Malawi Academic and Administrative Staff Consultative Committee
CSTU	Civil Servants Trade Union
MCTU	Malawi Congress of Trade Unions
NTAWU	Nyasaland Transport Allied Workers Union
ADMARC	Agriculture Development and Marketing Corporation
MDC	Malawi Development Corporation
CGWU	Commercial and General Workers Union
NCL	National Council of Labour
TUCM	Trade Union Congress of Malawi
PAWU	Plantation and Agriculture Workers Union

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## **Chapter One**

### **Introduction to the Book**

#### **Introduction**

This book is an attempt to obtain a broader understanding of industrial relations and to account for the role of the state in industrial relations using Malawi's experience in a period of seventy years. This period covers three types of political systems: - the Colonial Political System, Independence One-party System and the Multiparty Political System. This book is an expression of the desire to explain why there were more strikes in the 1990s in Malawi than at any other time before that. The central argument is that the authoritarianism that the one-party state adopted at Malawi's Independence in 1964 to achieve political and economic objectives created an industrial relations system that suppressed freedom of association, the right to strike, and produced a docile labour movement that avoided protracted strikes. The strike activity in the 1990s is explained in terms of the weakened 'grip' of state power on civil society dictated by internal and international demands for democratic reforms. Thus, the state is viewed as the major determinant in shaping the industrial relations over the years.

The intrinsic desire to write this book developed from my experience and curiosity with strikes as a citizen, public servant and researcher in Malawi. I worked in the civil service from 1977 to 1990. I never heard of strikes in Malawi from the time I joined the Civil Service in 1977 as a teacher and later a management trainer at the Staff Development Institute (SDI), Mpemba to the time I became a lecturer in the University of Malawi in 1990. When I read for a Masters degree in Human Resource Development at the University of Manchester in 1988, I did not take industrial relations because it was not part of the SDI training curriculum. Industrial Relations was not part of the University of Malawi curriculum where I read for a BA degree in Public Administration during the period 1980-84. In fact, no student ever mentioned having been involved in strikes or trade union activities during topics on trade unions within the human resource management course at SDI. I never read any commentary on strikes in any newspaper. The 1990s will go down in the history of Malawi as a decade of worker militancy when employees waged protracted strikes in both the public and private sector organisations. It was this militancy after three decades of 'industrial peace' that influenced my curiosity to understand industrial relations, so that I could explain 'what' was happening and 'why' it happened the way it did. It should be pointed from the outset that this book is a product of a three-year research and a modified version of my doctoral dissertation at Keele University, England. I am thankful to Professor John McCracken and Professor Roger Seifert who were my external and internal examiners respectively and my supervisor Dr David Lyddon for their stimulating comments and advice, which motivated me to write this book.



## **Understanding industrial relations**

Edwards (1995) says Industrial Relations ‘study the relationship between employer and employee in paid employment, the ways in which employees are rewarded, motivated, trained and disciplined, together with the influence on these processes of the major institutions involved namely, management, trade unions and the state’. Similar attempts to bring major institutions involved in industrial relations are also made by Kochan (1980) who defines industrial relations to include the study of ‘all aspects of people at work as individuals and groups, organised or unorganised, the behaviour of employer and union organisation together with public policy or legal framework governing employment conditions’.

Bain and Clegg (1974) point out that industrial relations study ‘various aspects of job regulation’ which focus on rule making in the employment relationship. However, such emphasis on formal institutional relationships, rules and procedures to the exclusion of the informal, more personal relationships of industrial behaviour, which is crucial for understanding industrial relations, has been criticised (Salamon, 1992:41). For Hyman (1975:12) ‘the process of control over work relations which include the less formal aspects of the employment relationships and the existence of conflict in industrial undertaking needs to be emphasised in definitions of industrial relations.

## **Perspectives in industrial relations**

It is important to distinguish three major perspectives, theories or views relating to the employment relationship/industrial relations. These are the unitary perspective, the pluralist perspective and the Marxist perspective. One should pay particular attention to how each perspective views the workplace in relation to conflict and harmony, employer prerogative and the role of trade unions.

### **The unitary perspective**

The unitary perspective of industrial relations views a work organization as characterised by an integrated and harmonious whole existing for common objectives, values, interests and a single centre of loyalty and authority (Burchill, 1997:7). Thus ‘industry is a harmony of co-operation which only fools or knaves choose to disrupt’ (Fox, 1966:5). Conflict is pathological and caused by ‘agitators and troublemakers, misunderstanding or personality clash’. Conflict is to be removed at all costs in the same way a dentist has to extract a decaying tooth before it affects the others. Managers, in this persuasion, would rely on power, dismissal, disciplinary procedures or transfer of troublemakers to other sections. Trade unions are either viewed as obstructive and unnecessary to the proper management of the enterprise, or as instruments of communication with workers for the achievement of unity and control.

In this context, authoritarian styles of management are viewed as appropriate and are therefore, tolerated. Workers rarely participate in decision making as this is

contrary to managerial prerogative. Managers are in control. They are not only perceived as those who received appropriate training and education but also those who value decisions in the interests of the company as well as attending to the needs of the workers. A sense of mutuality of interest-what is good for the employer is also good for the employee - is perceived to exist in work organizations. In other words, classical management school of thought finds support within the unitary perspective. Fredrick Taylors' Scientific Management Movement, Henri Fayol's Principles of Management School and Max Weber's Bureaucracy with their emphasis on structure, rationality, objectivity, and predictability to a larger extent, were framed within the unitary perspective.

### **The pluralist theory/perspective**

Pluralist theory is based on the notion that the work place is a microcosm of society replete with diversity in social groups, social interest, values, and beliefs that generate conflict. Proponents of this view acknowledge diversity and often-conflicting interests among people in society and workplace. For instance, workers' motives for higher wages, increased leisure, autonomy, work flexibility, differ markedly with the employers' desire to make profits through cost-cutting mechanisms such as low wages and minimal incentive packages. For Dubin (1954:37- 47), industrial conflict is inevitable in modern organizations. He however notes that this conflict can be disruptive if left uncontrolled. It is comforting to note that through collective bargaining, the worst aspects of conflict is resolved and at times used to the advantage of the organization. Thus, the pluralist view acknowledges the existence of conflict between employers and employees, which requires effective industrial relations strategies. Thus, one would view theories such as Mayo's human relations school, Maslow's hierarchy of human needs, Argyris Immature-mature theory, Douglas McGregor's theory X and Y whose overall theme is the need to tap the potential of the human energy, skill and ingenuity, as pluralist in perspective. A participative or consultative culture tends to permeate all levels of the organization. Managers in this frame of reference would use various mechanisms for involving workers in decision making on issues affecting their working lives or those aimed at improving the productivity of the organization. These would include such means as staff meetings, quality circles, joint consultative committees, works councils, and trade unions. These are seen as channels through which the conflicting interests of employees can be articulated to the employer.

### **The marxist theory/perspective**

The Marxist perspective views employer-employee relationships in the wider capitalist society which is believes to be exploitative. Industrial relations are analysed as a subsystem of a larger society that shapes conflicting relations between capital and labour. Society is divided into two main classes: one owns the means of production and the other does not. Those who own are concerned with maximizing their profits and regard labour power as a factor of production to be exploited like any

other factors. The Marxist general theory of society argues that class (group) conflict is the source of societal change without which society would stagnate. Class conflict arises primarily from the disparity in the distribution of economic power and access of the same within the society, and the principal disparity being between those who own capital and those who supply their labour. The nature of society's social and political institutions is derived from this economic disparity and reinforces the position of the dominant establishment group, for example, through differential access to education, the media, employment in government and other establishment bodies.

Social and political conflict in whatever form is merely an expression of the underlying economic conflict within the society. Industrial conflict is seen as a reflection of not just organizational demands and tensions but also the inherent nature of the capitalist economic and social system. All conflict is believed to stem principally from the division within society between those who own or manage the means of production and those who have only their labour to sell. This conflict is therefore continuous and unavoidable. In other words, industrial conflict is synonymous with political and social conflict. The growth of trade unions is therefore seen as an inevitable employee response to capitalism, the organization of employees into trade unions as a means to enhance their collective industrial power by reducing competition between individual employees. It is also seen as a way to provide a focus for the expression and protection of the interests of the working classes. In other words, the fraternalism developed within trade unions can then be converted into class-consciousness within the social and political systems.

For Hyman (1989: 92), the conflict between capitalist and labour arises because 'what is income to the employee is a cost to the employer, which the latter will naturally seek to minimise.' Trade unions therefore perform a protective function that involves insulating workers from uncertainty, the insecurity and differentials that are characteristic of capitalism. But, as Fox (1973: 193) argues trade unions are like a permanent opposition, which does not seek to be an alternative management. The role of the state in creating a legal framework and unions' engagement in collective bargaining are seen as mechanisms to perpetuate capitalist dominance and its legitimization. Marxist theory is pessimistic about the role of trade unions to represent employees as long as they cannot challenge capital. The creation of institutions of joint regulation such as a trade union is seen as an enhancement of managerial position vis-à-vis the workers, rather than its reduction. As Hyman (1989: 109) maintains, collective bargaining cannot remove causes of conflict 'unless the basic structure of industry and society is radically recast with workers controlling the process of production in the interest of human welfare rather than being controlled by it in the interests of profit'.

## **Actors in industrial relations**

There are three key actors in industrial relations: employees and their organizations (trade unions), employers and their organizations, and the state. But what are they and what do they do?

### **Trade unions**

Sydney and Beatrice Webbs (1902) defined a trade union as ‘a continuous association of wage earners for the purpose of maintaining or improving the conditions of their working lives’. It is viewed as any organization whose membership consists of employees, who seek to organise and represent their interests both in the workplace and society, and in particular, seeks to regulate their employment relationship through the direct process of collective bargaining with management.

Edwards et al. (1986) distinguish three types of western-style unionism.

1. Unions which serve as constituent elements in systems of political unionism (as in France and Italy together with Spain where union organization is closely linked to political parties).
2. Unions, which act primarily as collective bargaining agents for particular groups of workers (such as in the United States and the United Kingdom).
3. Unions which operate as partners within social-democratic government arrangement (such as the case of Australia and for a long period, Sweden)

Thus, trade unions may seek to achieve their objectives not only by collective bargaining but also by lobbying the legislative or by a more fundamental form of political action aimed at transforming the employment relationship.

### **Trade union function**

Trade unions represent the interests of its members in terms of improving terms and conditions of employment. However, this function has five distinctive features: power, economic regulation, job regulation, social change and self-fulfilment.

#### *Power*

A trade union provides countervailing force to the employer and a pressure group within society. An individual worker is in a very weak position to make demands and force either the employer or the state to change a particular policy that impinges on him or her. There is a lot of strength in unity. For example, the industrial site of Blantyre and Lilongwe in Malawi was paralysed when workers staged numerous political and economist strikes during the transition to multiparty politics in Malawi. Workers defied Government threats of dismissal for taking part in illegal strikes.

#### *Economic regulation*

Trade unions maximise the wages and employment of their members within the framework of the wage/work contract of employment. Without unions, wages might still rise but not to the level they would reach under the influence of a strong union.

This is why employers are often not comfortable with unions which they associate with machinery for pushing wages high. Even a joint consultative committee, which in many organizations can only be consultative, does have significant influence. In 1995 when the author talked to the Executive Committee of the Malawi Civil Service Joint Consultative Committee on their achievement in the past one year of their formation, they reported improvements. They talked of the introduction of house allowance for all civil servants and maternity leave for female civil servants even for cleaners. Housing was classified as a privilege in the sense that civil servants not housed would pay housing rent from their salaries yet those housed by the employer paid 10% of their salaries subject to a small ceiling which was far lower than the economic rent paid by those not housed. Similarly, maternity leave was also provided to permanent and pensionable female civil servants only. However, pressure from the Civil Service Joint Consultative Committee led to a major shift in Government policy over the two issues.

### ***Job regulation***

Trade union-management relationship creates a joint rule making system to prevent arbitrary management actions. Without unions, it is inevitable that the employer will be at liberty to design rules, regulations and procedures to govern employment relations. Procedures for recruitment, selection, appointment, confirmation, training, development, salaries and wages, allowances, advances, housing and other benefits, disciplinary issues, grievance handling, work load and work design, among other things, are decided by the employer. If there is no union in the organization, the employer will continue to review and change or bring in new regulations or procedures without consulting employees. However, the frontier of control changes when a trade union is formed to represent workers in a particular company or industry. Employers will need the involvement of trade unions in decision-making processes on things that have impact on the worker. Hence, joint regulation of the employment relationship.

### ***Social change***

Trade unions do express the social cohesion and aspirations or political ideology of their membership and seek to develop a society, which reflects this view. As a pressure group with values, norms, practices and ideology, trade unions might wish to shape society in a different way. For example, apart from talking issues related to wages and conditions of employment, trade unions might wish to advocate for a total transformation of society in terms of demands for gender balance at work, security policies for the retired citizens, pensions and gratuity, help to the aged, the creation of nursing homes to care the elderly and helpless retired officers, etc. They can advocate for the fighting of corruption, good governance, accountability and transparency, globalization, trade issues, among others.

### ***Self-fulfillment***

Unionism provides a mechanism whereby individuals may develop outside the immediate confines of their jobs and participate in decision-making processes. Abraham Maslow talks of the hierarchy of human needs which are basic needs,

security needs, love/social needs, self-esteem and self-actualization or self-fulfillment needs. Self-fulfillment needs are hard to achieve especially for the lower ranks of the organizational hierarchy. However, it is possible to reach this highest level need through the trade union route. For example, a clerical officer who becomes president of a trade union in the civil service suddenly becomes very influential. Not only can he or she talk freely with a Principal Secretary in a Ministry or top officials representing the employer in equivalent situations in the private sector, but is also able to command the respect of thousands of civil servants scattered throughout the country. It creates a very powerful feeling of contentedness to realise that while employees cannot listen to their boss during a strike, his or her words gain a high degree of obedience from fellow employees. That is the context within which trade unions can act as avenues towards self-actualization. Put it differently, while a college professor might have difficulty to book an appointment to meet the State President, in Malawi, for example, the president of a trade union could be given immediate audience.

### **Trade union structure and growth**

Unions may organise according to *exclusive principles* dependent upon their market capacities and resultant ability to erect boundaries or they may recruit on *inclusive principles* basis. Craft unions in pure form are confined to apprentice–served, skilled workers intended to protect and promote a marketable skill. Sometimes occupational unions, which are not confined to apprentice–served workers, are seen as a form of craft union. An example might be a carpenters’ union, a bricklayers’ union, welders’ union, watch repairs’ or radio repairs’ union.

Industrial unions are completely inclusive in terms of their recruitment representing a large number of different industries and occupations. For example, a textile union might recruit any person be it a driver, metal worker, carpenter, bricklayer, clerical officer, accounts staff, secretary, computer assistant, sales personnel provided they are working within the same industry . Technology is a major explanation for the establishment of these various types of unions.

A lot of work on organising has been done by economists whose approach is based on the hypothesis that workers will join unions if the expected benefits and returns from the services which unions can provide exceed the expected costs. These services are in the form of relative wage gains, taking up grievances, access to specialised information and the like. These costs comprise not only membership dues but also time spent in attending meetings, submitting themselves to the directives of the union leaders in case of strikes, lost earnings in case of unsuccessful strikes which might lead to the deduction of employees’ wages for the days they were on strike. When the cost is perceived to be high, workers might be reluctant to join unions.

Variations in aggregate union membership are influenced by several variables like industrial sector changes, sex composition of the labour force and macroeconomic variables. There is a view that when there are increasing numbers of women joining the labour force, the number of union members will not increase compared to a situation where the same number were men. It is also true that when more part time

workers are employed, the number of union membership might not increase as well as it would if all of them were permanent ones.

Price (1991) has argued that over the long term, economic variables are likely to be much more influential in explaining membership changes in periods of relative stability or institutional consolidation, particularly in those countries where unions have an essentially economic character. That is, if there are significant degrees of unemployment, we should expect lower levels of union membership than we should if the opposite occurred. Again, when there is economic stagnation we would have lower membership because fewer employees, if any at all, are getting employed. A booming economy would be associated with an increase in union membership.

Political ideology helps to provide a unifying force for labour, instilling a sense of perspective and purpose beyond the mere rectification of current grievances. A study across eight industrialised countries since 1960 (Ng 1987, in Bean, 1994) has shown that the annual growth of aggregate trade union membership is enhanced when either (pro-labour) socialist or liberal parties are in government. This view links national politics and labour. One of the features of industrial relations as a subsystem of a wider political, social, cultural and economic subsystems is that any changes in one of them inevitably impacts on industrial relations variable in one way or another. If the political system acquires conservative values and emphasises the respect for elders or those in decision-making position, then participation may not be attractive, and therefore union membership might dwindle.

### **Management and employers' association**

The term management refers either to the process of planning, organizing, staffing, directing controlling, coordinating, reporting and budgeting (POSDCORB) or those men and women at the top who achieve results through the efforts of others. In the first part, we are looking at 'management' from a process point of view while in the second version we are looking at a group of people at a certain level of the organization hierarchy. Thus, 'management' are those roles where the holders have, and are, accepted by others in the organization to have a formal role and authority to make decisions which can be regarded as binding on the organization. No wonder people talk of top management, middle management, supervisory management, management meeting, etc.

It is important to distinguish 'management' from 'employer'. While one would think managers are employers, it is not always the case. The owner of a small grocery shop, who gets involved in the management of the shop with two or three shop assistants, is both an employer as well as a manager. But, managers working in McDonald shops, or Woolworth's or Game are not employers, as they do not own the organization. If anything, they are making decisions on behalf of the owners who might be shareholders or one or two rich people. The expansion of industrialization left to a shift from hand-made goods to those manufactured in large-scale organizations. This necessitated the need to employ professionals with training or experience in management functions.

In the civil service, it is even very difficult to identify an employer. Is the Chief Secretary who is the Head of the Civil Service, an employer or employee? How about cabinet ministers who are final decision makers in their ministries, can they be called employers? Interestingly, the Government employs both the minister and head of the civil service. This raises an important and equally elusive question about what Government is and what it is not. Without wasting energy on this issue, it is pertinent to reiterate that there is need to distinguish the employer from the manager.

Although managers are educated, trained or experienced experts in planning, organizing and performing other managerial functions, their freedom to do so is limited by a number of factors. Things such as the strength and degree of unionization, degree of formal labour relations, existence of supportive employer organizations, prevailing philosophy of management, level of expertise of managers, behaviour of management, external environment- product market and role of the state create a system of checks and balances in 'management's right to manage'.

Purcell and Sisson distinguished five management styles towards employee relations: Traditionalists, Sophisticated paternalist/human relations, Consultative, Constitutional and Standard modern.

The traditionalist approach is where managers display forceful opposition to trade unions and openly exploit labour as a factor of production. Employee subordination towards organisational pursuits and obedience to the managers and the employer are viewed as the 'natural order' of the employment relationship.

In sophisticated paternalist/human relations approach, an employee is viewed as the company's most valuable resource. He/she is offered above average pay and grievance and consultative procedures exist, to inculcate employee loyalty, commitment and dependency on the company for all the good things he/she gets at work. This is a carefully worked out strategy to create an environment in which employees will have no incentive or excuse for joining a trade union. By being too good to the workers, the employees develop emotional attachment to their organisation and managers and hence compliant to managerial dictates. The roots of this human resource management thinking started with Elton Mayo's famous Hawthorne studies in the 1930s. Critics see it as unitary, manipulative and at best, exploitative.

The consultative approach or the sophisticated modern approach is similar to sophisticated human relations companies but unions are recognised. Attempts are made to make unions part of the company's organizational fabric. It emphasises techniques to enhance individual commitment to the firm and the need to change - share option schemes; profit sharing; briefing, joint working parties; quality or productivity circles/councils. There is tendency among company managers to appear good hosts of trade unions though the numerous channels they use to involve workers can easily weaken their functioning.

Constitutional or sophisticated modern approaches recognise unions as inevitable. Employee relations' policies centre on the need for stability, control and the institutionalisation of conflict. There is a general awareness of the prevalence of conflict at the workplace, and that the best way to deal with it is not to shy away from



conflict but rather, to face it head-on through 'proper' means such as using trade unions for collective bargaining. Management prerogatives are defended through highly specific collective agreements. There is a tacit awareness by management that one way it can gain concessions from the workers and can defend its position without strong resistance is by legitimizing collective bargaining. Through collective bargaining, management gains concessions and seal these concessions through a collective agreement which is signed by both parties. Management control is used to neutralise union constraints on operational and strategic management.

The standard modern approach, on the other hand, handles employee relations in a pragmatic manner. Trade unions are recognised. Employee relations are viewed as the responsibility of operational management and a very important day-to-day activity. The importance is attached to employee relations' policy changes in the light of circumstances, demonstrating that this approach presupposes a clear understanding of pluralism at the workplace. There can be marked differences of approach between establishments or divisions and between various levels in the hierarchy. This is common in conglomerate multi-product companies, which grew by acquisition and diversification.

### **Employers' associations**

According to Salamon (1992:239) Employer association is 'any organization whose membership is composed of employers and whose purposes include the regulation of relations between employers and employees or trade unions'. The development of employers' organizations can be traced to the development of trade unions and collective bargaining and the primary objective was: To protect management's prerogative and resist the development of unionism. There was a perceived fear that with powerful trade unions against uncoordinated employer, efforts would prove disadvantageous for employers. It sprang from the feeling that there is strength in unity. There was also a feeling that employers' organization could function as an institution for collective bargaining on behalf of their members. More importantly, the growing influence of the state in industrial relations - legislation, wage controls, etc - forced employers to build a force to counter any negative aspects of state intervention in industrial relations.

### **The functions' of employers associations**

According to Salamon (1992:244) the primary function of employers' association is to support and promote the commercial objectives of its members and its major activities include:

1. The direct negotiation of collective agreements with trade unions. Although the responsibility of concluding collective agreements rests with the employer and the respective trade unions, it is legitimate to have an employers' organization do the work of the various employers or a single employer in a particular industry on their behalf.

2. Assisting its members in the resolution of disputes. When a dispute arises between the employer and the union, we would expect that voluntary mechanisms for settling disputes in that organization would be invoked and hopefully exhausted. However, an employer might feel inadequate in terms of handling a particular dispute either because there is little skill on the management side or the nature of the issue at stake requires an employers' organization. Specifically, issues that affect as many employers as possible in an industry might need a federal union to engage the process of negotiation with the employer organization on behalf of unions.

3. Providing general help and advice to its members on industrial relations matters. As a nerve centre of information and expertise on labour relations issues, employer associations are better placed to give advice to employers on such matters as contract preparation, grievance handling procedures, employment of expatriates staff, disputes settlement procedures, discipline, negotiation, collective bargaining etc.

4. Representing its members' views and interests to government and other agencies. In order to avoid presenting a fragmented employer stance to international agencies or Government, the most representative employer organization becomes a representative as well as spokes organization for the others. For example, while the most representative trade union organization shall represent all unions at a tripartite meeting with Government, or at the International Labour Organization Meeting in Geneva, the most representative employer organisation also represents other employers or employer organisations.

### **The role of the state in industrial relations**

The central argument in this book is that of all the actors in industrial relations, the state is the most powerful and does influence industrial relations through the various roles it plays. According to Kerr, et al. (1973) the state is a central apparatus that elites use to further the industrialization process. No wonder some definitions of industrial relations implicate the state in industrial relations. There is a strong agreement among theorists that employers, trade unions and the state are the three major institutions influencing industrial relations (Edwards, 1995:1. For Dunlop (1958:7) a hierarchy of managers and their representatives in supervision, a hierarchy of workers (non-managerial) and spokesmen, and specialised governmental agencies concerned with workers, enterprises and their relationships, are the three major actors in industrial relations.

Although the state includes parliament and the judiciary as well as the police and the army, it is the 'government' under a president or prime minister that is significant in determining the scope of industrial relations in both private and public sector organizations. How does the state impact industrial relations through the roles it plays?

The state regulates the legal framework within which employers and employees interaction takes place. It, for example, enacts the various labour laws and other related Acts such as the Labour Relations Act 1996 and Employment Act 2000 in Malawi.

The state makes statutory provisions relating to minimum conditions of employment such as health and safety, wages and hours of work. As Clegg (1976:101) observes, the law can, not only be used to establish minimum standards which collective bargaining could exploit, but also to enforce compliance on recalcitrant employers.

The state provides services for conciliation, mediation and arbitration. The role of the state in this is used to explain differences in strike propensity in different countries. In a comparative study of Canada and Britain, the Canadian industrial relations system was seen to generate more conflicts at the workplace than the British one. The difference was due to the predominance of state arbitration that inhibited union participation and left workers deeply frustrated. The consequence was indiscipline and wildcat strikes. The decline in unofficial strikes in Sweden was due to the change in the distribution of power resources between employers and employees because the Labour Court, as a state institution, had conferred enormous powers to employers to interpret the employment contract (Korpi, 1981: 66). This then enhanced employers' prerogative to hire and fire, which in turn forced union representatives to disclaim any support for the strikers to avoid liability for the union.

The government also plays the role of a model employer. In developing countries where the state is the biggest employer through the civil service, local government and state-controlled enterprises, it influences industrial relations through its own terms and conditions of employment and attitude towards collective bargaining and the labour movement. If the state is hostile towards trade unions, and if its own employees' wages and conditions of employment are poor, the private sector would resist trade unions and any demands for higher wages, especially if the labour movement is weak.

The state regulates incomes through macro-economic management to achieve high employment and productivity, and to attract investment, maintain low levels of inflation and avoid over-expenditure. Since incomes policies include wage ceilings, they influence levels of wages and limit collective agreements.

## **Strikes in Malawi**

As indicated at the beginning of this chapter, there were no known strikes at least by the conventional definition of the strike before the early 1990s. The first strike to make an impact on the whole country was the May 1992 David Whitehead strike in Blantyre, which the *Daily Times* summarised as follows:

David Whitehead employees boycotted work asking for higher salaries, staff switched off machines at 1.00 a.m. and gathered at the gate until late morning, blocking all other members of staff from entering the premises; joined by their colleagues of the morning shift the factory employees many of whom are junior employees, swarmed the

company's premises up to Brown and Clapperton company across Makata Road, causing traffic jam; the employees kept on chanting: we want money... higher salaries with their hands raised up...At Manica and Brown and Clapperton...protesting employees marched up to Kamuzu Highway blocking traffic in the process; they later went back to the industrial premises, where they continued to block traffic...according to the eye witness Brown and Clapperton employees went into discussion while the Manica employees went with their protest...City of Blantyre employees congregated at the Engineering and Fire Brigade offices from where they marched to the Civic Centre near the Stadium to present their grievances...On their way they upset rubbish bins emptying the contents on the road, and throwing stones and tree branches, making traffic flow difficult...Employees at Securicor mounted similar protests and vandalism reached other parts of Blantyre City Centre where some shops were broken into by unidentified mobs who claimed to be employees of Blantyre City Council...other mobsters blocked roads with poles (*Daily Times*, 6 May 1992).

Thus, following David Whitehead strike, workers for Manica, Brown and Clapperton, Blantyre City Council, and Securicor companies went on strike. After these strikes a chain reaction followed with strikes occupying front pages of newspapers. As a *Daily Times* reader, I noted that strikes were becoming common and wondered whether they would ever stop. The University of Malawi, where I worked, started experiencing strikes. As one newspaper noted, striking seemed fashionable:

The strikes in our firms and industries are with us again ... and the country seems helpless...Today it is Blantyre City Council workers, tomorrow it is Securicor and teachers refusing to mark examinations for one reason or another ... another day we hear of threats of strikes yet elsewhere...we wonder why this should be the order rather than the exception (*The Nation*, 4 August 1993)

This commentary and the reaction by political elites including the President and state bureaucracy, as we shall examine later, suggest that strikes had taken the country by surprise after a long period of industrial peace. 'The country seemed helpless as unrest was causing a lot of concern to the peace loving Malawians' (*Daily Times*, 7 May 1992). There was a view that workers were justified to ask for wage adjustment in view of the rising cost of living but striking was deplored. Politicians asked workers to use appropriate channels. This raises questions: What are these appropriate channels? Were they available? If so why did workers choose to ignore them? The Office of the President and Cabinet recommended the formation of Joint Consultative Committees (JCCs). Why should these be established twenty-eight years after Independence? What was also notable was the extent to which politicians took a leading role in dispute settlement and industrial relations 'education' among employers and employees. Where were employees' and employers' organizations and the Ministry of Labour? What does this reveal about the state of industrial relations in Malawi up to that point in time?

Not much in the form of written accounts of labour unrest was researched or written about in Malawi's labour historiography. A few incidences of labour unrest had occurred in Thyolo among tea estates workers and in Blantyre among night soil workers between 1946 and 1949 (Palmer, 1986). McCracken's (1988) account of the

1960 Nyasaland Railway strike and incidence of industrial action in Blantyre (McCracken, 1998a) and Wood's (1992) analysis of railway workers' relationship with their employers from 1945 to 1975, are few historical narratives on industrial action in Malawi. Palmer (1986) examined unrest among tea workers in Thyolo as a response to poor working conditions and ill-treatment during the period 1930-1953. Both Wood and McCracken agree that the labour movement lost its militancy for nearly three decades during the one-party state. Could this explain the paucity of labour militancy during the period 1966-1991? However, the Banda regime ruled Malawi between 1992 and 1993 when workers' militancy erupted. According to the Yearbook of Labour Statistics, 182 minor strikes occurred between 1966 and 1991. Between 1980 and 1990, only 15 strikes occurred. Yet between 1992 and 1994, the Ministry of Labour reported 194 strikes. How do we explain this sudden transformation of strike activity in the 1990s? Local studies have offered different explanations for the causes and significance of the 1992-93 strikes.

The Malawi Institute of Management – MIM - (1993) noted that the demand for higher wages and salaries, housing, professional, duty and travel allowances, loans, improved pension schemes, training and promotion were common causes of strikes. Poor manager-worker relations such as lack of trust, dictatorial management styles, hostile organizational climate and managers' failure to fulfill promises were other causes. But this study did not clarify whether salaries and condition of employment and manager-worker relations were so good that people did not want to stage protracted strikes during the twenty-six years of the one-party state. The implication on MIM's study is that the 1990s could be seen as the worst period in Malawi's economic and human relations history. Are these factors sufficient to account for the sudden eruption of worker militancy in 1992–1993 and beyond?

Otanez (1995), who concluded that the 1992-93 strikes in Malawi demonstrated that labour could play an important role in advancing the breakdown of an authoritarian regime, made a link between labour unrest and the democratisation process. She argued that through industrial unrest that mobilised the masses in support of political reform, it was possible to dismantle the unpopular Banda regime. The coincidence between the labour unrest and the pressure for political change and its contribution to the transition to a multiparty state is quite remarkable. It is, however, not clear whether labour contributed to the process of dismantling the regime or that labour took advantage of a 'politically and financially vulnerable' regime to express grievances through strikes. Why were workers unable to dismantle the one-party regime before 1992? Other than explaining the impact of labour unrest on the Banda's regime, Otanez's conclusion does not provide us with broader explanations for the timing and reasons of the 1992-1993-strike wave.

Ludaka's (1997) typology of 'environmental' and 'immediate' causes of the 1992-93 strikes was an attempt towards that direction. He talks of the worsening human rights perpetrated by the Banda regime, the rising consumer goods prices that made workers' lives intolerable, the international community and its pressure for transparency, accountability and good governance as 'environmental' factors. The 'immediate' cause, for Ludaka was the Catholic Bishop's Letter of 8 March 1992,

which, as we will note later, attacked the one-party Banda regime for repressing human rights and promoting social, economic and political inequalities. He argued that the letter's articulation of what workers continued to suffer over a period of time was enough to precipitate strikes. He also argues that the arrest and subsequent sedition trial of a former trade unionist Chakufwa Chihana, who supported the Bishops' criticisms and called for political change, was another immediate cause. While Ludaka makes a valuable contribution to our understanding of the context within which strikes occurred in 1992-93, there is a problem with his conclusion. He paints a picture that once the regime was dismantled, the worker was appeased and therefore strikes could 'wither away' (Ross and Hartman, 1960). In practice, labour unrest continued after the 1992-1993 strikes and within a democratic political system that did not openly repress human and workers' rights. How could the continued strike activity into the second multiparty government be explained? Why have workers not been appeased by the collapse of the one-party dictatorial regime if that was an end in itself?

It was therefore very exciting to find an explanation for the increase in strike activity in recent years. It was necessary to widen one's analytical tools to cover economic, institutional and political explanations. Could the economic environment provide an explanation to the sudden eruption of strikes in 1992 and their continuation in the following years? Because of their emphasis on economic variables such as prices, employment, and wages, one could not go very far by focusing on economic theories *per se*. Between 1964 and 1980, the Malawi economy grew by an average of over 6% but wages were still low. The 1993 study commissioned by the Malawi Government and United Nations Development Programme noted that between 1980 and 1992, the average worker in Malawi lived below poverty line as wages continued to decline and the consumer price index continued to rise. However, there were no sporadic strikes in the mainstream public and private sector organizations during this period.

Attempts to understand strikes in Malawi from the structure of collective bargaining or the organizational capacities of the labour movement as advocated by institutional theorists could also not take us far as there were no known and active unions up to 1992. Unorganised workers staged most of the strikes. Alternatively, location of industry and nature of work thesis as advocated by Kerr and Sigel (1964) could not help because most of the industries and organizations involved in strike activity during the period under review had been in the same location and the nature of work had not changed dramatically over the years. The structure of the economy had continued to be predominantly agricultural and the manufacturing industry has been agro-based just to support an agricultural economy. One key variable that changed during the period in question was the state. Consequently, theories that paid attention to the role of the state and political elites in transforming their societies and how the process of industrialization could shape worker organizations and protest began to make a strong appeal to the author. Thus, an attempt to understand why and how strikes have been sporadic in recent years, had persuaded me to examine the role

of the state in industrial relations within economic and political transformation as the change from one form of state coincided with a shift in strike activity.

### **Malawi's political economy**

Malawi is a small landlocked country with a population of 12 million. Situated in Southern Africa and bordered by Zambia, Tanzania and Mozambique, it is 118, 500 sq. km. Originally called Nyasaland, Malawi was introduced to Western contact through such explorers as David Livingstone whose call for 'commerce and Christianity' greatly influenced Malawi's economic system before colonialism, and later played a significant part in the satelisation of Malawi as a labour reserve (McCracken, 1977: viii). In order to protect the interests of British traders, settler farmers and indigenous people – following trade and missionary work meant to suppress the slave trade – Britain colonised Malawi in 1891 (Pike, 1968:108). Between 1953 and 1963, Malawi, Zambia and Zimbabwe formed the Federation of Rhodesia and Nyasaland. Land policies allowed white settler farmers to alienate massive areas of land for commercial agriculture (Pachai, 1973:681-98). Between 1917 and the 1930s the land question attracted several commissions studying the security of Africans on estates, eviction notices and labour services in lieu of rent.

The significance of land problems was reflected in the 1915 Chilembwe Uprising and the disturbances of the 1940s and 1950s in the Shire Highlands. Grievances that gradually fermented into independence struggles revolved around the need to improve conditions of living, land alienation, harsh treatment of workers and tenants and poor wages and conditions of work in estates, improvements in education, lack of social services and the behaviour of tax collectors. As other institutions like independent churches, native courts, district councils and native associations failed to function as effective grievances channels to the colonial state, the Nyasaland African Congress (NAC) was formed in 1944 to agitate for independence. The NAC called Hastings Kamuzu Banda, then practising medicine in Ghana, to lead independence struggles. A staunch critic of the Federation and a financial and advisory aide to the NAC, Banda arrived in July 1958 promising to end the 'stupid Federation and bring independence to his people'.

According to Pike (1968:142), the arrival of the charismatic Banda was the beginning of the end of colonial administration in Malawi. Banda toured the country, addressed public rallies and won massive support. The colonial state found that the mobilization of several voluntary civil society organizations into one nationalist party made opposition to its administration strong and in Banda's words, 'the country became ungovernable'. Workers organised political strikes in collaboration with nationalist politicians in support of independence struggles. This was in view that economic benefits in the form of higher wages and good conditions of employment, would emerge with political independence.

When the colonial state declared a State of Emergency on 3 March 1959, it detained Banda and some of his supporters, banned the NAC, and some people died during clashes with the security forces. Released on 1 April 1960, Banda led the

successor Malawi Congress Party (MCP) (formed in 1959) to win majority seats in the Legislative Council during the 1961 General Election. This speeded the breakdown of the Federation in 1963, and the achievement of self-government in the same year. Malawi became an independent state on 6 July 1964 and a republic and one-party state in 1966. In 1971, Banda was sworn in as the Life President of the MCP and the Republic of Malawi.

The pre-colonial economic history of Malawi consisted of rudimentary agriculture, commerce and industry that were transformed by the British settler farmers (Phiri, 1984: 5-26). Unlike Southern and Northern Rhodesia (Zimbabwe and Zambia respectively), there were no minerals in Malawi. Communication infrastructure was poor and wage employment was new. Yet it was expected that estate agriculture through planters would transform the economy to benefit the planters, the colonial government and the native population. Consequently, as Williams argues, attempts to meet the requirements for adequate communication especially transport, sufficient and reliable cheap labour and abundant cheap land, occupied the attention of the colonial government for the most part.

Between 1964 and 1978 Malawi's monetary GDP showed strong positive trends in all industries but declined from an annual growth rate of 8.3% in 1978 to 3.3% in 1979 before declining further to -5.2% during 1980-81 (GoM, 1993a:1). This was due to economic shocks that included the 16-year civil war in Mozambique, forcing Malawi to use the longest and most expensive route via Dar-es-Salaam; the influx of up to one million Mozambican refugees creating a lot of strain on meagre resources; the rise of oil prices; fiscal imbalances and unfavorable weather conditions such as drought and floods which adversely affected agricultural productivity.

As a result, Malawi embarked on the World Bank and IMF's Structural Adjustment Programme in the early 1980s. De-regulation of prices and marketing, rationalization of statutory bodies, devaluation, removal of subsidies on food and social amenities, wage restraint, export diversification and public sector reforms were some of the measures the IMF and World Bank proposed. The growth rate further declined in the 1990s because of fluctuations in the smallholder agricultural sub-sector due to unpredictable weather conditions. Economic growth rate declined from 4.1% per annum in 1989 to -12.4% in 1994 and -3.1% in 1998 (Chipeta, 1999:37).

Out of the 6.8 million persons aged 10 years and above in the 1998 population census, 4.5 million (66%) were classified as economically active. The formal sector, which includes those in estate agriculture and formal industrial sector, absorbs 13% of the economically active (NSO, 2001:10). The majority (78%) gets their livelihood from smallholder agriculture and other informal sector activities such as makeshift restaurants and trading in second-hand clothes. Total formal sector employment rose from 85,000 to 767,613 between 1968 and 1997. Real wages have declined since the 1960s. For example, the minimum wage for unskilled workers stayed at MK0.38 per day in Blantyre when the cost of living had risen by over 30% during 1966-74. The annual rate of inflation increased from 15.7% in 1989 to a height of 83.3% in 1995, before declining to 29.8% in 1998 (Chipeta, 1999: 37). The exchange rates for the Malawi Kwacha declined from MK2.74 to US\$1 in 1989 to MK109 to US\$1 in 2004.



According to Chipeta, the consequence has been a fall in workers' living standards, rising incidence of malnutrition among children and adults, an increase in malnutrition-related diseases and deaths, decreasing morale and low productivity among workers.

The Malawi Government's commissioned studies support the above analysis. The 'Malawi Growth through Poverty Reduction' and the 'Situational Analysis of Poverty in Malawi' noted the prevalence of poverty; high mortality rate; high population density; household food insecurity; high illiteracy rate; high unemployment rate; declining incomes, and high HIV/AIDS prevalence rate. The 1992 Malawi Demographic and Health Survey estimated infant mortality at 135 per 1000 live births; under-five mortality rate at 234 per 1000 live births, maternal mortality rate at 620 per 100,000 births and life expectancy at birth at 48 years. The 1995 Commission of Inquiry on Terms and Conditions in the Civil Service found that wage and salary levels for the lowest grades in the civil service, public corporations and private sector were inadequate (GoM, 1995b: 8-10). The fact that the Commission of Inquiry's recommendation was not implemented suggests that workers have experienced continued erosion of standards of living during the 1980s and 1990s.

In 1994, the Government formulated the 'poverty alleviation policy' - as a strategy for improving the living standards of the people through free primary school education, adult literacy programmes - and to address environmental degradation, infant mortality, overpopulation and the spread of HIV/AIDS (GoM, 1995a:3-5). The Malawi Government Vision 2020 study revealed problems of governance, sustainable growth and development, culture, economic infrastructure, food security, nutrition, human resource development and management, natural resource and environmental management and equitable distribution of income.

It produced a long-term national development objective that: 'By the year 2020, Malawi as a God-fearing nation will be secure, democratically mature, environmentally sustainable, self reliant with equal opportunities for and active participation by all, having social services, vibrant cultural and religious values and being a technologically driven middle-income country'. Debt burdens, unpredictable rains, inflation, and currency devaluation and low wages affect the battle against all the above obstacles to development. The IMF and the World Bank continue to urge the Government to control expenditure, privatise public corporations, liberalise the economy and remove subsidies. Thus, the poverty alleviation policy and the vision 2020 initiatives are attempts to capture the ideal aspirations of Malawians.

### **The democratization processes**

Whilst the period before the early 1960s could generally be described as the period of colonial rule in Africa, and the three decades thereafter as years of independence and one-party or military rule, the 1990s was a decade of multiparty dispensation. The end of the Cold War occasioned by the collapse of the Berlin Wall ushered in a new international World Order. There was now no fear by Western capitalist nations that their non-Western allies would turn towards the Eastern block for assistance if they

were 'roughly' handled. Hence democracy, good governance and accountability became new strings for aid to Africa.

As with most countries in Africa, Malawi experienced a major political transition to a multiparty state during the period 1992-94. Detention without trial, repression of basic freedoms, politically motivated murder of dissidents, forced party card sales, forced attendance at MCP meetings, gifts to the head of state, and the punitive role of youth league wing of the party in the rural and urban areas, caused disgruntlement with the Banda regime. It was however dangerous to talk openly about political change. While underground movements were secretly developing and exiled Malawians were exerting pressure on donors to cut aid to Malawi, the Catholic Bishops' Letter 'encouraged the proliferation of criticisms of the Government and created the need for change' (Newell, 1998:262). Written by eight Catholic Bishops and read in all the Catholic churches nation-wide on 8 March 1992, the letter attacked the social, political, cultural and economic decay and the abuse of human rights and deep inequalities. Among other specific issues, it noted the restrictions imposed on academic freedom and the monopoly of the mass media and censorship that prevented freedom of expression and how people had paid dearly for their political opinions. It also condemned forced gifts to political elite and the denial of access to public places (like markets, hospitals, and bus depots) to those who could not produce a party card.

As the first open attack on the one-party state since the 1964 Cabinet Crisis, the Letter summed up people's concerns. As O'Maille (1999:151) points out, the date of the Pastoral Letter is considered a watershed in the story of Malawi's transition to a multiparty democracy. The Government banned and declared the letter as a 'seditious publication'. Between March and July 1992, many people were harassed and arrested for possessing the Letter and for advocating change. On 6 April 1992, Chakufwa Chihana, then Southern African Trade Union Co-ordination Council's Secretary General, was arrested for denouncing the MCP as a 'party of death and darkness and unreformable'. As a key player in the colonial and post-colonial labour movement, Chihana called for a national referendum to decide on the system of Government in Malawi. His arrest and trial for sedition and subsequent two-year imprisonment for advocating democratic change provoked further discontent against the Banda regime. During his trial, Chihana (1993:4), like the Catholic Bishops regretted the impact of human rights repression, which, he argued, had prevented the emergence of a different political tradition and a political culture of tolerance. He recalled how innocent journalists, lawyers, academics, civil servants, church leaders, and trade unionists had been victimised and detained for expressing opinions on public issues. The banning of books, magazines, journals and newspapers, which raised issues considered to be against Banda's political views, and the fear of detention distorted the teaching of Malawi's history because teachers were selective.

The European Community and its member states announced a reduction in the balance of payments support to Malawi as a measure to encourage human rights reforms. Donors withheld non-humanitarian aid in order to secure 'tangible and irreversible evidence of transformation' in basic human rights (GoM, 1993b: 2).

Pressures from Amnesty International, the World Bank, IMF, Organisation of African Unity and Commonwealth Secretariat, and the British and American governments, made the state 'weak and vulnerable'. This climate allowed the formation of opposition pressure groups - the Alliance for Democracy (AFORD), the United Democratic Front (UDF) and the Public Affairs Committee (PAC). As McCracken (1998b: 232) argues, 'by reversing their previous policy and freezing aid to Malawi, the role of Western creditor states was a crucial factor in undermining the Banda regime'.

Amid growing pressure from both within and outside the country, Banda announced the 1993 National Referendum to decide whether to revert to multiparty politics or remain a one-party state. The MCP had justified the retention of the one-party system for breaking the Federation of Rhodesia and Nyasaland in 1963, gaining Independence in 1964, bringing unity, peace, law and order, and that it had developed the country beyond recognition. The MCP projected a multi-party system as 'war, tribalism and regionalism' in its attempt to convince the rural masses to support the status quo. Multi-party advocates - AFORD and UDF - reminded villagers about the MCP's repression and asked them to vote for a multi-party system of government because it guaranteed freedom of expression and other human rights. The *UDF News* (March 23 - 9 April 1993) captured the mood of multiparty campaigners:

This is not the time for Pharaoh and his taskmasters. This is not the time for forced gifts and forced card sales. This is not the time for our wives and daughters to be used as dancing dolls for the pleasure of a dictator. This is the time, long overdue, for genuine freedom and human dignity. This is the time for politicians to be accountable to us, the people. We want our power back.

The outcome of the 1993 Referendum declared free and fair by the international community, was 67% for multiparty arrangements and 33% against (Dzimhiri, 1994). Consequently, transitional institutions like the National Consultative Council (NCC) and National Executive Committee (NEC) were formed to manage political and legal reforms. The NCC and NEC facilitated the repealing of old laws, legalisation of new political parties, and the drafting of a multiparty constitution. Fourteen political parties were registered and contested the 17 May 1994 General Election. The result was the defeat of Banda's MCP and the success of Muluzi's UDF. As Ransdell (1994:16) noted, in Blantyre and other places, 'people waved the yellow flag of the victorious UDF and chanted their goodbye to a dictator who 30 years ago created a police state where opponents were fed to the reptiles'. And the *Courier* (1995:33) remarks, 'Thirty years after imposing one of the most brutal autocratic rules Africa has seen this century, Dr Hastings Kamuzu Banda was heavily defeated in a presidential poll.'

Before and after the elections, social, political and economic changes had occurred. A new constitution drafted and redrafted with inputs of a countrywide consultation and two national constitutional conferences became the new framework for governance in Malawi. Pluralism characterised the Malawi society - over twenty political parties were registered and twenty newspapers emerged. The 1994

Constitution created new public offices aimed at guaranteeing democracy and human rights- an Ombudsman, the Human Rights Commission and the National Compensation Tribunal. One could hear open and heated debates and the making of noise in Parliament, showing a generally relaxed atmosphere and a new parliamentary culture. In 1999, the Muluzi's UDF government entered its second term of office to 2004 when the same UDF took over Government under Bingu wa Mutharika as President in a third multiparty elections.

### **Organization of the book**

This book has eight chapters. The first chapter gives the background of the book and the context of Malawi. Chapter two examines industrial conflict and explanations for strike propensity in different countries and at different times. Chapter three gives particular attention to the state and its role in industrial relations with special references to state-labour relations in East and Central Africa - Kenya, Tanzania, Zambia, Zimbabwe and Malawi. The impact of state political and economic policies on industrial relations in Malawi is examined under industrial relations during the one-party state in chapter four. Chapter five looks at the impact of the legal and institutional framework on industrial relations in Malawi. Chapter six examines strike activity during the multiparty period. Industrial relations reforms in the 1990s are explored in chapter seven. Chapter eight analyses the extent to which Western theories help us to understand industrial relations in Malawi in view of the transformation of industrial relations over the past decades. It also isolates a few issues and questions relating to the past, present and future of industrial relations in Malawi.

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### **Review questions**

1. What is industrial relations?
2. Identify the major actors in industrial relations and discuss their roles.
3. To what extent would you argue that the pluralist view of industrial relations reflects adequately the workplace scenario in modern organizations?
4. Identify and explain methods you would use to collect and analyse data in order to understand industrial relations in Malawi.
5. Design an interview guide to enable you collect primary data on the role and major challenges facing the following:
  - (a) Registrar of Trade Unions
  - (b) Employers Consultative Association of Malawi
  - (c) District labour Office
  - (d) Regional Labour Office
  - (e) Ministry of Labour
  - (f) Department of Human Resource Management and Development

- (g) Malawi Congress of Trade Unions
- (h) Employers in Malawi
- (i) Trade Unions in Malawi

## Chapter Two

### Industrial Conflict and Explanations for Strikes

#### Introduction

This chapter examines the centrality of conflict in industrial relations and the various explanations advanced to account for strike incidence in different countries at different times. It starts with examining the significance of conflict in industrial relations, measurement of strikes and explanations for strike incidence and ends with alternatives to strikes.

#### Significance of conflict in industrial relations

In order to understand strikes and their roots in industrial relations, it is important that the centrality of conflict and consensus in society in general and industrial setting in particular be acknowledged. For Burchill (1997), 'all theories of industrial relations revolve around two extremes - consensus and conflict'. Some theories such as Dunlop's (1958) industrial relations system and the unitary perspective, view the existence of consensus as a major societal norm and conflict as a social disequilibria requiring immediate control. On the other hand, other theories of industrial relations such as the pluralistic and Marxist see conflict as inevitable in modern organisations due to diversity and divergence of interests between labour and capital. As Summers (1991:165) confirms, 'conflict of interest between management and workers is an inevitable ingredient of the workplace - conflict between those who pay and those who are being paid...between those who make decisions and those who must live by them.

This raises a crucial ontological question about society and by extension the industry or workplace. Is society harmonious or is it conflictual? Writing on *Class and Class Conflict in Society* Dahrendorf (1959:159) identifies the 'integration' theory and the 'coercion' theory of society as two ideal extreme models. According to Dahrendorf, the two are to be seen as two sides of the same coin and that 'a decision which accepts one of these theories and rejects the other is neither necessary nor desirable'. For Kornhauser (1954:20-22), 'industrial conflict is a significant part of the social processes to be studied, understood, and intelligently dealt with.' Conflict is seen as functional for not only does it make explicit the grounds for conflict and enhance group unity, it also brings out into the open the subject of social control and a rapid solution to the problem. Kornhauser notes 'were all the basic relationships in a society codified, we would have a very static society... if the fundamental relationships were sympathetic in character we would have anarchy'. For Cozer (1956:31), 'far from being dysfunctional, certain degree of conflict is

essential for group formation and the persistence of group life'. Conflict, he argues, tends to be dysfunctional for a social structure in which there is insufficient toleration and institutionalisation of conflict.

Within the management-labour relations conflict is inevitable but it is successfully transformed into resolutions through collective bargaining. However, the existence of the latter does not remove the causes of conflict 'unless the basic structure of industry and society is radically recast with workers controlling the process of production in the interest of human welfare rather than being controlled by it in the interests of profit' (Hyman, 1989:109).

According to Salamon (1992:375), industrial action is 'a temporary suspension of normal working arrangements which is either initiated by employees or the employer with the purpose of exerting some degree of pressure within the collective bargaining relationship. Unfortunately, this definition tends to ignore various forms of industrial action, which are not collective in nature and may not exist within a bargaining relationship. As Fox (1966:8) observes in relation to the workplace, expression of conflict is 'as unlimited as the ingenuity of man'. Like Bean (1994:130), Fox notes that they include individual unorganised action such as absenteeism, turnover, bad time keeping, pilfering, sabotage and the more organised and collective ones which include go slow, withdrawal of co-operation, overtime ban, sit-in, strike, peaceful bargaining and grievance handling. There is a general view that strikes are staged by organised or unionised workers. In his study of industrial action in Britain between 1911 and 1947 Knowles (1954) found an inverse relationship between unionisation/organisation and level of collective action. The argument is that where the level of organised collective action is high, the level of unorganised individualised action is low, and where the level of unorganised individual action is high, organised collective action is low. However, this argument has shortcomings. Even in situations where organised collective power is present, high levels of unorganised individual action exist, especially if collective demands are suppressed. It is also important to note that even actions, which seem individualised such as pilferage, can be highly organised.

Although there are several means of expressing conflict, the strike is the most visible and conspicuous mode of expression on which many scholars have focused attention because strikes are easier forms of action to identify, trace and describe.

### **Definition of strike**

Given the importance of the strike in this book, it is important to analyse the concept in greater detail in order to ensure clarity. Central issues include the nature of strikes, how they are measured and general and specific explanations provided by many scholars in relation to propensity of strike activity in different contexts and times. According to Hiller (1928:12) a strike is a concerted withdrawal from work by a part or all employees unless the employer meets their demands. It is 'a social phenomenon of enormous complexity which in its totality, is never susceptible to complete description, let alone complete explanation' (Gouldner, 1955:65). Strike statistics

could be used as an indicator of not only social and industrial change, and to test theories of the labour movement or the role of economic environment, but also as an index of a country's state of industrial relations.

However, the significance and meaning of strikes vary from place to place. It may be used as an organising device, a means of general protest, as a political demonstration, or as an integral part of the collective bargaining process used to induce agreement.

According to Ross (1954:23), the meaning of the strike depends on the organisation sponsoring it. Business unions, he argues, would see the strike as a weapon to be used within the collective bargaining and profit system of the capitalist economy. That is why Sydney and Beatrice Webbs (1902) in Kornhauser(1954:22) are of the view that 'collective bargaining would have little meaning were it not for the possibility of the strike with attendant economic losses on both sides since there would be little pressure on both parties to modify their position and reach agreement'. Such strikes would be classified as economic in nature with more focus on issues to do with basic wages and pecuniary benefits.

On the other hand, it is argued that syndicalists and communist unions use the strike as a political weapon of propaganda to sharpen class lines and instil revolutionary sentiments. Furthermore, strike statistics can be used as indicator of social and industrial change or an attempt to test theories of corporatism, the labour movement or the role of economic environment. They also symbolise the country's state of industrial relations. The term 'strike' is defined as the:

Cessation of work by a body of persons employed acting in combination or a concerted refusal or a refusal under a common understanding, of any number of persons employed to continue to work for an employer in consequence of a dispute as a means of compelling their employer, or any person or body of persons employed (or to aid other workmen in compelling their employer or any person or body of persons employed) to accept or not to accept terms or conditions of or affecting employment (Knowles, p.3).

This definition tends to be limited to actions taken by employees to further their economic interests and those of their fellow workers in other organisations but fails to include other strikes staged for other reasons. Workers may, for instance, go on strike not so much to make specific demands rather to express their anger and vent their frustrations over certain aspects of work situation. This 'expressive function' as opposed to the 'instrumental or economic function' of the strike has been emphasized:

For rationality does not totally dominate the terrain of the strike...Born roughly, suddenly and brutally in the rush of emotion, anger, and desire, the strike retains in part the whiplash of the primitive wild cat walkout... this spontaneity, which weakens its instrumental consequences, guarantees its expressive richness (Perrot in Shorter and Tilly, 1974: 337).



The ILO (1998:443) categorises demands in which strike action is acceptable into 'occupational' which seek to guarantee or improve workers' working and living conditions, 'trade union-related' which is to do with attempts to seek recognition rights for trade unions organisations and strikes staged against public policy which is inimical to workers' interests (political strikes) although the latter are not part of collective bargaining between employer and employees. In this book, a 'strike' includes occupational, trade union-related and political as long as there was a stoppage of work because the interest here is to count trends in strikes over a period of time while at the same time attempt to analyse them into political and economic.

## **Strike measurement**

Three measures are commonly used as accepted indices for studying strikes. The number of stoppages, the number of workers involved, and the number of days lost. Edwards (1981) however made significant additions to improve analyses of overall strike proneness by introducing indices of mean size of strike-workers involved divided by number of strikes; relative number of days per strike-days lost divided by number of strikes; relative measure of worker involvement – workers involved divide by total number employed and the relative measure of days lost-days lost divide by total number employed. Another notable improvement in strike data analysis was made by Ross and Hartman (1960) when they argued that since union members are the group most likely to stage a strike, it would be useful to use trade union membership number rather than to use total employed and this, they argue, would provide us with a measure of workers' ability to organise and strike.

Except where it is used as a supplementary method of measuring strikes, one problem in contexts where most strikes are staged by unorganised workers due to low unionisation and difficulties in staging official strikes, a lot will be missed out. This is most pronounced in developing countries where low unionisation and cumbersome strike procedures make official strikes difficult and the only successful strikes by far are wildcat strikes. However, methods which rely heavily on aggregated data for analysing strike proneness are inadequate since aggregated measures do not account for many movements which may be taking place within a general description of a nation's strike pattern. They therefore, others prefer to use disaggregated analysis of strike activity to account for the performance of various sectors, regions, occupational groups and other micro level facets.

On the other hand, conventional approaches to the study of strike volumes or shape which focus on stoppages and workers involved and days lost as a proportion of total employment in order to compare intensity of industrial action over time are inadequate. A more alternative improvement is to describe the various measures – numbers of stoppages, people involved and days lost – per union member in order to provide a deep contrast with 'per employee basis.' Once again, undue emphasis on

formal industrial relations institutions and procedures of calculation may ignore the significance of strikes staged by the unorganised which account for the biggest number of strikes in many countries like Malawi. This point is made clear when one considers the fact that out of 187 strikes recorded by the Southern Region Labour Office in Malawi during 1992-1999 only 3 could be described as having been official and staged by unionised workers. In this book, key indices include number of strikes, number of people involved and number of days lost. However, numbers of people involved will be a central and determining factor between periods since this will show the propensity among workers to go on strike.

### **General explanations for strike incidence and pattern**

There are numerous factors advocated to explain short and long-term causes in strike activity. *The Labour Market Trends* for June 1999 classified labour disputes which occurred in Britain in 1998 in order of their strength of importance as: pay (including wage rates and earning levels, and extra wage and fringe benefits); duration and pattern of hours worked; redundancy questions; trade union matters; working conditions and supervision; staffing and work levels, and dismissal and other disciplinary measures (p.307). A study by Knowles (1954) categorised typical causes of strikes as basic (wages and hours), solidarity (union status and sympathetic action) and frictional causes (all other categories).

According to Hyman (1989:121-122), the number of strikes categorised under wages has dominated strike statistics since the 1940s in Britain and other countries in Europe due to the fact that many of the workers' needs can only be secured through cash transactions. Furthermore, it is contended that because of the ease with which wage demands can be expressed, even non-economic grievances such as strict supervision, technology, oppressive management, dirty surroundings, among others, can lead to wage demands. This is not to suggest that reasons given by workers for striking should be dismissed all the time. Rather, it is an attempt to caution that in any systematic study of strikes it is important to go beyond first level explanation to deeper layers, which might reveal underlying causes. As Hyman stresses 'to fight for higher wages while accepting the commodity status of labour is like killing bluebottles (insects) while ignoring the dung-heap outside the kitchen door'. Four main reasons are advanced by Hyman for what he has described as 'the resistance of industrial conflict to permanent domestication': the class divisions in our society, income distribution, job security, power and control and the general feeling of workers as human beings.

Beyond these typical work place explanations, Western writers have advanced broad explanations for understanding strike incidence and patterns in different countries. These include the industrialisation thesis, institutional, political and economic explanations which explain, for instance, why the incidence of industrial conflict differs between work groups, between firms, between industries or between regions and even nations.

## **Economic explanation**

Economic explanation that relates strike incidence to demands for higher wages and other financial-related demands focus on the economic environment within which workers find themselves. The argument is that as economic situations within the wider polity fluctuate, tension is ignited in the employer-employee relations resulting in industrial conflict. Critical among the issues within the economic environment are employment levels, inflation and wage levels, wholesale and retail prices. Some proponents of this relationship link business cycle and level of industrial conflict.

Hansen's (in Jackson, 1987:129) study of the United States of America between 1881-1919, concluded that 'in the period of long-run falling prices, labour is on the defensive against the reduction of wages, the lengthening of hours and the worsening conditions.' He argues that the struggle between labour and capital may be expected to become most severe and the number of strikes greatest in the years of depression'. On the other hand, when prices rise upward and the cost of living mounts, fierce struggles occur between labour and capital. Two reasons explain this according to Hansen: first, it is in the prosperous years that prices and living costs rise and second the large profits accruing in the years of prosperity give rise to a contest over its distribution.

Thus, both in periods of depression as well as booms, strike incidence increase for different reasons. Levitt (in Edwards, 1981) argues that the strike is more effective in booms than recession for two reasons: on the workers' side, resources to last out the strike are relatively great, and the tight condition of the labour market means that the use of strike breakers need not be feared; on the employers' side, the inventories are relatively low (so that customers cannot be supplied from stockpiles or production continued using stocks of raw materials) and the chances of making profits too tempting to miss. He further argues that rising prices will reduce workers' real income and will contribute to feelings of discontent or that the pressures of working at full capacity will make workers restless and cause petty disputes over breakdowns of machinery and the like to develop into stoppages.

On the other hand, Ashenfelter and Johnston(1969) like Shalev (1992:115) links strikes to levels of unemployment and argues that 'low unemployment' strengthens employees' bargaining power and immediate compliance by employers to demands. Again during prosperity, the abundance of strike funds enables union leader to absorb strike costs with ease, implying that prosperity is associated with high strike levels. Conversely, in an economic environment characterised by recession and unemployment for instance, individual and collective actions of workers is weakened. This seems to be Knowles' (1954) view that the strike is 'a reflection of a growing army of employed people who are reacting to the deteriorating conditions caused by high cost of living, hence raising industrial unrest.' Similarly, inflation as Shorey (1977:74) found, plays a significant part in the decision to strike. He notes that 'the cost of living increases and the wage differential effects of inflationary periods will mean more stoppages' as both sides of industry try to adjust to rapidly changing

economic conditions. The experience of Swedish high strike record in the 1960s supports this view: 'in Sweden, the strike waves in recent years coincide with increases in inflation...the stagflation has necessitated more rapid wage increases at the same time as it has diminished the leverage of the workers provided by the tight labour market and would appear to be the main factor behind the increase in strikes'. Thus whether the economic environment is favourable or unfavourable in the areas of prices, wages, employment levels, inflation etc, an unspecified degree of conflict arises between employer and employees which in turn influences strike incidence and pattern over time.

However, as Knowles observes, it is rather difficult in practice to see the relationships between economic factors and the extent of strike activity in a straightforward manner since there are far too many economic variables which may interact in a very subtle manner. How, for instance, can one explain the influence of such variables as production, prices, wages, trade, employment and other variables and the strike activity at a particular point in time? As he rightly argues, one variable may trigger a lot of interactions which can have surprising effects: 'increased production may indirectly lead to numerous strikes as people react to such things as intensity of work, greater risks of accidents, rising prices, exceptional profits which have to be shared equitably and stronger bargaining position occasioned by full employment effect of the time'.

While supporting the relationship between strike frequency and economic conditions, Edwards (1978:330), believes that the strength and direction of the influence of economic variables fluctuates. He maintains that although the strike frequency fluctuates with business cycle in different cycles, the same level of employment, price index and wage levels might be associated with different rates of strike activity. For example, in their review of strike pattern in Europe, Edwards and Hyman (1994:263.) found an inverse relationship between strike frequency and unemployment in Italy and Britain but a positive link in Denmark and France and no association in the four other countries studied'. Their conclusion was that it is dangerous to generalise across the board the relationship between strikes and economic explanations since the latter are mediated by industrial relations and political institutions in a particular society at particular times.

Similarly the relationship between wages and strikes activity examined by Davies (1979:205-223) showed that 'real wages displayed a variety of links with strikes including positive association in Germany, an inverse link in the Netherland and Italy and no association in France'. For Snyder (1975:259-278), 'economic explanations ignore the institutional settings within which economic variables operate, for instance, institutionalisation of collective bargaining, presence of large unions with stable membership, and political position of labour'. In testing his thesis on France, Italy and the United States, he observed that political and organisational factors exerted most influence on strike activity in both 1900-48 and 1948-70 in Italy and France whereas political and organisational factors exerted influence in the United States during 1900-48 only and that economic influences impacted on strikes during 1948-1970 period.

From the above discussion, the significance of the economic variables in influencing strike activity has been acknowledged but the relationship is complex. While wage levels, unemployment, consumer price indices, and inflation have the potential to ignite strikes, there are several intervening variables making it difficult to see a direct link. We then turn our attention to an examination of institutional explanation.

### **Institutional explanation**

The institutional explanation relates to the creation of workplace or national institutions, procedures and processes viewed as significant in influencing strike incidence. The capacity of the labour movement, for example, is an important feature for the successful launching of such forms of large-scale collective action as the strike.. Thus, the ability of the labour movement to mobilise itself and inflict heavy casualty on the employer is crucial in explaining strike incidence at different times. In their study on *Strikes in France 1830-1974*, Shorter and Tilly observed that each of the periodic waves of strike activity in France reflected an increase in the organisational capacities of the labour movement. 'In France the rule seems to hold that the more intense the unionisation, the higher the strike rate.' The central argument is that while economic interests are crucial in explaining year-to-year variations in strike incidence, the capacity of the labour movement is important.

The implication of this view is that if the labour movement is unorganized, the result will be little or no strike activity. For Knowles 'big strikes cannot be waged without strong unions since strikers are trade union members'. However, Edwards (1981:9-13) contends that some form of organization may be required for strikes to occur, but that should not be seen as the most crucial variable because 'if trade unions are a key factor in the level of industrial conflict, one would expect their arrival on a major scale in the 1930s to exert an important effect on the amount of strike activity'. The precise nature of the impact, he argues, 'is complex since it can be argued that unions allow protest which was hidden to become overt so that strike activity increases, or that they provide means to channel protest in peaceful directions with the result that strike levels decline'. As will be noted in this book, there is evidence to show that many strikes in Malawi have been staged since 1992 without involvement of unions, and most of them have had successes in achieving their goals. If anything, trade unions have emerged as a result of perceived gap in employer-employee communication evidenced by numerous wildcat strikes.

Another important institutional feature is the structure of collective bargaining and the existence of disputes settlement procedures including arbitration. According to Clegg (1976) we can understand differences in strike incidence and trends in different countries at different times by relating them to institutional structures and features of collective bargaining. In his study of industrial conflict in France, Australia, West Germany, Sweden, Britain and the United States of America during 1950-1974, Clegg developed a link between strike proneness and the structure of collective bargaining and the extent of dispute procedures. He noted that the 'extent and development of dispute mechanism and procedural norms' within a country will

function as a control valve to increasing levels of unofficial strikes particularly during a prevailing agreement.

He also contends that comprehensive procedural arrangements in Sweden were seen as helping to explain the relative infrequency of strikes in that country, whereas the high strike incidence in France were associated with their absence. And in Italy, the reduction in strike incidence was associated with high levels of institutionalisation and proceduralisation too. In America on the other hand, the fact that strikes were much larger, mostly constitutional and official more than was the case in other countries studied, could be explained by the nature of collective bargaining structure, which tended to be global or whole rather than plant level.

This view is supported by the Donovan Commission, which attributed the rise in strike activity during the early 1960s, in Britain to a breakdown in the regulatory role of the formal industry level bargaining and its replacement with a fragmented bargaining at the organizational level in response to the enlarged power of trade unions. Conversely, the reduction in the number of strikes in mining during the early 1960s was associated with a shift of bargaining from pit to national level and British Leyland's industrial relations policy reform in 1979/1980 based on a reduction in the number of bargaining units and more centralised bargaining was also associated with a decline in strikes. Thus, the 1964-1991 period with low strike activity in Malawi could be explained in terms of centralised bargaining well-established dispute procedures. In practice, trade unions were dormant and even the Trade Union Act 1958, as we shall examine later in this book, never made any provision for collective bargaining. This indicates the need to search for explanations beyond collective bargaining in the case of Malawi.

The role of institutions in explaining strike incidence is supported by the 'withering away' thesis (Ross and Hartman: 1960). In a study of fifteen countries between 1900 and 1956, Ross and Hartman concluded that it was the development of the institutions such as worker organizations, and institutionalisation of collective bargaining, among others, which explains the withering away of the strike. However, critics have argued that contrary to the withering away thesis, 'the strike activity had flourished after the Second World War, and that there is no consistent evidence across the world to elucidate the withering away of the strike'. In his comment on the 'withering away' thesis, Kassalow (in Bean, 1994:139), has cautioned against concentrating purely on industrial relations institutions and systems at the expense of other factors such as political, social and economic.

For Ingham (1974:11-44), 'industrial infrastructure' could explain the variations in strike propensity between Britain and Scandinavia. He drew attention to the need to focus attention on society's economic and technological system, which shape the organization and influence social relations between the groups involved in the process of production. Factors such as industrial concentration, complexity of the technical and organizational structure, product differentiation and specialization, individually, are believed to create a power relation framework between capital and labour which in turn determines to a larger extent a society's capacity for regulating conflict.

However, one of the failings of theories which treat business organisations and nature of technology as great determinants of particular mode of industrial relations and therefore strike propensity is to ignore the role of public policy in influencing not just industrial relations but more so in influencing the businesses environment itself. In certain contexts, for instance in the developing countries where the state takes a leading role in economic and social development, development policies and plans spell out the types of businesses which will be given prominence in that country. Furthermore, the state will deliberately induce some companies to invest in certain ventures through generous tax incentives, exemptions and other inducements. Coupled with the legal framework for industrial relations, both the type of industries and the behaviour of the participants will not be self-determined. Thus, public policy in other contexts determine type of industries, hence technology and the location or concentration of such industries.

### **Political explanation**

The political explanation identifies the role of the state and labour's political action as critical independent variables in explaining strike activity. The latter is viewed as working class strategy in the fight against capitalist exploitation. According to Kerr et al., protest in the course of economic development is divided between that directed towards enterprise management and industry, and that directed towards the community and political authority. In political explanation, the major interest is on the impact of the alliances between the labour movement and political parties, and the use of the strike as a political weapon to exert pressure on government's action, inaction or policy.

Korpi and Shalev (1979:171), argue that a decline in strike activity could be associated with the shift of the political position of the labour movement following its alliance with the ruling party. They note that as early as the first decade of the twentieth century, Sweden had some well-developed institutions for regulating and containing industrial conflicts. Yet, the volume of conflict remained internationally high for three decades. They argued that significant change in the levels of conflict in Sweden was linked to the coming into power of the Social Democrats in 1932 and their long tenure. This opened another window for labour to channel employment concerns through the political path and led to a significant decline in strike activity.

The level of employment crucial for the welfare of workers could then be raised and maintained at a high point through political measures. Fiscal, social and labour market and educational policies could affect the distribution of income and the welfare of citizens, hence more equally distributing the benefits of economic growth. Commenting on changes in strike activity in France, Germany, the Netherlands, Sweden and Denmark after the Second World War, Shorter and Tilly noted that strikes increased where unions were fighting for participation into governmental processes and decreased where the working class had been accepted into the polity.

Thus, the power position of labour, which was significantly altered due to the political dimension, was crucial in understanding the decline in strike activity.

The alliance between the labour movement and opposition politicians was associated with increasing number of strikes in Malawi and other former British colonies in Africa. As it will be noted later, the alliance between nationalist politicians and workers during the pre-independence period led to increased strike activity in Malawi at certain periods like 1958 and 1960. The integration between the ruling MCP and the labour movement led to a decline of strike activity during the one-party period. The alliance between opposition politicians and workers in the early 1990s led to increased strike activity during the transition to a multiparty state in Malawi. Although, according to the ILO, political strikes do not fall under freedom of association, they are legitimate because a policy adopted by a government might have immediate repercussions for workers, for example, wage freezes, the privatization of a public corporation or redundancy might create hardship for workers and their families.

For Shorter and Tilly, waves of strikes and disturbances do not blossom because wages are low, living costs are high or strikers feel alienated or frustrated. Accumulations of strikes and disturbances happen when it becomes apparent to the working classes as a whole that a point of critical importance for their own interests is at hand in the nation's political life. In describing the transformation of the strike during the 1920s in France, Shorter and Tilly argued that the strike had become a symbolic act to impress the strikers' case upon decision-makers in the ministries and legislators. Although strikers had continued to achieve their economic objectives during 1950-1965, strikes increased. Thus, the purposes of the strikes were not to wrest wage concessions from individual employers, but to mount symbolic protest for the sake of impressing political elite.

The use of the strike as a political weapon has had a long history in Africa. According to Ananaba (1977:4), although colonial authorities discouraged trade unions from participating in politics, trade unionists saw the struggle for independence as a national issue deserving the support of every organised group. Periodically, workers organised strikes, which though purely economic, gave a fillip to political issues of the day. Most trade unionists throughout colonial Africa echoed Kwame Nkrumah's slogan 'seek ye first the political kingdom and everything else would be added unto you thereafter'.

Since employers in colonial Africa were foreigners, workers viewed poor wages and conditions of work as a problem of foreign colonial intervention. Although trade unions were not allowed before the end of the Second World War, there were unorganised and organised strikes aimed at dismantling colonial domination. The 1874 Sierra Leone Harbour strike, the 1919-1920 strikes in South Africa's docks and railways and a series of rail strikes in Sierra Leone and Nigeria during 1919-1925, were examples of political strikes during the colonial period.

African politicians and trade unionists saw the value of the strike as a political weapon. This led to well co-coordinated strikes between nationalist politicians and trade unionists against the colonial state in Guinea, Ghana, Tanganyika, Kenya,



Tunisia, Algeria, Mali and the Ivory Coast. Governments in different colonies banned strikes in the public service as any industrial action in this sector was calculated to raise the political temperature against the state. A Commission of Inquiry, which investigated a series of riots following strikes in Lagos (Nigeria) in 1945, Ghana in 1940, and Uganda in 1945, found that the riots were political rather than economic (Ananaba, 1977:4). Political strikes have continued to be important in Africa in general, and in Malawi in particular, after Independence. After three decades of authoritarianism in many former colonies in Africa, the use of political strikes was instrumental in the transition to multiparty states.

Making reference to the strike in Malawi mentioned above, van Donge (1995:230) noted the extent to which the fabric of society was shaken following industrial unrest which led to widespread looting of shops in the cities of Blantyre and Lilongwe targeting, in most cases, the president's business ventures. According to *The Economist* (1993: 6), 38 people were killed, about 127 wounded and 200 arrested when the police intervened to restore order in Malawi. In 1991, the Zambian Trade Union Congress (ZTUC) began a campaign of strikes and politicization in which teachers, communication workers, university teachers, hotel and catering workers, health workers demanded good governance, transparency, accountability and democracy besides pay and conditions of employment (Mihyo, 1995:210-211). The fact that Fredrick Chiluba, ZCTU leader, defeated Kaunda in the 1991 multiparty presidential elections demonstrates the extent to which political strikes were effective in dismantling the 27-year-one party authoritarian regime in Zambia.

Another type of political strike is one in which the target is not the government directly but top managers of public corporations. As a later chapter in this book illustrates later, there were demands in Malawi to remove top managers for oppressive behaviour. Such experiences suggest that the more the political system safeguard democratic rights, the more workers demand removal of oppressive managers.

While acknowledging the importance of institutions within a particular country as explaining strike activity and inter-country differences, Korpi and Shalev (1979) preferred the shift of the political position of the labour movement as a determining factor. They argued that as early as the first decade of the twentieth century, Sweden had some well-developed institutions for regulating and containing industrial conflicts. However, for three decades, the volume of conflict remained internationally high. According to Korpi and Shalev, the significant changes in the levels of conflict in Sweden should be linked to the coming into power of the Social Democrats in 1932 and their long tenure which opened other window for labour to channel interests and concerns through the political path leading to significant decline in strike activity.

Thus the power position of labour in relation to the employer, which was significantly altered due to the political dimension, is crucial in understanding decline in strike activity. In another study on *Unofficial Strikes in Sweden*, Korpi (1981) argued that the decline in unofficial strikes in Sweden should be understood not in terms of development of industrial relations institutions *per se* but the change in the

distribution of power resources between employers and employees in which the courts conferred enormous powers to employers to interpret the employment contract.

In support of the political position of the labour thesis and more importantly the role of the state is what is called a change in mode of distribution of national product.. How is the national cake distributed? Is it by bargaining or by the welfare state? In a comparative study of differential strike trends in eleven countries Hibbs (1978) concludes that the mode of distribution of national product accounts for the status of the strike activity in a country. The change in the locus of the distribution of national income by the welfare state policies shifts distributional struggles from private market characterised by collective bargaining and industrial conflict to the political arena where labour and capital compete through political negotiation and electoral mobilisation. Thus, there are more strikes where market economy dominates the political economy, than where governments intervene and therefore determine distribution of national income.

Implied in the institutional and political explanations is the role of the state. For instance, could the structure of collective bargaining, institutions and procedures for dispute resolutions, the role of courts, political position of labour, and the distribution of national product be understood independently without linking each to the role of the state in industrial relations? Do the regulator, employer, economic manager, third party roles of the state not play crucial role in these issues? Closely linked with the employer role, the regulation of incomes through its role of macro-economic management is another role that influences industrial relations. From time to time, the state tries to achieve high employment, higher productivity, attract investment, maintain low levels of inflation and avoid over-expenditure through income policies which include wage ceilings. The multiplicity of roles played by the state will obviously conflict among themselves and some will be more central than others depending on the prevailing conditions. For instance, the third party role of conciliation and mediation makes the state appear as a neutral party, 'manufacturer of consensus'. Yet the employer and economic manager role puts the state at the forefront as an activist, an interested party who may use arbiter role as well as the regulator role to enact legislation which reflects 'vested' interests often justified as acting in the 'public interest'.

One typical characteristic of the institutional theories is to emphasise on formal roles, procedures and structures and neglect the 'hidden' less formal aspects of party politics which influence industrial relations through the 'strategies' used by political elites to strangle unionism particularly in Africa. For instance union leaders can be 'rewarded' 'corrupted' 'transferred' or 'arrested' or 'state sponsored' unions can be created to strangle the activities of other unions. Again do these theories take into account the industrial relations systems in transitional societies? How far do these theories shed light and help us understand industrial relations in societies that have been characterised by changing state formations over a period of time like those in former colonies in Africa? The explanation within the institutional school tends to have useful framework for labour-management-state relationships within a dynamic process of economic transformation. The role of the state and elites in shaping the

transformation process and therefore shaping industrial relations and worker protest are highlighted.

### **Industrialization thesis**

Advanced in a major inter-university study by Kerr, Meyers, Harbison and Dunlop, (1973), the industrialization theory attempts to situate industrial relations and conflict within the process of economic development. It is an attempt to explain strike incidence as a product of industrialisation. According to Shorter and Tilly, industrialization increases the potential for strike activity by creating an environment within which worker alienation calls for the need for solidarity. It concentrates industries, factories, and workers in urban areas, and as the workforce expands and is transformed, anxieties increase and organizational potential is high. Shorter and Tilly found that large French plants and cities experienced more strikes than smaller ones during 1930-1968.

Central to the thesis is the need to understand the role of the state and elites in the process of economic development and workers' protest. Industrialisation is a process which involves a shift of production away from agriculture toward manufactured goods and services and from individual entrepreneurs to specialised formal organisations. For Kerr, et.al., it is a process that transforms hitherto rural or traditional society into an urban society. The logic of industrialisation requires a permanent central national state, the emergence of a strong governmental administrative or bureaucratic class and a more decisive role of the state in industrial development.

Furthermore the complexity of the industrialisation process and the conflicts that emerge between the new and the old requires a dynamic elite to be in the forefront of shaping the process through guiding and directing it. Kerr and associates provide a typology of the ideal industrialising elites as dynastic, middle class, revolutionary intellectuals, colonial administrator, and nationalist.

While the dynastic elite would want to preserve valuable traditional symbols and institutions, they nonetheless acknowledge the importance of change and modernity. Dynastic elites are said to create a paternalistic political system that in turn creates paternalistic state, administrators and managers. Thus, for industrial relations, we would expect a unitary industrial relations system in which managerial prerogatives remain supreme. On the other hand, the middle class elite are characterised by individualism and egalitarianism in economic and political life of individuals and believe in a system of checks and balances in political life. Using Ball's (1983) classification of state, middle class elites would create a liberal democratic state in which civil liberties and basic freedoms are respected. A pluralistic industrial relations pattern is typical of societies created by middle class elites. Rule making is a shared function between workers, managers and the state and workers are permitted to form an organised opposition to the enterprise manager. Thus, some degree of conflict is built into and accepted by the system and a whole series of economic and political institutions are in fact devised to channel and settle such conflict. In this

system, the role of the state would ideally function as a cash register and arbiter among competing interests.

The revolutionary intellectuals offer a radical departure from traditional society and espouse a theory of history and possess an ideology to hold class and society together. The system rests on the cohesive force of common ideology among leaders, the manipulation of economic class interests among the masses, and the use of force when necessary using a centralised state to conquer the old and create the new culture. There is no separation of economic, political and religious institutions. In industrial relations, rule making is inherently in the hands of dominant class – the managers. The worker is a citizen with many duties but few rights; tension between the enterprise manager and the workers is suppressed; there is heavy-handed bureaucracy and a strong police to get rapid industrialisation and to control unrest. In this context, a unitary industrial relations framework characterises employment relationships.

The colonial administrator, on the other hand, plays double role of catalyst to industrialisation and that of serving the interests of the home country. The colonial administrator will see the worker as dependent or semi-dependent since management represents a superior culture; conflict between labour and management is subject to exacerbation by nationalist sentiments and in turn is likely to be severely controlled or suppressed. It is argued that nationalist leaders confront most serious problems in setting the pace of industrialisation because of the high aspirations of the masses precipitated by national independence. This is accompanied by political uncertainties of a new state and loss of confidence by foreign sources of capital.

The national leaders are concerned to expand the scope of industrial activity beyond the extractive industries of the colonial administrators and to open up new occupations to nationals, particularly in technical, administrative and managerial posts. The only mechanism for achieving national aspirations is the state. The consequence of this is a tendency towards planned economy, state or state sponsored investment; and state-controlled labour organisations. With state assuming responsibility for guidance of the new industrial managers, the new labour force and new organisations, rule making is largely in the hands of the state and industrial conflict is controlled or suppressed. The state becomes a major actor in social, economic, and political spheres of life and industrial relations take a unitary form. It intervenes actively in labour management relationship, first to protect industrial labour with all kinds of social insurance (state paternalism) and to clip its wings to contain the covert forms of protest as industrial labour gets too powerful.

Industrialising elites are confronted with a series of major decisions such as the speed of industrialisation, financing, pressures on enterprise managers, priorities in education and training, relations with other countries and public policy on population growth. It is also maintained that the form of the labour market, the level of wages, the rules on discipline, the functions of worker organisations, and the industrial relations arrangements are in many ways affected by the general strategy of an elite and its related economic policies.

Thus, the general strategies of industrialisation adopted by an ideal type of elite have decisive consequences for workers and managers and their interrelations. The faster the pace, with given economic limitations, the greater the need to constrict consumption, the more they resort to direct controls, drastic reorganisation in agriculture, rigid ideology and compulsion to motivate the labour force, and the more centralised and severe the web of rules for the work place, and the greater the grievances among workers. Central to the ideal typology of the industrialising elite is the view that, in practice, there are several combinations of strategies or styles among elites to the extent that hybrid variants can exist. The implication is that at different stages a particular society may have one or the other type of elite, and furthermore, particular elite can take features from two or three models of elites.

It is contended that workers' response and protest to the effects of industrialisation depends on their stage of commitment or extent of their attachment to the industrial work place and community. While uncommitted workers display a lot of turnover, absenteeism, fighting, theft and sabotage, semi-committed workers are characterised by spontaneous stoppages, demonstrations and guerrilla strikes. On the other hand, committed workers resort to plant and industry strikes, political protests and activity. The specifically committed workers use grievance machinery, labour courts, and disputes settlement machinery largely without stoppages. They also use political parties and organisational alliances.

As workers get organised, it is argued, their conflict is disciplined and takes longer. Worker protest in the course of industrialisation is believed to peak relatively early and decline in intensity thereafter. The critical period is the early stages when the break with traditional society is sharpest. This is the time when the labour force is making more basic and difficult adjustment to the discipline and pace of industry. The plant and work community are at the most formative stages, nationalist and social revolutions are likely to be occurring in addition to the introduction of modern industry; the reactions of workers are more direct and violent. As time passes, formal organisations of workers emerge and the forms of overt protest become more disciplined and less spontaneous. The organisations become gradually centralised and formalised, legitimised and viable. The industrialising elites develop its strategies and means of controlling, limiting or directing worker protest. Sporadic riots, violence, explosive outburst are replaced by an industrial relations system for establishing and administering the rules of the work place.

It is argued that the attitude of industrialising elites to worker organisations varies quite considerably. While the dynastic elites view worker organisations as foreign and unsuitable, the middle class elites see them as inevitable extension of the market principle. On the other hand, the revolutionary intellectuals view labour organisations as useful arms of the state while colonial elites saw labour organisations as not congenial and driven by nationalists pressing for independence. The nationalist elites see them as allies in development and ready to take more additional functions in the 'public interest'. In many ways, worker protest is shaped by the strategies of the particular elites, and the measures taken to control or contain such protest. Thus the strike phenomena is seen as a function of the industrialisation process and that we can

easily associate high strike incidence in a particular society with the early stage of industrialization and low levels of strike incidence with mature and later stages of industrialization.

### **The relevance of industrialisation thesis to industrial relations in transitional societies**

Although critics such as Bean (1994:131) argue that strikes do not peak earlier or have maintained long-term constancy in other settings, the industrialization thesis has some analytical merit for unraveling factors influencing industrial relations in societies that are non western and are said to be in transition to full industrialization. By locating labour-management-state relations within economic development, a broad framework within which some of the theories of industrial conflict can be understood is created. Political theories, for instance, have offered links between the political position of labour, the organizational capacities of the labour movement and the role of the state as explanatory factors in other situations for changes in strike trends. The central argument has been that the coming into power of these parties has given workers power to improve their economic interest through the political route rather than through collective bargaining and this has led to decline in strike activities.

Again the role of the state has been examined in terms of the traditional regulatory role and legal framework within democratic societies as opposed to authoritarian political management style prevalent for three decades in most former British colonies in Africa. The nature of a political system and the ideologies of the ruling elites and their influence on strike propensity and proneness have not received sufficient attention. It is not made clear why in other societies the state intervenes sharply in industrial relations and why in others it does less. Even where the focus is on the traditional role of the state in creating a legal framework for industrial relations through changes in labour legislation, such function is rarely linked to the attitude of political elites towards industrial relations, worker protest and workers organizations.

Furthermore, there is paucity of commentary on why in some societies even when the legal framework provides freedom of expression and more civil liberties conducive to trade union rights, in practice such rights are severely curtailed. A picture that emerges from the literature on the role of the state in industrial relations is that all states perform such roles, and that they do it, and that the state is impersonally driven (reification). By understanding the role of industrialising elites and type of society they want to create as dictated by constraints they encounter in the process of industrialisation, one is afforded some understanding of different 'behaviours' of the state in different times and contexts. In societies that have experienced different types of leadership, we can link leadership with certain changes in industrial relations and therefore strike levels. As Shorter and Tilly argue, 'If we consider direct restraints on collective action such as legal penalties for organizing or

striking to be critical social controls, then we anticipate an increase in strike activity as controls dissolve.'

Again the structure of collective bargaining said to be important in explaining variations in strike activity in comparative studies examined above, could be understood if placed within the framework of industrialisation. Multi-employer and multi-union bargaining is associated with the growth and development of large-scale enterprises and unions. We would expect limited bargaining arrangement where the level of industrialisation is low.

Even the organisational capacities of the labour movement would be strengthened through more membership which is associated with high levels of employment which in turn can be associated with growth and expansion of industries. Could this not explain why some developing countries tend to have weak unions due to the smallness of the formal employment opportunities occasioned by inelastic growth of industrial activities? The more sophisticated the stage of industrialization, the greater the large-scale enterprises. Similarly, issues of inflation, low wages, rising commodity prices, unemployment, which have been advanced by economic theories as explaining strike proneness at times cannot be understood in isolation from the process of economic growth.

Unemployment is rampant in countries at the early stages of economic development owing to the size of the formal sector. For instance, the formal sector in Malawi absorbs only 13 per cent of the labour-force because the country is less industrialised. This environment is prone to low wages as the mass of the unemployed depress wages, and industrialising elites at times promulgate low wage policies to attract foreign investment. Dependence on imported materials and unfavourable terms of trade leads to soaring consumer prices particularly in poor countries and the consequence of this is increases in wage grievances and strike activity. Again inflation can be understood within the terms of trade relations but for developing countries, the role of foreign institutions such as the World Bank and International Monetary Fund is contributory. As a process of helping to restructure the industrialisation process of poor countries, some recommendations include reduction in government expenditure (and therefore no wage increases in the public service), removal of subsidies on essential consumer goods, devaluation of currencies thereby triggering high prices for consumer goods. All these tend to provoke anger and frustration of workers and have the potential to ignite strikes.

Furthermore, by examining industrial relations within the framework of industrialisation and the decisions and available priorities confronting industrialising elites, the theory enables us to study industrial relations systems of former colonies which have experienced different stages of economic development – from pre-colonial, through colonial to post-colonial periods. Trends in industrial conflict, notably strikes, can be studied over a long period of time by examining key trends in a country's industrialisation process and the role of different types of industrialising elites and their attitude toward protest, the labour movement and the strategies they used to manage conflict in society in general and workplace in particular. Thus, by studying the industrialisation process of a particular country, we are in a strong

position to explain some links between the process itself and the implication it has on management-worker- state relations and strikes.

### **Alternatives to strikes**

Salamon (1992:375) defines industrial action, which includes the strike as ‘a temporary suspension of normal working arrangements initiated by employees or the employer with the purpose of exerting some degree of pressure within the collective bargaining relationship’. As noted earlier, this definition tends to ignore various forms of industrial action that are not collective in nature and may not exist within a bargaining relationship. Shorter and Tilly admitted that by concentrating on the strike in their study of strikes in France, they had ignored a number of other forms of conflict and collective action in which French workers engaged over the course of industrialisation. These include machine breaking, sabotage, brawling, demonstrating, pamphlet writing, absenteeism and turnover.

In Eastern and Southern Africa, workers’ discontent was expressed in withdrawal of labour, go-slows, and refusal to work during the colonial period (Tangri, 1985: 5). Some ways of expressing grievances such as loafing, desertion, slow-downs, and minor acts of sabotage formed ‘the wool and warp of worker consciousness in Africa’. These unorganised actions were as much an expression of dissatisfaction with conditions of employment, wages and manager-worker relations as forms of protest against colonialism. In other words, they were both economic and political actions. Kerr et al. would view Tangri’s forms of protest as a reflection of uncommitted workers who have not come to terms with urban and factory work.

Studies of some forms of individual actions support the view that these actions were manifestations of deep-rooted conflict. Taylor and Walton (1971:226) noted that individuals sabotage or mutilate objects in a work environment in order to reduce tensions and frustrations, facilitate the work process or to assert some form of direct control. Targeted towards the boss, the government or the economy, sabotage is said to occur in industries where shared consciousness among workers is lacking. In their study of the British motor industry, Turner et al. (1967:184) argued that absenteeism, accidents and labour turnover, like strikes, indicate some form of conflict at the workplace. They also suggested that the dirtier and heavier work of foundries and body shops, coupled with greater risk of injury, could potentially be prone to absenteeism, accidents and turnover.

Although Turner et al. did not find any consistent connection between strike-liability and rates of absenteeism, they proposed some relationship between collective expression and individual forms of conflict. ‘If the collective expression of specific discontent are suppressed or inhibited in some forceful way, they may find an outlet in a more dispersed and individual fashion’. For example, the suppression of unofficial action that resulted in dismissal of ringleaders led to a fall in strike activity, but a rise in frequency of reported accidents, rate of absenteeism and labour turnover.

Industrial relations theorists hold the view that unionised workers stage strikes, suggesting that in contexts where workers are not organised, there could either be



fewer or no strikes at all. Shorter and Tilly's study, which linked French strikes to periods of greater worker mobilization, supports this proposition. But as Batstone et al. (1978:4) noted, although trade union organization has some relevance to the probability of a strike action, the extent to which strikes occur would be determined by processes of negotiation among workers themselves. Particular individuals or groups are likely first to introduce the idea of the strike and then persuade their fellows of the validity of this course of action.

To suggest that organised workers are more strike-prone than unorganised workers is to ignore two fundamental issues of people at work. First, workers would not wait for the formation of a trade union before they strike. The corollary of this is that workers do not manufacture grievances because a trade union has been formed. Rather, from a pluralist or Marxist view, conflict is already prevalent at the workplace between capital and labour. Second, to think that 'organization' is the precondition for striking is to ignore the social influence that occurs among groups in organizations. As Batstone et al. noted 'it only requires particular individuals or groups to introduce the idea and sell it to others'.

Thus, an understanding of group dynamics, informal leaders and informal communication system at workplace, could provide additional insights into an understanding of how unorganised workers could go on strike. The process of social influence does not require a trade union. While a registered trade union has immunities under most national labour laws, they do not enhance their ability to organise strikes. As Lyddon (1994:129) observes, groups of workers may bargain with the employer in the absence of a recognised union. If they can bargain without a recognised trade union, there is nothing to prevent them from defending their interests through the use of the strike. The 'informal side' in industrial relations Lyddon noted is important in the process of creating a social structure for both bargaining with the employer as well as mobilizing workers for a strike.

The experience of colonial and independent Africa supports the view that unorganised workers could stage successful strikes. As Tangri noted, the absence of formal labour organizations in Africa before 1945 did not prevent workers from uniting in defence of their interests. In territory after territory, petitions were drawn up and presented by African workers demanding improved conditions. Tangri quotes a Nigerian trade unionist that noted of Africa: 'We had a lot of Nigerian workers who thought and acted like trade unionists'. Through strike action, workers were able to mobilise a wide range of workers drawn from different ethnic backgrounds and thus demonstrated the ability to act collectively on the basis of shared interests as workers. For van Onslen (1976: 221), 'between 1903 and 1912, scarcely a year passed without some work stoppage or strike in Southern Rhodesia mines'. Most of the colonial strikes in Africa, discussed under the political explanation, are further examples of strikes staged without trade unions.

## **Review questions**

1. What is a strike? Discuss four major explanations for the variation of strike activity at different times in different countries.
2. Write short notes on the following:
  - (a) Industrialization thesis
  - (b) Institutional explanation for strikes
  - (c) Political explanation for strikes
  - (d) Economic explanation for strikes
3. Identify and interview employees and human resource managers or chief executives of organizations that experienced strikes in the past years. Find out the nature of strikes in terms of causes, worker involvement and days lost. How were they resolved?.

## **Chapter Three**

### **The State and Industrial Relations in Africa- A Historical Overview**

#### **Introduction**

This chapter examines the state in industrial relations in Africa. But for this to be clear, first it analyses the concept of the state and classification of states. Then it also examines the evolution of the state in Africa and how it impacted industrial relations in Kenya, Zambia, Zimbabwe, Tanzania and Malawi during the colonial and part of the post-colonial period.

#### **The concept of the state**

The state is the third actor in industrial relations, the others being employees and employers. It is even believed to be the most powerful of the three actors because it can change the rules of the game by its ability to enact new labour legislation or even amend an existing law to suit its requirements. It is important to understand the concept of the state broadly in order to understand how and why it behaves the way it does in industrial relations. Weber defines state as 'a monopoly of the legitimate use of physical force within a given territory. Dunleavy and O'Leary (1994) define the state as 'a set of governmental institutions concerned with the process of making, controlling, guiding or regulating rules. It is conceived as a 'recognised separate institution or set of institutions with identifiable public and private spheres and has supreme power and sovereignty within its territory. Five major theories advocated by Dunleavy and O'Leary based on a synthesis of classical and modern conception of the state are pluralism, new right, elite, Marxist and neo-pluralism.

Pluralism recognises the existence of diversity in social, institutional, ideological practices and values. It rejects the absolute, unified and uncontrolled view of state power and is based on notions of liberal democracy. Within this theoretical framework, the state is a passive vehicle through which inputs are processed – the state as uninfluential institution or a cash register or a manufacturer of consensus, a mediator, balancer and harmoniser of interests. It can also be viewed as an intermediary, middleman, and a broker but with interests or preferences of 'her' own. Elite theory on the other hand, defines the state as a compulsory institution, which successfully maintains a monopoly of legitimate force within a given territory through state elites. The central argument is that state elites maintain domination against potential internal and external challenges, and are able to make binding rules for state sub-organizations and groups and institutions in society which are managed and enforced through police, judicial and administrative regulations. Hence elites are the driving forces of modern states according to this view. New right theory of the

state tries to advocate minimal intervention of the state in democratic political systems. It views the state in a liberal democracy as being over extended in terms of its role. It is further argued that only cutting back the scope of its activities to fit the very limited capabilities of the public sector to make policies can restore its legitimacy – rolling back of the state in favour of privatization except in areas where private sector cannot manage such as defence, economic and social infrastructure.

Marxist theory of the state is of the view that the liberal state is a ‘machine’ directed by capitalists and hence bound to act in furthering their interests. It further maintains that capitalists, state bureaucrats and political leaders are unified into a single cohesive group by their common social origin, similar life styles and values and by the existence of numerous networks and forum where coordinated strategies for public policy are hammered out. The state apparatus remains staffed overwhelmingly by strata of society that can be relied on to adopt pro-capitalist stances on economic and industrial issues – lawyers, members of professions, accountants, farmers. There is no popular control of state policy making as pluralism advocates since legislatures are ineffectual and real power is concentrated in the executive branch of government, and that separation of powers is merely ‘window dressing’.

Neo-Pluralism Theory of the state centres on the notion of the guardian image and ‘professional state view’. While the plural model of democratic government emphasised that government was controlled from the outside in the public interest by representative politics, the professional state view argues otherwise. The central view is that the state in the Western democracies remains basically pluralist in the mode of operation because of the development of internalised controls among more expert and professionals state officials, the fragmentation of government to create interactive policy making systems and the growth of issue specific forms of public participation. The extended state is staffed and run much more extensively by occupational groups with highly specialised expertise— lawyers, accountants, town planners, architects, doctors, scientists, engineers commercial managers, public health experts – and this results in more concentrated and formalised expertise on government tasks and stress on conformity with ethics, respect for the public interest, and the transfer of implementation power for public policies to professionals.

### **Classification of states**

Ball (1983:38) classifies political systems as liberal democratic, totalitarian and autocratic systems. Liberal democratic system is characterised by more than one political party competing for political power, competition for power is open and based on established procedure; entry and recruitment to positions of political power are relatively open and there are periodic elections based on universal franchise; pressure groups are able to operate to influence government decisions and therefore associations such as trade unions and other voluntary organizations are not subject to close government control; civil liberties such as freedom of speech, religion, freedom from arbitrary arrest are recognised and protected within the political system;

independent mass media in the form of radio, newspapers and television exist, and separation of powers between the legislature, executive and judiciary exists.

Totalitarian political system is characterised by the presence of an official ideology; a single mass party usually led by one man (the dictator); use of terror by governments to enforce obedience; government has a monopoly of communication; a monopoly of weapons and central control of the economy. Totalitarianism tends to be linked with the principles of elite leadership whereby absolute one-man rule is based on the ability to seize and hold power without regard to traditional right, popular consensus or the rule of law. Men immediately around the dictator are essentially henchmen utilised by him for his purpose of controlling the society and are motivated on their part by the desire to secure the share in power, which he offers them.

Autocracy, on the other hand, is characterised by several factors such as: the limitations on open political competition; absence of a strongly articulated and coherent ideology though nationalism can be used as a rallying focus; more open use of force and coercion to enforce political obedience; civil liberties are weakly supported and the mass media is usually firmly controlled by the government; there is little judicial independence and leadership is found in a traditional political elite or new modernising elite, often the military. Autocracy is sometimes used synonymously with authoritarianism. In his study of authoritarian regimes, Macridis (1986) noted that the essence of authoritarianism is absolute and unchangeable power. It is contended that some are personal dynasties while others are single party regimes outright tyrannies or military dictators. In his view factors responsible for the creation of dictatorship include the need for state formation, which demands unity between diverse interests, the need for the survival of the state in crisis situations, presence of political cultures, which support such systems, and the need to bring about rapid social change.

## **Evolution of the state in Africa**

In spite of the diversity of states in former British colonies in Africa, there have been several features that are common to all of them (Chazan et al. 1994). Capitalism came with colonialism and is therefore relatively young. The state, rather than the capitalist class, has been in the forefront of spearheading the process of economic development in the post-colonial period. Most of the states had evolved from the pre-colonial stateless tribes to colonial states before being independent states in the early 1960s.

After independence there was a shift from multiparty to one-party and back to multiparty constitutions. This meant a regular change in the 'frontier of control' of the state vis-à-vis other elements of civil society. At one stage the state had adopted more elements of an authoritarian political system and, at another, more liberal democratic elements. Thus, one would see the state becoming more interventionist and controlling, and adopting elitist policies far removed from the interests of the masses at one stage, with a more guardian and arbiter role in favour of open market

and more competitive behaviour at another. It is also possible to see a hybrid variant where some aspects of liberal democracy and the authoritarian mode co-existed within the same stage. Tanzania's Julius Nyerere, who advocated 'Ujamaa socialism,' and Zambia's Kenneth Kaunda, who advocated 'humanism' ideology as a development strategy, became violators of human rights through one-party dictatorship (Mihyo, 1995:204). Although the forms of the state in peripheral capitalist economies reveal some marked distinctions from those in advanced capitalism, the functions of the state for the reproduction of class relations are similar. In a situation where the state has adopted the capitalist strategy of development, the state becomes the guarantor of private capital accumulation, and the latter becomes the material bases of the state in the form of taxes. An understanding of the interplay between the state and civil society at each epoch and how this might help us appreciate its impact on industrial relations is of importance to us. What role did the state play in industrial relations and how did it influence strike activity?

Apart from Liberia and Ethiopia that experienced colonial domination for a brief period, most African states were colonies of major European powers. Britain, France, Belgium, Italy, Spain and Portugal colonised different countries in Africa following the Berlin Conference 1884-5. Although many stateless societies existed in pre-colonial Africa, there were a few powerful and highly organised kingdoms with centralised state apparatus. The Songhai, Mali and Ghana Kingdoms in West Africa, the Baganda and Bunyoro in Uganda, Monomotapa in Zimbabwe, the Lozi, the Mwata Kazembe and Bemba in Zambia, the Maravi in Malawi, the Nguni and Zulu in South Africa (Oliver and Atmore, 1994:12-19), were some of the most powerful kingdoms before colonial rule. The diversity of the colonising nations also reflected diversity in colonial policies. While the French administration destroyed traditional chieftaincy, created 'straw-chiefs' and adopted 'assimilation' policy, the British had favoured an 'indirect rule' policy in which traditional chiefs were incorporated into the colonial state machinery.

The transformation of pre-colonial African societies involved the introduction of western administrative systems and structures of governance, which incorporated elements of traditional systems (chiefs), thereby creating a 'hybrid' administrative system.

Land alienation and the introduction of cash crop plantations farms and mining led to migration into the towns in search of employment. Mining and plantation agriculture were central economic activities. In the process, a working class emerged in the following: the Copperbelt of Zambia; white settler farms in Zimbabwe, mineral-rich South Africa; sisal plantations in Tanzania; settler farms in Kenya; and tea plantations and tobacco farms in Malawi, apart from clerks, teachers, drivers, and public works employees. The migrant labour system particularly, from the mineral-scarce territories such as Malawi and Mozambique, forced people to drift to mineral-wealthy countries such as South Africa and Zimbabwe. The incorporation of traditional economies into the Western capitalist economic system led not only to the industrialization and urbanization of the colonies, but also to the growth of the labour movement.

Grievances related to ill-treatment of African workers, poor working conditions, low wages, social and economic development, agriculture regulations, land alienation, unemployment of ex-servicemen, colonial taxation, and the restrictions imposed on cash crop growing by African farmers, contributed to the resentment against colonialism. The urban working class, lawyers and doctors, informal urban business people, local peasants, wealthy businessmen and cash crop farmers united in anti-colonial protest. Protest against colonialism took different forms including religious associations, district based association, and interest groups such as trade unions and political parties. The earliest urban political parties lacked grass roots support. It was not until new forms led by educated and radical nationalists (such as Kwame Nkrumah of Ghana), emerged to demand immediate independence that decolonisation became a major hope (Oliver and Atmore, 1994:220). Clashes between nationalist elements and colonial governments in Africa, coupled with pressure from the United Nations, USA and liberal democratic elements in Britain helped to speed up decolonisation. Apart from Namibia which attained independence in 1990, and Zimbabwe in 1980, most of the former British colonies in Africa were already independent by the mid-1960s.

### **Post-independence developments**

A significant transformation of the superstructure of the state occurred after independence (Tordoff, 1997:1-13). Most of the countries moved from initial pluralism toward the concentration of power in the hands of a single party and president. Tordoff notes that, in some states, it meant heavy concentration of powers in the office of the president to the detriment of other ministries. There was a move from federal and quasi-federal constitutions adopted at independence to unitary structures, as in Ghana, Uganda, Zaire, Nigeria and Zambia.

These moves were justified by the perceived fears that sub-national structures would aggravate sectional sentiments and therefore make the task of national integration more difficult. Unbalanced economic growth whereby development concentrated in a few regions or enclaves created an urgent need to create economic development in other backward areas. This was compounded by the fact that, at independence, the new states inherited problems of finance, acute shortage of qualified personnel to manage socio-economic development programmes and the scarcity of indigenous entrepreneurial class. Consequently, the role of the state became crucial in economic development. It had to invest in social infrastructure, expand education, health, agriculture, and housing, among other services; formulate development plans, and engage in industrial and commercial undertakings through public enterprises. Neo-pluralists would see the African states at independence as overburdened with tasks and responsibilities, and for Midgal (1988:4), as 'overdeveloped'. According to Nwabueze (1974), it was the need for state formation, consolidation of new nationhood and state boundaries, modernization of the economy and socio-economic development, which forced political elite to adopt different paths towards economic, social and political transformation.

Beginning with Ghana in 1960, Kenya and Zambia in 1964, Uganda, Nigeria, Botswana and Malawi in 1966 and Gambia in 1970, all former colonies broke away from the dual British model of separate head of government and head of state in favour of executive presidential system. This meant the subservience of the legislature and the judiciary to the executive and the integration of other non-political organizations into the ruling party and state machinery. Such states could not tolerate any other pockets of power and therefore any organizations of significance such as trade unions, co-operative societies, farmers' association, women's and youth movements. Consequently, such organisations were integrated into the executive wing of the state. For Nkrumah, his Convention Peoples' Party was 'a mighty tree' and non-political organizations were its 'many branches'. According to Nwabueze, what emerged was a highly centralised governmental structure where the legislature and judiciary were subordinated to the executive; bicameralism was replaced by unicameralism and federalism by unitarism and the emergency of one-party states characterised by concentrating too much power in the presidents.

Apart from the need to protect its citizenry from internal and external aggression and to maintain law and order and provide a legal framework, the state in Africa further undertook the role of economic management and accelerator of the industrialisation process. As a result, the need for powerful and inspiring elite was important as the latter acted as a rallying and unifying focus (Bottomore, 1964). The role of political elite in Africa had been instrumental in shaping post-independence state structures and functions.

Since Britain did not prepare her colonies for independence and self-rule through discriminatory political and administrative policies, nationalist agitators were from the petty bourgeoisie and businessmen (Tangri, 1985:51). Consequently, heavy reliance was placed on a few educated Africans staying in Europe to lead struggles for independence. In 1958 after 40 years of sojourn in America and Britain, Malawi's Hastings Kamuzu Banda was called by struggling nationalists to lead the Nyasaland African Congress to independence. In Kenya, Jomo Kenyatta came from a long stay overseas to lead Kenya to independence. The centrality of the political elite in the process of modernizing their states is further illustrated by the espoused ideologies that functioned as frameworks within which socio-political and economic policies and programmes had to be formulated and implemented. Humanism under Kaunda in Zambia, Socialism under Mugabe in Zimbabwe, Ujamaa Socialism in Tanzania under Nyerere, and Harambee or African socialism in Kenya under Kenyatta, are examples.

Political elites had not been static in their experiment with state management on the continent. As a result of dissatisfaction with the economic and political performance of the state after three decades of independence, reforms occurred. Between the 1980s and 1990s a move from one-party systems and socialist ideologies toward multiparty systems and liberalised economies took place (Chazan et al., 1994:64-66). It was increasingly believed that the revival of Africa's economy was dependent on getting rid of authoritarian, corrupt and inefficient one-party regimes and that multiparty system of government could halt Africa's downward economic



spiral. As one Zairean politician noted, 'we cannot do anything in the economic field until we change the political field' (Tordoff, 1997: 14).

Protracted strikes, demonstrations and national political conferences were held to demand multiparty elections and the removal of incumbent presidents in favour of democratic governments. Western governments began to put a lot of pressure on African states for good governance from the 1980s into the 1990s. The World Bank and the IMF continued to insist on economic liberalization, transparency and accountability as preconditions for further financial assistance. In most of Southern Africa, the demand for democratisation as a precondition for continued financial assistance started with the collapse of communism in Eastern Europe and the wind of democratic dispensation across Africa.

By the middle of the 1990s, countries such as Ghana, Kenya, Tanzania, South Africa, Angola, Mozambique, Zaire, Zambia, Togo, Morocco, Benin, Gabon, Tunisia and Malawi had adopted multiparty political systems. Although these developments did not reduce the role of the state in Africa, they nonetheless modified the power balance between states and civil society organisations like trade unions.

### **State-labour Relations in Eastern and Central Africa**

This section examines briefly the impact of the state on industrial relations, in particular, the extent to which it shaped freedom of association and how that impacted on strike activity in Zambia, Kenya, Zimbabwe, Tanzania and Malawi. The choice of countries is deliberate: they were colonised by Britain and experienced similar systems of alien administration. Zambia and Tanzania share a common boundary with Malawi. During 1953-1963, Zambia, Zimbabwe and Malawi formed the Federation of Rhodesia and Nyasaland. Kenya and Zimbabwe had greater numbers of white settler farmers than the others. The four countries espoused a socialist form of ideology after independence. They also experienced increasing presidential powers within one-party state machinery before they adopted multiparty systems in the 1990s. Another common feature is that the first four states, like Malawi, experienced a common labour policy of denial of trade union recognition until after strikes in India, West Indies and Northern Rhodesia persuaded the Colonial Office in London to change its policy towards trade unions in colonies (Davies, 1966:39).

#### **The state and industrial relations in Zambia**

The increasing number of workers in the Copperbelt, European agriculture, railways and government from 21,000 in 1929 to 98,500 in 1939, created an impetus for the growth of the labour movement in Zambia (Gertzel, 1979: 309). The first industrial action among Africans originated in the mines in protest against poor wages, working conditions, poverty and racial discrimination. During 1935-1945, a series of strikes were staged before the colonial state officially allowed unions in 1947. Strikes erupted as workers protested over low wages, poor working conditions, African advancement, and colour bar in 1952-6. By 1952, there were 16 unions. After

independence in 1964, industrial relations in Zambia were influenced by the one-party state led by Kenneth Kaunda in its attempts to control and incorporate the labour movement within the state machinery. For close to three decades after independence, Kaunda used his massive powers to impose, punish, reward, detain, appoint and dismiss (Mihyo, 1995:203-4). The state restructured industrial relations policies by creating industrial unions and worker participation in management schemes controlled by party branches and state appointed managers. It integrated the Zambian Congress of Trade Unions (ZCTU) with the ruling United National Independent Party (UNIP).

This was to ensure that ZCTU acted as UNIP's administrative wing in communication and civic education to workers on the productionist role trade unions were called to play in line with state economic development policy and plans. The state controlled unions by increasing the Registrar's power to supervise trade unions and restricted international affiliation and funding. It used detention powers and presidential intervention in industrial relations matters to control unions. Intimidation and marginalisation of dissenters, surveillance and arrest of ZCTU leaders were other means to weaken unions. According to Liatto (1989:101), the state used the 'carrot and stick' approach through the legal framework, wages and salaries, control of ZCTU leadership, and the process of engineering consent (through worker participation mechanisms, political exhortation and workers' education) to tame Zambia's labour movement.

Although the state had not successfully tamed the Zambian labour movement owing to its solid foundation in the early 1950s, the impact of the state on industrial relations can be analysed from the strike trends between 1959 and 1972. From a record of 23 strikes in 1959, Zambia experienced 194 on the eve of independence in 1963 and 157 in 1964, as table 3.1 shows.

*Table 3.1: Strike activity in Zambia 1959-1972*

<b>Year</b>	<b>No. of strikes</b>	<b>No. of workers involved</b>	<b>No. of days lost</b>
<b>1959</b>	23	2,184	2,185
<b>1963</b>	194	41,686	409,185
<b>1964</b>	157	30,839	123,317
<b>1970</b>	128	17,040	122,951
<b>1971</b>	127	14,964	18,894
<b>1972</b>	74	10,453	20,874

*Source:* Yearbook of Labour Statistics (several).

The highest strike incidence, in 1963, suggests that workers mounted political strikes to exert pressure for Zambia's independence. However, a shift from 157 strikes, over 30,000 workers involved and over 120,000 days lost in 1964 to 74 strikes, around 10,000 workers and 21,000 days lost in 1972 suggests that the state was successful in suppressing strikes

## The state and industrial relations in Kenya

Kenya had a high concentration of white settler farmers who alienated over 5 million acres of the most fertile land in the Highlands. Like Zimbabwe, Kenya had witnessed bloody conflicts in the process of decolonization. The colonial state was able to sabotage the growth of African trade unions in Kenya through their continued prohibition. By identifying and persecuting trade union leaders as communists, the state had succeeded in postponing the effective organizations of African workers by many years (Iwuji, 1979). The colonial state banned the first trade union in 1947 and deported its leaders. When unions became legal, the state enacted the Trade Union Registration Ordinance and a Deportation Ordinance Act with provisions for state control over unions and workers. A Nairobi strike in the 1950s was ruthlessly crushed by the state using the police and the army. Up to 300 workers and union leaders were imprisoned. These repressive measures affected both union membership and union activities. For example, a one-day operation, to crack down union supporters on 24 April 1954, reduced the Local Government Union membership from 1,300 to 500 with consequent closure of union offices.

Post-independence Kenya also experienced state control over trade unions. Although unions were allowed and the right to strike was included in the labour laws, the 1962-63 strikes after independence provoked the wrath of the political elites. Tom Mboya, then Minister of Labour, threatened to take away the right to strike if workers abused it. Following inter-union disputes between the Kenya Federation of Labour (KFL) and the Kenya African Workers' Union (KAWU), a 1965 presidential decree created the Central Organization of Trade Unions (COTU) and de-registered KFL and KAWU. In 1974, a presidential decree banned unofficial strikes. This, perhaps, reflects Mboya's view that 'a Government sometimes needs unusual powers to enforce some decisions' (in Etukudo, 1995:54). Through a series of tripartite agreements in the period 1964-1980, the state co-opted union leadership, influenced collective bargaining through wage freezes and curtailed the right to strike through a presidential ban on strikes. The impact of state intervention in industrial relations was a decline in strike activity from 230 at independence to 44 in 1997, as shown in table 3.2.

*Table 3.2: Strike activity in Kenya 1959-97*

Year	No. of Strikes	No. of workers	No. of days lost
1959	67	42,212	431,973
1962	280	132,433	745,749
1963	230	54,428	235,349
1973	83	14,125	42,267
1984	69	7,663	39,395
1997	44	Na	Na

Higher strike levels in 1962 might suggest that most of the strikes were political protests against colonial rule as was the case in Zambia. The decline in strike activity, workers involved and days lost reflect the influence of state control on trade union and restrictions imposed on the right to strike after independence.

## **The state and industrial relations in Zimbabwe**

Unlike in Kenya, the white settler community in Zimbabwe was independent from Britain in the 1920s and declared a Unilateral Declaration of Independence in 1965. Through protracted guerrilla wars, the settler community handed over Zimbabwe to Africans in 1980 (Davidson, 1994: 133). Owing to the predominance of the white settler economy and the need for the state to meet settlers' desire for cheap labour, the colonial state enacted several laws (Shadur, 1994). Starting with the Master Servant Act 1901 to the Industrial Conciliation Act 1959, the colonial state aimed to suppress labour rather than develop trade unions among black workers.

When unions were recognised under the 1959 Act, their number grew to 26 in 1962 but had declined to 22 in 1966. Unions remained extremely weak not only because of financial problems and leadership ineffectiveness, but also because of state control through close police surveillance, breaking of strikes, harassment and arrest of leaders. Trade union weakness in Zimbabwe was also attributed to the unusual political history of the country. As anti-colonial wars were fought in the bush, individuals left their jobs and joined protracted wars of liberation.

The post-independence period witnessed a high degree of state corporatism aimed at controlling unions, employees and strikes thereby enforcing industrial peace. Like the ZTUC in Zambia, the Zimbabwe Trade Union Congress was used as an administrative arm of the state to interpret and implement state policies and programmes of economic development. The state crushed all strikes that had characterised Zimbabwe at independence and some years later. Robert Mugabe intervened, like his Zambian counterpart, in introducing extensive legislative powers aimed at neutralising militant unions. Other measures included beating with button sticks, suspended sentences, arrests, and detention or dismissal of strikers. Mugabe's public speeches carried strong warnings:

The loss of production in many factories is to be deplored and when it comes to essential services, the resultant shortage of bread, and the spoiling of many thousand of dollars worth of dough, with so many hungry people in our land, is nothing short of criminal (Shadur quotes *The Herald* 23 March 1980)

Following protracted strikes at Wankie Colliery, Swift transport, and Express Nickel Mine, for instance, Mugabe warned that his Government's priority was law and order and he would give the police whatever authority was necessary to end lawlessness

(Shadur, 1994: 86). Although data on strike activity is fragmented, there was a decline in strike activity since independence in 1980, as table 3.3 illustrates.

*Table 3.3 strike activity in Zimbabwe 1960-83*

Year	No. of strikes	No. of workers	No. of days lost
1960	81	17,746	104,051
1979	7	1,237	533
1980	297	90,788	232,611
1983	32	744	379

*Source:* Yearbook of Labour Statistics (several)

Unlike Kenya and Zambia, which had more strikes on the eve of independence, Zimbabwe had fewer strikes in 1979 but more at independence in 1980. As many Zimbabwean workers were fighting in the bush during liberation struggles and that some union leaders had been arrested, it was difficult to mobilise for protracted strikes. A shift from 297 strikes involving 91,000 workers and 233,000 days lost in 1980 to 32, around 700 workers and under 400 days lost, suggests that the post colonial state in Zimbabwe was also effective in suppressing strikes.

### **The state and industrial relations in Tanzania**

Originally colonised by Germany in 1890 and ruled by Britain from 1919, Tanzania's economy shifted from peasant to capitalist during the colonial period. Cash crop plantations (sisal, coffee, rubber, and groundnut), mining (diamonds, gold, lead, copper and silver), railroad construction, retail and wholesale, local government and civil service led to the urbanisation and expansion of employment. Between 1947 and 1953 the colonial state repressed trade unions until the Tanganyika Federation of Labour (TFL) emerged later as an amalgamation of small unions. Julius Nyerere's view that 'everybody was paid too much except the poor peasant' perhaps spoke more about the expected behavioural orientation of workers in independent Tanzania.

For him, 'although one of the purposes of trade unions was to ensure for workers a fair share of the profits of their labour, such fairness would be judged in relation to the whole society'. Between 1962 and 1963, the state passed legislation to eliminate 'dissident' unions and to consolidate 'loyal' unions into the industrial wing of Tanganyika African National Union-TANU.

A series of strikes in sisal plantations, mines and railway unions from independence to 1972 demanding unconditional Africanisation forced the state to take action against strikers. 200 union leaders were arrested; competing union federations, including TFL, were abolished and an Act of Parliament created a National Union of Tanganyika Employees (NUTA). All unions became affiliated sections of NUTA. The general secretary and his deputy were to be appointed by the President. NUTA's role was to study wage structure annually; advise the government

on wages in accordance with the country's income and wages policy; implement the wages and incomes policies; settle disputes between members themselves and implement and propagate the policy of the ruling party.

In 1978, NUTA was replaced by the Jumuiya ya Wafanyakazi Tanzania (JUWATA). JUWATA was responsible for the interpretation of TANU's policy to the workers and to ensure that workers complied with the party's directives. They were also responsible for the protection and defence of party policy against those opposed to Tanzania's Ujamaa socialism; promotion of worker education, creativity, productivity, confidence, pride; and protection of workers' rights and improvement of wages and other conditions of employment. Like Mboya who supported the need for government's strong hand in Kenya, President Nyerere justified state intervention in industrial relations as the only way in which 'any African government could act in accordance with the aspirations and wishes of its people' (Etikudo, 1995: 54).

With the formation of NUTA, workers in Tanzania lost their right to form free and voluntary trade unions and hence the right to bargain collectively. The creation of a Permanent Labour Tribunal to approve collective agreements and intervene in decisions relating to wage increases and the involvement of party personnel in dispute settlement restricted union rights. Furthermore, presidential directives on worker participation institutions and ban on strikes further paralysed collective bargaining and the right to strike. Available data indicates that before independence in 1961, the number of strikes was relatively higher than that after independence as shown in table 3.4 below.

*Table 3.4 Strike activity in Tanzania 1960-71*

<b>Year</b>	<b>No. of strikes</b>	<b>No. of workers</b>	<b>No. of days lost</b>
<b>1960</b>	204	18,187	993,733
<b>1961</b>	101	20,159	113,254
<b>1971</b>	3	744	379

*Source:* Yearbook of Labour Statistics (several)

Although strikes resurfaced between 1971 and 1973 through the influence of the Arusha Declaration and TANU Guidelines (MWONGOZO) which empowered workers, a decline from 101 strikes at independence to only 3 ten years later suggests that the state, like in the other countries, controlled worker protest. This confirms Jackson's (1979:219) conclusion that 'strikes had disappeared in Tanzania'.

## **The State and Industrial Relations in Colonial Malawi**

Malawi's economy, as shown in chapter one, had shifted from pre-colonial subsistence agriculture with rudimentary mining and trade to Western capitalist incorporation through cash crop agriculture and plantations. The absence of valuable mineral resources, poor communications and the abundance of cheap land and labour favoured white settler agriculture. Through the issuing of title deeds for alienated land, ensuring availability of cheap labour through a tax policy, and the building of a railway infrastructure to facilitate the transportation of estate produce, the colonial state facilitated plantation agriculture. In order to meet their tax and personal needs within a context of low wages, Africans sought employment in Southern Rhodesia, South Africa, Tanzania, and Zaire. The Annual Report of the Department of Labour (ARDL) for the 1938-1958 period estimated that migrant workers to Southern Rhodesia increased from 70,000 in 1938 to 123,000 in 1958; and to South Africa from 27,000 to 42,000 during 1938-1953 before declining to 26,000 in 1958. It was estimated that an annual exodus of over 100,000 workers occurred between 1938 and 1958 (ARDL, 1938-1958).

Kydd and Christiansen (1982: 358) estimate that between 1903 and 1972 Malawians abroad as a percentage of estimated de facto population of Malawi grew from 1.1% in 1903 to 10.3% in 1972. Those employed in South African mines increased from 35,658 in 1964 to 108,431 in 1974, before declining to 2 in 1992. The decline was due to a concerted political campaign and a presidential ban on labour migration following South Africa's policy to screen Malawians for HIV/AIDS. It was also caused by the absorption capacity of expanding tobacco and tea estates in Malawi (Kydd and Christiansen, 1982:324).

The colonial state did not have a clear labour policy for Malawi until after the recommendations of the 1936 committee appointed by the Governor in 1935. Chaired by A. Travers Lacey, who was the Director of Education in Nyasaland, the committee comprised of Messrs. W.H Evans, a local planter; I.C. Ramsey, a District Commissioner; W.H. Timcke, a local planter; and W.P Young, Head of the Church of Scotland Mission at Livingstonia; M.V. Smithyman, Secretary; and L.Z. Mumba as an Interpreter. The committee was asked to 'report on the conditions now prevailing with regard to the exodus of natives from the protectorate for work outside, the effect on village life and the probable future effect on the Protectorate'. It was also asked to recommend whether the colonial state was to prohibit or permit labour migration with or without restriction in the interest of the native.

While migration caused concern among missionaries and local planters because of its negative impact on rural development and the shortage of plantation labour, the Nyasaland Government saw no problem as long as it collected both tax and capitation fees from each migrant worker. The committee examined the conditions 'now prevailing, the extent of the exodus, causes of the exodus, the effect of the emigration

on village life, the probable future effect on the protectorate, purpose of control and economic alternatives to emigration’.

In its report, the committee blamed the colonial state for its failure to safeguard excessive migration. It then recommended the need to develop smallholder agriculture, improvements in estate conditions to attract local labour, reforms in the tax regime, and establishment of inter-territorial agreements between Southern Rhodesia and South Africa. Although the Nyasaland Government and the Colonial Office in London criticised the report on account of the nature and composition of the committee and lack of objectivity, the report did serve as a wake up call for the local administration and Colonial Office. It led to a thorough study of the labour migration question, negotiation of migrant labour agreements with Southern Rhodesia and South Africa, the appointment of a Labour Commissioner and the creation of the Nyasaland Labour Department to co-ordinate a coherent labour policy. Like the white settlers in the Kenyan Highlands, settler farmers and other industrial activities in Malawi centred within the Shire Highlands. It is therefore important to examine the tea industry there and the urbanization process in Blantyre because of the importance of these two economic sites to the growth and development of the labour movement.

### **Industrial relations in the tea estate sector**

According to the ARDL (1949:14), the principal industries in Nyasaland were: tobacco growing, grading and packing; tung production; tea growing and manufacture; cotton ginneries; public works; domestic service; building and general contracting; transport and engineering; wholesale; retail and general farming. From the 1930s, the tea industry had constituted the biggest single employer of labour in Nyasaland. In 1949, out of 60,660 workers employed in 15 industries and services in the Southern Province, the tea industry employed 30,853 (50%), which were 5,000 higher than all employees of Government departments.

The Tea Association of Malawi (1991:15) noted that Malawi was the first country in Central Africa to grow tea on a commercial basis. Using seeds brought to Malawi by a Scottish missionary, the first tea estates at Lauderdale and Thornwood in Mulanje were created in the early 1900s by a Ceylon (Sri Lanka) planter. The Blantyre and East African Company, British Central Africa Company, A.L Bruce Estates Ltd. and African Lakes Corporation were key tea companies. By 1944, there were 11,327 acres in 19 estates in Mulanje, and 12,321 acres in 13 estates in Thyolo (Palmer, 1985: 239). In 1991, the total area under tea was over 100 acres distributed among Mulanje (43,000), Thyolo (55,000) and Nkhatabay (1,300).

#### *Categories of workers*

Palmer (1986:110-111) identifies six categories of tea estate workers. Those from villages around the estates; those from other parts of the country particularly the Central Region living in estate compounds; Lomwe immigrants from Mozambique; young male migrants from Mozambique on ‘seasonal’ employment; children and



'ganyu' (casual workers mostly women). Women and children did 'light' work like weeding, tending nurseries, watering, pruning, picking and tying leaves, sweeping factory floors, running errands, packing and unpacking (Chirwa, 1993:672).

Apart from casual workers, who were paid through a piece-rate system, most of the workers were employed on a ticket contract of 30 days. This 'contract' could be completed within 42 working days for a fixed wage. Colonial managers might have introduced the 30-day 'ticket' system described as 'almost universal' in Malawi. For Kerr et al. (1973:244), the contract system could be used to attract workers from the neighbouring villages and to discourage absenteeism for a stated period.

### *Wages and condition of employment*

For Palmer, wages were so low that they were only comparable with those offered in Portuguese East Africa (Mozambique) at the time. While the official minimum stood at 6s in 1941, the rate in estates varied with the type of job. Hoers, weeders and pruners received 6s-8s, and pluckers 7s-15s per month while factory labourers received 7s-20s, carpenters received 30s, and clerks, 80s. The clerical position was the highest grade for African labour as managerial levels were reserved for Europeans. There were also other benefits like free rations or cash in lieu of rations, free housing, free medical attention, free hospital treatment and cash bonuses. Estate employers provided football facilities, musical instruments and hot day meals. Kerr et al would view these benefits 'as incentives to recruit a labour supply to isolated localities and to enhance worker productivity'.

Working hours varied from 6 hours for hoers to 10 hours for pluckers. Factory workers on shifts worked between 9 and 12 hours. Hours of work were long and factory environments were poorly ventilated and hot. Chirwa (1993:673-674) highlights the extent to which children and youths worked under inhumane conditions on Nyasaland plantations during 1890-1953. The fact that the Nyasaland Government and the Colonial Office reminded the tea industry from time to time to improve wages and working conditions confirms the prevalence of poor wages and working conditions in the tea estates.

Although described by the Labour Department as mostly 'personal', industrial relations in the tea estates were characterised by friction, as some estate managers were harsh to their employees. Forced labour, resented by both Africans and missionaries, created a tense environment. Employers wanted employees (and tenants) to work during the busy agricultural season when they would be in their gardens. Africans resented exposure to wind, rain and cold during the rainy season (November to March).

The Labour Department tended to downplay the extent of conflict by concentrating on hailing employers' innovations, like housing projects, bonus systems, the introduction of musical systems and loud-speakers, free firewood provision, housing allowances, medical facilities and food rations. Although strikes occurred in different parts of the country including the tea estates during 1940-1950, the colonial state described the level of conflict as 'less serious'.

The reason given was that the majority of Malawians were not dependent on wage-earning and if work was not to their liking, they returned to their village or moved to another employer. According to Armstrong, the Acting Labour Adviser in 1950, the Nyasaland worker was not as yet politically conscious, and 'with the sympathetic and tolerant relationship that existed among all races in Nyasaland, there was little reason to anticipate any serious breach in the existing industrial relations'. Reaction to the low wages and poor conditions of work varied. Contrary to the view that tenants and workers in the tea estates were 'helpless slaves' as Abrahams and Vail noted, workers expressed protest through numerous strategies. These included loafing, absenteeism, desertion, non-co-operation, malicious retaliation, giving of wrong names and addresses, signing agreements knowing they would not carry them out, refusing to work on Sundays, resisting picking tea in the rains and taking three months to complete a 26 day-ticket. Reported to be as high as 30-40% daily, absenteeism was the biggest strategy employed by workers as a reaction to poor working conditions.

Rather than explain higher levels of absenteeism as a manifestation of conflict and reaction to working conditions, the Labour Department saw it as a product of 'distractions' in the village like: beer drinking, marriage ceremonies, law suits and funerals. Coupled with labour migration, these retaliatory strategies led to heavy loss on the part of tea employers as several thousand pounds worth of tea went unpicked.

Kerr et al. (1973) would explain the behaviour of workers in tea estates as a reflection of uncommitted workers in the early states of industrialisation. Knowles (1952) and Milner and Metcalf (1993) would explain such individualised forms of conflict as a reflection of unorganised workers. The two explanations would be appropriate since most of the workers were seasonal labourers, staying in their own villages and were not organised.

Relations between the landlords and tenants (also workers) were strained on the British Central African Estates especially Chizunga and Mindali in Thyolo and Blantyre East African Estates in Mulanje-Limbuli Estate. Palmer (1986:122-123) provides a narrative of events that led to widespread worker protest in reaction to wages and working conditions in Thyolo, which are now summarised. In 1943, several tenants refused to obey an eviction order. In 1945, many BCA tenants refused to pay rent and some challenged the right of the companies to charge rent at all. The following year saw a strike at Thyolo Tea factory for improved working conditions. 200 drivers and factory workers at Conforzi's Mboma Estate went on strike over a change in the payment system in 1947. In 1949, 30 drivers at Conforzi threatened to strike if their pay was not raised but a Labour Advisor intervened to stop the strike. During 1949-1950, the BCA Company had problems in collecting rent and evicted a number of tenants. Planters provoked widespread anger as they intensified their rent collection campaign and eviction for non-payment following the collapse of tea prices during 1952-53.

Many tenants and labourers resisted and went straight into undeveloped estate areas and started cutting down trees and developing their gardens. People refused to pay local taxes, fees or attend native courts. Violence broke out in Thyolo when the police shot dead one person in order to disperse a crowd, which was a reaction to a

murder rumour in one tea estate. Armed with knives, pangas, spears and stones, gangs of people caused extensive damage to Makwasa Tea Factory and the manager's house. Violence among workers spread to other districts in the Shire Highlands and the Lower Shire.

Thus, a rural labour force traditionally tied to the land was introduced to a modern wage economy with new working conditions and work discipline different from the traditional subsistence economy. Reaction to low wages and poor working conditions as well as to the broader question of forced labour and tenancy relationships did not, as the Labour Department would make us believe, make workers leave and join another employer. Rather, apart from absenteeism and open refusal to work on Sunday or in the rains, workers were able without unions to mount strikes. These showed employers that they could not make decisions unilaterally with impunity.

Although the first trade union emerged in Blantyre, the Thyolo worker militancy contributed to the growth of workers' consciousness and the desire to fight for their interests. There was a growing feeling among individual workers to fight as a group as opposed to individualised self-interest behaviour in pre-capitalist subsistence agriculture. For instance, in 1947 when 200 workers went on strike and a deadlock continued after the intervention of the District Commissioner, they opted to resign when the employer was stubborn and called for the resignation of those not satisfied with the change in the payment system.

### **Urbanisation and the labour movement in Blantyre**

There is some important relationship between the process of industrialisation, urbanization and the growth of the labour movement. Blantyre is another site for studying the evolution of working class consciousness and the formation of trade unions. As McCracken (1998:247) noted, Blantyre had a slow growth due to the predominance of the settler agricultural economy and massive labour migration. He argues that unlike the industrial revolution that forced people to migrate to their towns in many parts of Europe, Western capitalism did not lead to rapid urbanisation in Malawi. Instead, it helped galvanise a process of industrialisation and urbanisation of Southern Rhodesia and South Africa. This slowed the process of urbanisation, industrialisation and the development of organised labour.

Between 1937 and 1947 the population of Blantyre grew from 4,000 to 12,000, expanding to 55,000 in 1956. By 1966, it was 109,461, consisting of 101,500 Africans, 3,364 Europeans and 4,500 Asians. Except for railway workers in Limbe who were housed in compounds, most workers lived in villages and walked into town daily. With employers such as Blantyre Town Council, Nyasaland Railways, Nyasaland Transport, General Contractors and Engineers, Building and Construction, Store-keeping, Commerce, and Government departments, Blantyre remained the principal centre for industrialisation in.

McCracken (1998:254-256) makes a broader analysis of employment relations in Blantyre and how gradually organised labour developed. He observes that conditions in Blantyre were characterised by rising consumer prices against low wages. Hoes,

bicycles, clothes, tyres and maize flour were becoming expensive. Although wages for unskilled workers rose from 6s in 1939 to 12s 6d per month in 1947, they remained at this rate up to 1950. Senior domestic servants received an average of 20s-25s a month in 1938-1947 compared to 40s or more for Malawian cooks in Southern Rhodesia. Wage increases were lower than the cost of living during 1930-1950. Some workers felt that they were 'not treated like human beings'. A Government Health Inspector described workers' accommodation as 'windowless brick and thatched hovels in poor repair with no latrines or water supply. Night soil disposal sites were situated in the centre of built-up areas and were poorly maintained. African shop servants were sleeping on the back verandahs of shops and even in disused latrines'.

The growth of wage employment resulting from European colonial rule, and the accompanying low wages and poor conditions of employment, were not peculiar to Malawi. In Sub-Saharan Africa, urban wage earners were an exploited group subjected to much abuse and injustice as they were badly paid, poorly fed, racially insulted, and forced to endure appalling working conditions (Tangri, 1985:4). As a result of protest against low wages, hard work and harsh discipline African workers developed a common identity as workers. They strove to improve their conditions through some form of united front against capital.

Prior to the development of trade unions in Malawi, labour grievances were presented to the Colonial Government through district-based native associations. These institutions could not be described as working class organizations since they channeled general grievances that Africans experienced during colonial rule. At workplaces, some employers created works committees 'to provide for the opportunity to ventilate grievances and to infuse into the workers some personal interest in the undertaking'. For wages and conditions of employment, the state created Standing Advisory boards for each province.

The development of an organised labour movement was a product of a series of strikes against poor wages and working conditions by teachers, night soil workers, domestic servants and rail workers during the 1940s in Blantyre. The Nyasaland Teachers Association protested against the high cost of living in 1945. Domestic servants, council employees and transport workers organised further protest in 1947. Night soil workers went on strike, demanding increased wages, protective clothing and additional soap rations. Could there be a mere coincidence that it was also during the same year that 200 workers went on strike at a Thyolo tea estate? Although conspiracy could not be proved, the success of 1946 and 1947 strikes in Thyolo mentioned above could have important lessons and encouragement for workers in Blantyre. The Transport and General Workers Union (TGWU) was the first registered union in 1949 and this was followed by the Commercial African Trade Union (CATU) in 1952. In 1954, the Nyasaland Railway Workers Union (NRWU) was formed. The Trades Union Congress of Nyasaland was formed in June 1956. Between 1949 and 1964, a total of 19 unions were formed with a combined membership of 4,763.

### Political and economic strikes 1947-63

Labour protest in the 1950s combined economic and political strikes in support of independence struggles. Some labour leaders such as Lali Lubani, Chairman of the Transport and General Workers Union were active members of the nationalist movement, the Nyasaland African Congress (NAC). Even after the State of Emergency that led to the 1959 NAC ban, some unions continued to support the successor MCP in pressing for independence as they believed that economic benefits would come with political freedom.

There were increases in the scale and intensity of industrial disputes recorded: from 1 minor stoppage in 1947 to 15 strikes in 1958 and 77 in 1960. One such strike in 1960 was the railway workers strike in which 4,500 workers succeeded in achieving between 15% and 20% wage increase without union backing. These strikes would prove Armstrong and other Labour Commissioners wrong for viewing the Nyasaland labourer as 'inarticulate and unable to bring his grievances to the notice of authority or to put up a fight for the betterment of conditions of work'. Table 3.5 summarises strike activity during 1947-1963.

*Table 3.5 Strike activity in Malawi 1947-63*

Year	No. of Strikes	No. of workers	No. of days lost
1947	1	200	200
1948	4	470	470
1949	7	724	724
1950	3	168	168
1951	3	388	632
1952	6	889	1,104
1953	15	3,286	2,485
1954	11	797	613
1955	Na	Na	Na
1956	Na	Na	Na
1957	Na	Na	Na
1958	15	1,283	10,846
1959	9	Na	Na
1960	77	23,929	17,586
1961	25	7,182	14,403
1962	24	3,421	6,170
1963	20	3,441	7,315
<b>Total</b>	<b>220</b>	<b>46,178</b>	<b>62,716</b>

Na = data not available

*Source:* Department of Labour Reports (several), Yearbook of Labour Statistics

Although McCracken (1988:288) rejects a link between nationalism and worker activism based on his study of the 1960 railway workers' strike, many participants in Malawi's industrial relations system agree with Manda (2000:27) that a strong link between nationalism and strike activity existed in the terminal phase of colonial rule. Thus, although there were 40 strikes caused by wage demands out of 64 strikes between 1947 and 1958 (ARDL, several), a political explanation could shed more light on the high strike incidence during these years. The 1953 high strike record could be associated with political protest against the Federation of Rhodesia and Nyasaland imposed by the Colonial Office in London amidst protest by people in Nyasaland and Northern Rhodesia. There were demonstrations of protest such as civil disobedience, non-payment of taxes, disobeying court orders and defiance of state agricultural regulations in Thyolo and other districts. Increased strike activity in 1958 could be explained in terms of Banda's arrival to lead the MCP against the Federation and to gain independence from Britain. It could be seen as part of the mobilization of civil society organisations to exert pressure on the colonial state. Banda, who was arrested during the 1959 State of Emergency, was released in 1960 and constitutional talks began at Lancaster House in London in the same year. The 77 strikes during that year could also be viewed as political mobilisation to speed up the hand-over process. However, one would be interested in why the 1963-strike numbers were the lowest since the beginning of the 1960s. The MCP elite changed their collaborative strategies with the labour movement. They felt that continued industrial action would derail progress towards independence as shown by Banda's release in 1960, the 1961 MCP general election victory and the attainment of self-government in 1963. This marked the beginning of strained state-labour relations that heightened during Banda's regime.

### **The role of the colonial state in industrial relations**

Colonial rule produced a highly centralised and authoritarian state that introduced a number of controls in order to consolidate its dominance and exploitation of the colony's resources. According to McCracken (1986:127), the employment of a sizeable number of African policemen enabled the colonial state to sustain imperial control at the cheapest possible cost. He argues that through the police, the state was able to ensure that hut tax was paid, labour coerced, workers disciplined and European property protected.

Two views emerge in the discussion of the role of the colonial state on the development of Nyasaland as a colony. The first is that the colonial state functioned as an arbiter between the white settler farmers and African interests. McCracken (1983:192), for example, rejects the view that the colonial state used Nyasaland 'as a labour reserve for South Africa and a tool for European settlers'. He argues that the colonial state had peasant farmers' interests at heart and at times disappointed European settler farmers to secure the interests of native farmers. This view supports Pachai's (1973:681-92) argument on the colonial state's dilemma between the desire

to please the white settlers who had alienated large tracts of land and turned local Africans as tenants on their traditional land on one hand and the concerns of the vulnerable Africans who were constantly threatened with eviction notices on the other.

A further analysis of the motive of the colonial state based on McCracken's evidence suggests that the colonial state had interest in local African peasant to ensure that the state's interests are not jeopardised. For example, McCracken (1983: 192) argues that district officers were anxious to collect tax and hence were proponents of peasant production in the 1930s; that the Imperial Tobacco Company feared that without peasant production commercial agriculture would collapse; and that the colonial state feared that peasant protest would jeopardise colonial authority. Thus, the colonial state was seen to be sympathetic to African interests so long as there were mutual interests to achieve. The imposition of the Federation of Rhodesia and Nyasaland amidst African opposition demonstrates that the colonial state was not neutral.

The need to facilitate British settler commercial interests, who would in turn provide a viable source of revenue for the colonial administration, was the main interest of the colonial state. For Vail (1977:390), the lack of economic development in Nyasaland was a product of colonial development policies that concentrated on meeting imperial interests at the expense of African social and economic development. The effect of railways and bridge charges – constructed at a high cost to meet the demands of planters – and the high taxes imposed on Africans, forced the latter to neglect rural development and turn into wage earners on plantations in Malawi, Zimbabwe and the South African mines.

Thus, from Kerr et al.'s (1973) typology of industrialising elite, one could argue that colonial administrators took the interests of their home citizens and government as their first priority. The economies and communication network of the African states were largely developed in accordance with the needs of the colonial powers.

One could also identify a negative and a positive impact of the state on the growth and development of the labour movement. Colonial labour legislation, poll tax, labour migration policy and an underdeveloped manufacturing sector were factors that impacted on industrial relations in Malawi during the colonial period.

The Trade Union Act 1958 enhanced state powers to control trade unions. The Trade Disputes (Arbitration and Settlement) Act 1952 restricted the freedom of trade unions to strike by providing a long list of essential services in which strikes were declared illegal. Because of the significance of these Acts in the post-colonial Malawi, they will be examined later. It is sufficient at this stage to argue that the legal framework provided by the state for industrial relations was 'taking away with one hand a right given by another' (Banda,1995: 10). Labour migration, precipitated by the hut tax, at an average of 140,000 per annum during 1941-1958 denied Malawi the potential to develop a solid labour movement. Although 'aware of the big strikes in 1935 and 1940 in the copper-belt mines in Zambia, the experiences gained abroad were not immediately transferable back home'. However, it cannot be denied that rumours and stories of strikes in South Africa and Southern Rhodesia mines and

farms (Boeder, 1974:191-193) could have illuminating lessons on worker consciousness and solidarity to defend their interests through strikes in Malawi.

On the positive side, a few issues could be noted. Given the small formal sector's labour absorption rate, labour migration enhanced the earning and spending capacity of people in Nyasaland through remittances and deferred payments, which in 1954 amounted to around GB£900,000 (ARDL: 1954:14). Migration also created a wider base of 'experienced labour force' through work in South Africa, Zimbabwe, Zambia and Tanzania. All factors being equal, these workers would be instrumental in creating a strong labour movement in the post-colonial period. However, as chapter 5 demonstrates, state political and economic policies in the post-independence period and the strategies it used created a docile labour movement.

At the level of the individual worker, the colonial state valued the welfare of individuals. The need for registration of migrant labour for identification, and the deferred payment and family remittances to offset the social and economic effect of excessive migration, could be seen as an indication of state consideration. Other indicators of the colonial state's welfare attitude included: the compulsory return of migrant labourers after two years unless accompanied by his family; the creation of grievance handling machinery for migrant labour in Salisbury and Johannesburg, and the chaplaincy arrangement for Christian workers (de Briey, 1951:499).

The provisions in the Workmen's Compensation Ordinance 1944, the Regulation of Minimum Wages and Conditions of Employment Ordinance 1949, and the African Employment Act 1954, are examples of the welfare orientation of the colonial state on individual labour rights. The provisions of the Factories Ordinance 1938 and the Employment of Women, Young Persons and Children Ordinance 1954 are other examples.

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## Review questions

1. What is the role of the state in society?
2. Discuss five theories of the state.
3. Explain the process through which Africa countries became incorporated into the western capitalist economy.
4. In what ways did wages and working conditions in tea plantations and urban areas influence industrial relations in Malawi?
5. Discuss the role of the state in industrial relations during the colonial period in any two east and southern African countries of your choice?
6. Identify a former trade unionist or retired Ministry of Labour employee to brief you on their experiences of industrial relations during the colonial period to independence in Malawi.



## **Chapter Four**

### **Economic and Political Policies and Industrial Relations During the One-party Period**

#### **Introduction**

The one-party state refers to a period between 1966 and 1994. However, as 1992-93 was a transition period to a multiparty political system, the one party state shall be used to refer to the period 1966-1991. One of the questions this chapter attempts to answer is why there was a marked dearth of strike activity during the one party state in Malawi. The preoccupation of the state with the role of economic development and political stability resulting from its colonial political and economic history created a tremendous impact on industrial relations. Not only did the state require absolute unity, peace and stability arising from events which led to the near collapse of government soon after Independence, it was also determined to pursue its economic development plans uninterrupted. The impact of these roles on industrial relations and strike activity is examined. The impact of state policies on industrial relations in East and Southern Africa more generally is also noted. The chapter ends with a comment on political leadership and the role that other state actors play in creating a political economy that impinges on industrial relations.

#### **Political stability and national integration**

The political and economic challenges facing the Malawian state at Independence in 1964 and beyond, and the strategies it adopted, were a combination of historical and immediate events of the time and the choices available to the nationalist elites. One of the cardinal concerns of the new state was to create national unity through the integration of Malawi's heterogeneous tribes. The fact that British colonial rule had encouraged indirect rule meant that tribal loyalty and ethnic-linguistic orientations remained a major challenge of the nationalist elite. The most urgent reason for the new state's concern was the 1964 Cabinet Crisis. The significance of the Cabinet Crisis in shaping Malawi's political economy and increasing presidential powers needs to be put at the centre of any analysis of Malawi's one-party dictatorship although a totalitarian political culture existed within the Malawi Congress Party leadership before the Cabinet Crisis (McCracken, 1998b: 249). The formalisation of Banda's dictatorial one-party rule, the constitutional amendments to make Malawi a one-party state and enhance presidential authority, the supremacy of the Malawi Congress Party, and the multiple roles played by the youth and women's wings of the party have roots that lie deep in the Cabinet Crisis.

The Cabinet Crisis was an attack by six cabinet ministers on President Hastings Kamuzu Banda's domestic and external policies six weeks after the 6 July 1964

Independence celebrations. At the domestic level, the ministers were opposed to the introduction of hospital fees and the policy on Africanisation of the public service and public corporations, and also the Skinner Report, which called for the scaling down of conditions of service for the civil service. On external policy, they criticised him on his position in relation to Southern Rhodesia, Portugal, Mozambique, China and Taiwan. They called for an immediate scrapping of the hospital charges, rapid Africanisation of the civil service and public corporations, the rejection of the Skinner Report, the immediate recognition of China and de-recognition for Taiwan.

They had also called for an immediate de-recognition of relations with Mozambique, Portugal, Southern Rhodesia and South Africa, as other neighbouring newly independent states had done. Banda could not Africanise the civil service and other organizations because of inadequate suitably qualified professional and senior administrators. He could not cut relations with Mozambique, Southern Rhodesia, and South Africa on economic grounds. As a land locked country, Malawi was dependent on Mozambique's port of Beira for all her exports and imports, and over 80,000 and 200,000 respectively, were Malawi's migrant workers in South Africa and Zimbabwe. Banda had refused to cut ties with Portugal, Rhodesia and South Africa at the summit of Organization of African Unity in Ethiopia, Commonwealth Leaders meeting in London, and General Assembly of the UN in New York, arguing, among other things, that his first interests were the interests of his people and his country.

While he did not dispute the need to ensure African independence in these countries, Banda insisted on the need for 'contact and dialogue' as opposed to the isolationist policy advocated by other independent states. The Skinner Report and the hospital charges were attempts to bridge a budgetary deficit that emerged as Malawi stopped benefiting from the federal budget following the 1963 dissolution of the Federation of Rhodesia and Nyasaland. It is not the aim of this chapter to assess who was politically right and wrong, but to note the growing tension that resulted in dismissals and resignations of cabinet ministers with others fleeing the country.

The consequence of the crisis and its influence on Banda's future political strategies are of interest to our understanding of labour relations questions. There was thus great enmity between the people who had invited Banda to fight colonialism and Banda himself. The seemingly unsuccessful armed rebellion led by one of the dissenting ministers, Chipembere, five months later, intensified fears of future political instability. Banda did not want his colonial critics to say, as he put it, 'Oh we told you that Africans cannot govern themselves...there is another Congo, there is political chaos in Malawi' (Dept. of Information, 1965:3). It would be a huge embarrassment on his part if within a short period of gaining Independence the country would become ungovernable.

As Head of Government and Minister of Defence and Public Security then, Banda announced regulations on 18 February 1965 that included his increased powers to detain suspects, in the interest of public security, and enhanced powers of the police and members of the security forces to arrest or shoot dead suspects. He also designated the Malawi Young Pioneers – MYP – as his 'eyes and ears' in every village. Banda stressed his desire to maintain 'political stability, an efficient,

incorruptible and honest administration', and if he had to detain up to 100,000 to achieve these goals, he would do it.

The consequence of this was harassment and arrest of sympathisers and relatives of dissenting ministers, who ran into exile. This was the beginning of Banda's road to amassing tremendous powers and influence over economic, social, and political life. Banda's executive dominance was an attempt to spearhead, formulate and achieve development dreams uninhibited. He also wanted to consolidate unity in a society composed of diverse ethnic-linguistic groups such as the Tumbuka, the Tonga, the Nkhonde, and the Nyakyusa in the north, the Chewa and Ngoni in the centre and the Yao, Lomwe, Sena, and Mang'anja in the south. In any public rallies, he used to repeat what he said at the 1967 MCP Annual Convention in Mzuzu where he asked Malawians to see themselves not as 'Chewa, Ngoni, Tumbuka, Tonga, Nyakyusa, Yao, Lomwe, Sena or Mang'anja, but simply, Malawians'.

For Power (1998:369), while the cabinet crisis was the first public demonstration of leadership rupture, it was a culmination of tensions rooted in an earlier period, tensions, which were already felt by many and expressed, through rumour in 1962 and after. McCracken (1968:207) views the Cabinet Crisis as a reflection of inter-regional tensions because the dissenting cabinet ministers from the better-educated Northern Region saw Banda's slow Africanisation policy as a big blow to the potential patronage in the civil service and public corporations. This factor might have contributed greatly since most of the dissenting ministers came from the Northern Region. Of course Banda was conscious of the adverse impact of regionalism to national integration and economic development in Malawi. Although he acted against this national integration policy in 1989 – by sending all teachers to teach in their home regions - he instilled among Malawians, through his public rallies, the need to see themselves as 'Malawians'.

As Lwanda (1993:135) argued, 'by rigidly insisting on one language, one party, one government, one leader, one youth movement, an authoritarian national unity was certainly forged'. In Parliament he was able to increase his support by amendments to the constitution to nominate as many members of parliament as he wished. By having a pliable and subservient parliament, Banda succeeded not only in ensuring that he could not be challenged politically, but also that he could fund his personal and party projects using state money.

The 1966 Republican constitution formalised Malawi as a one-party state and in 1971 Banda was sworn in as the Life President of Malawi. He controlled the judiciary by influencing the decision of the courts through public speeches and dismissing and arresting judges who acquitted his opponents. In one instance he said, 'I know, he is going to be found guilty; what kind of judge can acquit Silombela? No ... he will be found guilty' (Lwanda, 1993: 123). This has had the impact of frustrating many English judges who had no choice but to resign and return home.

As William (1978:225) puts it, 'he was the final authority and the law and was therefore not ready to be given directions even by the Chief Justice'. Unhappy with English legal technicalities in the High Court, Banda restructured the judicial system by creating a 'parallel' traditional court system under ill-trained chiefs, with powers

to impose the death sentence (Chiume, 1982: 220). However, these courts were used as instruments for convicting political opponents who were not allowed legal representation.

The MCP was a socializing agent for the maintenance of law and order and the four cornerstones - loyalty, unity, obedience and discipline 'on which the party and government were founded'. These stones became the official frameworks for behaviour at the individual, village, and organizational and national levels. As Banda argued at the annual convention of the party in 1967, 'the observance of unity, loyalty, obedience and discipline was necessary for success in Malawi's economic development endeavours'. Having examined the political context during the one party period, we turn our attention to an examination of the economic context of the period in question.

### **Economic development**

Malawi's economic development policy at Independence was dictated by the inherited social and economic development gaps and resource endowment that involved great dependence on agriculture and migrant labour to South Africa, Zambia and Zimbabwe. Economic infrastructure like surface communication was limited and concentrated in the Southern Region. The private sector depended on external manpower and financial support, as most tea estates, manufacturing industry and transport were British-owned. Except for banking, commerce was dominated by the Asian community. According to Thomas (1974:45) there was one cigarette factory, one oil refinery, two clothing factories, two blanket factories, one cement mill, two sweet factories, one soap factory, one vehicle assembly plant, tea processing plant, tobacco grading and packing plant and a cotton ginning plant.

There were inadequate qualified personnel to run the public service and an absence of an indigenous entrepreneurial class to help develop the country. This might explain why Banda refused to localise the public service: 'I would rather be shot dead as Sylvian Olympio in Togoland was shot dead ... than Africanise just to please anyone who wants Africanisation' (Dept. of Information, 1965: 6). In 1966, there were 10,000 established junior positions and 2,583 in the senior grade. While junior grades were localised by 1967, expatriates filled 1,119 senior positions and only 889 were Malawianised (MCP: 1967:13).

The effects of unbalanced development and the absence of indigenous entrepreneurial skills created an urgent need for the state to direct economic development. At the 1967 MCP Convention, Banda argued that, since the colonial government had neglected the country, Malawians had a moral responsibility to develop it. In its 1961 General Election manifesto, the MCP had viewed economic development as the key to Malawi's future progress and stability because a stagnating economy could not provide the nation with the necessary financial resources for political, social, legal and administrative reforms to combat ignorance, poverty and disease.

The state had to spearhead socio-economic development plans through the public service bureaucracy, public corporations, state-funded agricultural estates and Dr Banda's industrial and commercial enterprises. The first National Development Plan, 1965-69, laid emphasis on increased agricultural productivity, provision of internal communication through building a road infrastructure, expansion of facilities for secondary and post-secondary education to develop needed manpower for the civil service and the private sector, and the stimulation of the private sector. Whilst the 1971-80 Development Plan gave top priority to increased agricultural productivity, the state aimed, in this, at improving geographical balance of economic activity, increased Malawian participation in the economy, and the elimination of an inherited budget deficit.

The state sought to increase agricultural production through both smallholder and estate agriculture. In the first decade of Independence, the state intensified improvements in smallholder agriculture by extension services and farm training. Later, a comprehensive rural development approach, which focused on specific projects in selected areas, was adopted. This was replaced in 1978 by a National Rural Development Programme, which was aimed at a broader geographical coverage, and focused on supportive services for production, extension, credit and marketing facilities.

The estate sector expanded dramatically from independence through state participation in estate productivity, increased conversion of customary land for estate agriculture, wage restraint policies, and the provision of credit facilities through state-controlled banks. Although left in the hands of the private sector, public investment in estate agriculture was made to encourage new developments such as sugar in the 1970s, and to dilute some foreign private dominance. There was rapid growth of land given to the estate sector in the 1970s. By 1979, there were 1,107 estates that occupied 13% of cultivated land and employed over 150,000 people (GoM, 1987:9).

Other forms of large-scale agricultural production involved the MYP training bases used to produce cotton, rice and other crops for export. Realizing that vast areas of fertile land was left idle in several districts when demand for Malawi's cotton and rice in overseas markets was increasing, Banda decided to organise productivity centres in selected districts of the country. As he emphasised at a party convention:

Until our people in Chikwawa, Nsanje, Karonga, Nkhotakota and Kasupe learn to work hard and drink less, the Government must use trained and disciplined young pioneers in its campaign to increase the production of cotton, rice and other crops in the country (MCP, 1967:5).

Not only were the youths to be trained for the sake of producing for the state, they were also being prepared to function as trainers and examples of modern agricultural practices in the rural areas after a ten-month training period. Beyond agriculture, they were also trained in political education and military skills. The latter made them function as the MCP's military wing. At the grassroots level, the MCP was instrumental in mobilising people for self-help projects such as the building of clinics, schools, construction of rural roads and bridges, among others.

Within a few years significant progress was registered. The 1965 MK11.2 million deficit was wiped out by 1973. The geographical distribution of development activities included a road infrastructure, the purchase of private estates for resettlement of people in the Central Region, and the transfer of the capital city from Zomba in the South to Lilongwe in the Central Region. All this was aimed at stimulating private sector investment, the creation of employment opportunities in the Central Region and reducing migration to the heavily populated Southern Region.

Public corporations and other state institutions were created to play a pivotal role in national economic development. The Malawi Development Corporation (MDC) was established in 1964 to operate through equity investment, make loans to companies and to manage subsidiaries, operate in industry, building and construction, wholesale and retail trade, hotel and catering, finance, real estate and fisheries. It has been used as an instrument for achieving local participation in commercial and industrial activities. The Agricultural Development and Marketing Corporation (ADMARC) was created in 1969 to buy the produce of smallholder farmers and to supply farm inputs. ADMARC was also mandated to establish agro-industrial and allied enterprises to develop the country's agricultural potential in edible oils, cotton ginning, grain milling and fruit canning, shoe manufacture, and cement production.

Civil service institutions like ministries of Commerce and Industry, Finance, Tourism, Agriculture, Forestry and the National Economic Council have been central in industrial development policy formulation and implementation. The public sector was viewed as instrumental in playing a supportive and stimulating role for the private sector through the provision of roads, telecommunications, marketing and skills training. The state invested through public corporations, disseminated applied agricultural research, provided improved industrial sites, liberal tax regulations, protected manufacturing industries and pursued a policy of rigid wage restraint.

Banda's Press Holding, which was created before independence as a newspaper firm, later grew into a national conglomerate. Commercial enterprises, owned by party favourites, were also used to enhance economic development. By 1987, Banda's company had 17 subsidiaries and investments in 300 companies in agriculture, manufacturing, wholesale and retail trade, building, construction, transportation, banking and insurance. According to Thomas (1975:48), Banda's Press Holding controlled the largest chain of retail supermarkets and shops, hardware stores, a major share in the flue-cured tobacco industry, a stake in burley tobacco industry, a haulage firm, Press Properties, Press Industries, Press Produce; and substantial shares in Commercial and National Bank of Malawi. Like MDC and ADMARC, Press Holding companies concentrated on medium and large-scale enterprises.

In 1969, Banda forced all Asian businessmen to withdraw from the rural areas to give room to 'local' businessmen. It was an attempt to cushion district-based political supporters to run businesses without competition from experienced and wealthy traders. He encouraged ministers and Members of Parliament to open commercial farms and to engage in big industrial and commercial activities facilitated through the conversion of customary land and availability of loans by the state-controlled banks.

Within a few years of Independence, Banda achieved a near miracle in economic development. The World Bank, which commended the 1964-72 economic development as impressive, had attributed it to a 'dynamic but prudent management of the economy' (Thomas, 1975:32.). Monetary GDP showed strong positive trends in all industries between 1964 and 1980 (Economic Report 1969:9). Most of the economic goals stated in the first two development plans were achieved by 1979; economic growth averaged 7% per annum, foreign budgetary deficit assistance was eliminated by 1972/73; the capital was moved from Zomba to Lilongwe, and many expatriate positions were localised with qualified Malawians.

From 1979, the economy experienced several shocks that led to a decline in GDP growth to -5.2% in 1981. Since the performance of the economy in the 1990s was analysed in chapter one, it is sufficient to mention that the economy continued to deteriorate in the 1990s. The state's involvement in the production and sale of goods and services on a large scale, besides stimulating private sector development through providing social and economic infrastructure, is of interest in understanding its role in industrial relations. It is to the impact of the political and economic roles of the state to maintain political stability and engineer socio-economic development on industrial relations that the next section analyses.

### **Political and economic policies and industrial relations**

The need to achieve political stability and economic development created a hostile environment for the growth and development of trade unions in Malawi's industrial relations system during the one-party state. State-labour relations before and after Independence, the role of the Cabinet Crisis, the MCP involvement in industrial relations and the domestication of unions are examined.

#### **State-labour relations**

State-union relationships could be viewed as shifting from a cordial alliance between nationalist elite and unionists during the struggle for Independence to a suspicious one at the eve of Independence. This changed to open hostility between 1964 and 1991. Before Independence, the cordial relations that had characterised the NAC, and its MCP successor, and the labour movement, seemed to wane as the MCP got indications in 1960 that Britain was ready to end its rule. The focus of the MCP shifted from supporting working class demands for wage increases and improved conditions of employment, through worker protest, to being a proponent of national unity and socio-economic development.

Consequently a clash of interests developed between political leaders, anxious for development, and labour leaders determined to end capitalist exploitation. An example was the 1961 strike by Nyasaland Transport and Allied Workers Union (NTAWU), which mobilised 800 workers demanding higher wages. As high wages for the drivers meant employment of fewer drivers, increased transport costs and a rise in the prices of consumer goods, MCP's Aleke Banda and Augustine Bwanausi

condemned the strike. The failure of the strike was a blow to the labour movement. Earlier, Chisiza (1961:23) had suggested that although economic development required that corporations remain with substantial profits for re-investment and that workers sought better remuneration and reasonable conditions of work, the two could be pursued simultaneously by relating higher wages to increased productivity.

The NTAWU under Suzgo Msiska and the Commercial and General Workers (CGWU) led by Chakufwa Chihana – National Council of Labour (NCL) members – accused the MCP of betraying workers' interests (Short, 1974:156). Although linked with the MCP, the NCL, created in August 1960 as a reaction to the Nyasaland Trades Union Congress' (later TUCM) conservatism, was more radical in defending workers' interests. NCL leaders supported nationalisation and communal ownership while criticizing the way in which other unions had become MCP and the government's puppets. Msiska and Chihana were suspended from MCP membership and denounced as dissidents.

According to Short, this penalty was later appended in the MCP's Constitution in 1969: 'No member of the Party shall co-operate with or fraternise with a person who has been denounced, suspended or expelled from the Party'. While this could not be a problem in a multiparty context where party membership is optional, during the one-party period, membership was compulsory because all Malawians were expected to be members. Within the labour movement there was increasing division between those who supported a closer alliance with politicians and capital and those who wished to maintain social distance. For instance, most TUCM leaders sympathised with the MCP's unity and solidarity ideology while the pro-socialist NCL believed in egalitarian principles and condemned capitalist exploitation of labour (Manda, 2000:32-33).

Following the 1959 anti-colonial protests, it appeared that leaders of the TUCM had aligned themselves closer with the national movement and interests of capitalists, rather than with members of the working class that they claimed to represent. The success of the rank-and-file railway workers in gaining 15% to 25% wage increase in 1960 without the help of union leaders was one index of the deterioration of faith in the union leadership. Most leaders were interested in benefiting from overseas scholarships by aligning themselves with capitalists, while others were absorbed in the civil service and party structures. Thus, a climate of antagonism between labour and the new state was created even before independence.

Antagonistic relationship between trade unionists and politicians was a common phenomenon in most former colonies in Africa too. Party-union relations in different parts of Africa revealed periods of co-operation, estrangement and conflict, with a tendency for disagreement increasing in the last period of colonial rule. Some substantive issues that divided these groups included Africanisation and wages policies. While politicians benefited by taking over powerful positions at independence, there was a sense of frustration among union leaders as politicians called for a slow Africanisation policy to ensure that qualified and experienced Africans were available.



## **The cabinet crisis and industrial relations**

The 1964 Cabinet Crisis heightened state hostility to the labour movement. The punishment of expulsion, banishment and detention without trial inflicted on the dissenting cabinet ministers extended to their colleagues in the labour movement. This is so because trade unionists were seen as rebels. Among Chipembere's friends were a number of trade union leaders who received the same punishment on the dissenting politicians (Ananaba 1977:51). The Cabinet Crisis not only removed any lingering opposition from Banda's Government, but also ensured that the next generation of potential leaders of Malawi, both intellectual and technocrat, were consigned to exile.

The Cabinet Crisis, according to one analyst, 'cast a dark shadow on not just basic human rights among Malawians, but also on labour rights - the freedom of association and the right to strike to defend workers' interests'. Chiume (1982:217) noted that after the Cabinet Crisis, 'youths were ordered to spy on members of their own families ... became infused with terrible delight in beating and killing people ... many people were dragged off and fed to crocodiles in the Shire River'. He further notes that there was a witch-hunt against trade unionists and rebel politicians and that Banda infiltrated Tanzania and Zambia with spies posing as political refugees.

Although workers had grievances, the absence of freedom of expression due to the fear of intimidation and harassment after the Cabinet Crisis meant that they could not openly articulate these grievances. As Mangozo (interview) noted, the one-party state did not want to hear of any organization that had the potential to challenge its policies. As a former PAWU Chairman in 1964, he recalled how a vocal union colleague, Mr Chikafa, went into exile during the Cabinet Crisis. The arrest and self-exile of strong unionists such as Chihana, and the MCP's harassment and intimidation of union leaders and members, weakened the labour movement. By removing key figures in the labour movement, Banda's regime cleared the way for its further consolidation over the economic and political spheres in Malawi without any inhibitions.

Throughout the one-party period, the attitude of political elite towards the labour movement was hostile. For Chilumpha (1993:163), the central reason for the state's negative attitude was the fear that trade unions would undermine profits since many commercial and industrial enterprises belonged to the President, Ministers and Members of Parliament. Thus, whilst Banda's official position towards unions could be justified as a concern for national economic development, the need to protect his commercial and industrial interests could not be ruled out as a contributory factor.

## **The MCP in industrial relations**

As a key policy making body in the Government through the annual convention, the Malawi Congress Party influenced industrial relations through compulsory integration with unions, intervention in trade disputes, recruitment of key personnel

in organizations, harassment of unionists at workplaces, inculcating worker discipline, and public threats against dissent. In the 1965 MCP Convention, an amendment to the party's constitution was made to provide for recognition of the TUCM as the only union federation, and the compulsory affiliation of unions to the MCP. This was even endorsed in section (d) of the MCP membership card, possession of which entitled an individual access to public places such as hospitals and markets.

This provision gave the MCP power to intervene in unions' affairs, including election of office bearers and ensuring they conformed to party interests. Unionists who challenged such things as the state's wage fixing machinery were removed, and sometimes arrested and replaced by individuals willing to uphold government policies.

State control over unions through union affiliation to the MCP ensured that union leaders were accountable to the state. This view is further supported by the experiences of the Teachers Union of Malawi (TUM). Formed in 1945 as an association, it registered as a union two months after Independence. It then changed from a union to an association in the same year and back to a union in 1966. It was banned in 1976 because it was outspoken. It was re-established in 1982 as an association under the management of the Ministry of Education following international pressure. Membership was made compulsory and the Ministry appointed officials of the association until the current TUM challenged this position in 1994 following the creation of a multiparty state. Although the union was financially powerful, because the Ministry made membership compulsory and deducted fees at source, it was politically and professionally weak.

The association was not to represent the interests of the teachers as confirmed in one newspaper editorial in 1981: 'Plans to form teachers' union: proposed association to be in line with Ministry's policy' (*Daily Times*, 18 June 1981:1). The aim of the association was 'to serve as a mouth-piece of its members to the Ministry on the advice, the experience and general co-operation of the association on curriculum development, posting of teachers, and discipline of pupils'. The Ministry official 'described the constitution, structure and functioning of the association'. Structured and popularised by the Ministry of Education, the association excluded the improvement of salaries and conditions of employment in its aims.

The MCP's supremacy was highlighted in the 1966 Malawi Constitution (s.4) and elaborated in political rallies. Reminding delegates at the 1986 Party Conference, the MCP Administrative Secretary argued that the party was supreme because the Government and everything that Malawians were enjoying came about through the MCP. He noted that the MCP's ideology of unity, loyalty, obedience and discipline provided a behavioural framework for workers in public and private sector organizations.

As the MCP Administrative Secretary emphasised at a Regional Conference in 1986, 'everyone holding a responsible position in the party, Government or any organization associated with the party would be in that position as long as he/she worked within the framework of the party'. As one interviewee noted, political

leadership of the country influenced management systems at the workplace: managers were dictatorial, one-way communication prevailed as directives were issued from above, and workers had no chance of negotiating their wages and conditions of employment. The worker was a 'yes *bwana*' (sir), a loyal recipient of instructions from a state-cushioned employer.

Since the 1964 Cabinet Crisis a typical call for most politicians during their public rallies was the need to intensify vigilance against all forms of subversion because 'in the absence of peace, calm, law, and order there could be no political, economic, and social development'. In this context, any form of protest or expression of dissatisfaction was viewed as an attack on party ideology. Employers invoked party ideology in cases where workers demanded higher wages and improved conditions of work. Not only did employers report union activists to the MYP, designated by the President as his eyes and ears, but also refused entry of unionists on the shop floor. Thus, taking advantage of the negative attitude of the state towards trade unions, employers used state informers at the shop floor to their advantage.

For Nyirenda (interview), 'as there was no freedom of expression, employers benefited from our helplessness ... they could change conditions of employment at will and were not obliged to increase wages'. This is an example of the elite and Marxist view of the state where it is used as a tool for the interests of capitalists. The extent to which state policies and strategies benefited employers was evidenced by the Employers Consultative Association chairman at its Annual General Meeting in 1979 in Blantyre. He argued that employers in Malawi were fortunate because there was 'continued industrial peace under the wise and dynamic leadership of His Excellency Ngwazi Dr Kamuzu Banda'.

The state's ability to demobilise the union movement also helped to sustain a bipartite arrangement, which provided legitimate roles for government, and employers in labour relations while relegating labour to the distant background in industrial relations and policy making (Otanez, 1995:51). This tally with one unionists' view that, because the MCP government wanted economic development and that workers had to be loyal, disciplined, obedient and productive at any cost, the MCP saw strikes as detrimental to development; and that anyone against enterprise management was an enemy of economic development. As a result unionism had to be put in a 'pending tray'.

Managers at the then David Whitehead and Sons (DWS) and the East Central African Railway Ltd argued that 'the MCP government viewed companies as state property'. They claimed that the party relied on companies to fund conventions; public functions and party cards-drive campaigns. MCP officials visited and demanded money and transport from companies. State wage controls ensured that companies did not run out of money to fund party activities. Thus, the 1969 Low Wage Policy, to be examined later, was an attempt to attract investors who could in turn be relied upon to meet MCP's financial needs.

Trade unionists at DWS and East Central African Railways Ltd (interview) argued that the MCP influenced industrial relations at the workplace through the appointment of chief executives of public corporations to oversee profits and direct

them to the party. It also appointed party functionaries on the shop floor to ensure that the party's ideology was observed at rank-and-file level. According to Bimani and Machewe (interview), these political appointees dismissed employees who were suspected to have no allegiance to the MCP. At the workplace workers could not discuss any wage issue for fear of intimidation and harassment by party spies among the workers. As Malinde (interview) noted, 'once a worker was caught by the MCP boys, he was finished'.

The MCP created party branches in workplaces to involve workers in party activities. For example, opening a new party branch at Lauderdale Tea Estate in 1971, the Deputy Regional Party Chairman said the branch was created to enable estate workers participate in running the affairs of the country through the party. He asked employees to co-operate with employers and to intensify party activities in the area. The MCP also intervened in Ministry of Labour's third party conciliation, mediation and arbitration roles. At the very opening of Lauderdale Tea Estate party branch, the Deputy Chairman asked workers to 'seek the advice of their local party leaders if they had problems with the employer'. Why workers had to consult party leaders on industrial relations matters, when the Mulanje District Labour Officer was less than one kilometre from the tea estate, was not clear.

The District Labour Officer in Thyolo years later argued that the MCP's intervention in workplace disputes created conflict between the state machinery entrusted with industrial relations responsibilities and the party. He noted that estate workers used to travel over 20 kilometres to the MCP Regional Office in Blantyre to report grievances without the knowledge of the labour officer. At times a labour officer in a district could find himself being reprimanded by his superiors at the Ministry of Labour headquarters for failing to resolve an employee's grievance.

### **The domestication of unions**

The hostility between the state and unions hindered the operation of trade unions throughout the one-party period. In 1964, the Ministry of Labour cut to 5 the 19 trade unions formed before independence. Civil service unions were banned and the TUM was renamed the Teachers Association. As union leaders from the 5 unions noted that their unions existed only on paper since the MCP dictated 'what tune to sing and how to dance'. Similarly the TGWU's vice-president noted in the late 1990s, although it was the first registered trade union in 1949, TGWU remained insignificant throughout the one-party period. Because political leaders knew the potential threat of unions to political stability from pre-independence nationalist struggles, they were keen to weaken trade union power. State control of unions led to a slow unionization during the one-party period. By 1990, union density was 12%.

Speeches by trade union leaders, employers and the Minister of Labour during the opening and closing ceremonies of trade union training courses or workshops suggest the domestication of the labour movement. For instance, TUCM General Secretary, Kelly Zidana, told the nation on the 1966 May Day celebrations that responsible unions should assist the planning of the country's economic development. He warned

that 'our demands must be economically possible, supported by solid economic facts and morally justified ... they must not be selfish demands which make progress at the expense of equally needy people'.

At a closing ceremony of the Trade Unions' Seminar at Chancellor College in 1970, TUCM chairman Justin Liabunya, reminded union leaders that their 'primary aim was to find out how they could help the President Ngwazi Dr Kamuzu Banda, to develop the country'. In 1986, the Plantation and Agriculture Workers Union acting general Secretary warned members in Mulanje against any form of insubordination to employers and appealed to them to work hard. He also asked them to respect employers so that they 'could help the Ngwazi develop the country economically'. The Minister of Labour warned union leaders to adhere to what was required in Malawi and that they 'should be reasonable in their approach to relevant matters'.

The need to do things in a Malawian way was also emphasised by the Minister of Labour, Watson Deleza, when he briefed a group of migrant workers before they left for South Africa in 1972. 'Don't copy the bad behaviour of your friends from neighbouring countries; instead obey your employers' orders and work hard'. He also warned that it was dangerous for trade union leaders to emulate foreign union ideologies and policies that were not in line 'with the tradition and aspiration of our leaders and governments'. Thus, the Malawian unionists were called emulate unionism characterised by total obedience and loyalty to the employer as opposed to wage and salary demands and going on strike.

President Banda was also at the forefront of issuing warning to civil servants. As they were implementers of government development policies, the President wanted absolute loyalty, obedience and discipline in the civil service. At a public rally in Zomba in 1970, the President warned civil servants against subversive activities and that 'once caught practising anti-government activities, they would be punished more than the ordinary people'. Anti-government and subversive activities in the context of workers in the civil service need to be understood in relation to demands for wage increases as well as improved conditions of work. As far as political state elite was concerned, any attempt to initiate changes from below was a sign of lack of loyalty, obedience and discipline and a sufficient case for detention without trial.

At the 1974 MCP annual convention in Lilongwe, the President asked MCP Central Executive Committee Members, Cabinet Ministers, Parliamentary Secretaries, Members of Parliament, the Women's League and the MYP in the country to be vigilant. He warned that whether a civil servant, a secondary school, technical college or university teacher, anyone involved in subversive activities had to be reported to party authorities so that they could 'deal with him/her since the country needed political stability'. Banda even dismissed his own Secretary to the President and Cabinet 'for not being loyal and honest in carrying his duties' and further warned that the 'Government would not tolerate any civil servant with similar behaviour and attitude'. He 'would close down any foreign mission in Malawi that encouraged local people to subvert against the Government'.

As a result of the interventionist role of the MCP in industrial relations, political exhortation against all forms of employee subversion and the imposition of strict

adherence to party ideology and discipline, the state managed to create a docile labour movement. As noted above, speeches by union leaders demonstrated the extent to which they had accepted a state-imposed union role and behaviour. They viewed assisting Banda in economic development as their main role. It was not surprising that the same TUCM Chairman who gave this advice and even warned employees against strikes was also the Mayor of the City of Blantyre at the same time.

This is reminiscent of Tanzania's industrial relations system in which the NUTA general secretary was also a Minister of Labour and that the NUTA leadership consisted of presidential appointees or those appointed by presidential appointees (Kapinga and Shaidi, 1997:231). For the Malawi case, it confirms what was noted above: that the state appointed leaders whom they considered loyal to the party. How could a mayor and a political appointee who combined a union presidency and a mayoral position be expected to further the interests of the labour movement?

### **Political stability, economic development and strike activity**

State political and economic objectives led to state control of trade unions, the expanded role of the party in industrial relations at enterprise level, and employers' anti-union behaviour. How could these strategies be linked to trends in strike activity during the one-party period? It would be important to analyse strike patterns during the period in question (1966-91) In order to identify periods of high and low strike activity, the one-party period is divided in two sub-periods of 13 years each.

#### **Strike activity 1966-1978**

Between 1966 and 1978, there was a fluctuation of strike activity from 22 to 10. This downward trend was also reflected in terms of numbers of workers involved and days lost through strikes. From 1,700 workers involved in 1966, worker involvement in strikes declined to half this figure in 1978, suggesting that a great number of workers did not go on strike especially between 1974 and 1978. Similarly, the impact of the strike shifted considerably over the same period. From around 3,000 days lost in 1966, it reduced to around 500. Table 4.1 summarises strike activity during the first 13 years of the one-party state.

*Table 4.1 Strike Activity 1966-1978*

Year	No. of strikes	No .of people involved	No of days lost
1966	22	1717	3,221
1967	20	3078	4,817
1968	11	1627	2,395
1969	8	1116	569
1970	7	474	393
1971	16	354	3,202
1972	18	2544	1,228
1973	6	1387	4,890
1974	13	981	1,161
1975	4	272	643
1976	13	787	865
1977	8	596	437
1978	10	850	515
<b>Total</b>	<b>156</b>	<b>15,783</b>	<b>24,336</b>

Source: Ministry of Labour (1969); Yearbook of Labour Statistics (several editions)

*Table 4.2 Strike Activity 1979-91*

Year	No. of strikes	No. of people involved	No of days lost
1979	6	596	283
1980	4	689	927
1981	2	534	473
1982	5	346	327
1983	Nil	Nil	Nil
1984	2	184	193
1985	2	653	250
1986	2	93	305
1987	Nil	Nil	Nil
1988	Nil	Nil	Nil
1989	Nil	Nil	Nil
1990	1	85	85
1991	2	105	200
<b>Total</b>	<b>26</b>	<b>3,285</b>	<b>3,043</b>

Source: Ministry of Labour (1969) Yearbook of Labour Statistics (several editions)

The decline of workers involved in strikes from a total of nearly 16,000 during 1966-78 (table 4.1) to a total of just over 3,000 in 1979-91 (table 4. 2) has to be set against an increase in employment from 85,000 in 1968 to 558,800 in 1991. If other factors remained the same, one would expect more strikes as more people got employed. Why fewer people participated in strikes is part of our discussion in subsequent

chapters. It is however sufficient at this stage to argue that in the last 13 years of the one-party period, strike activity averaged 2 per annum. Overall, of the 182 strikes, 19,000 workers involved and 27,000 days lost during 1966-91, only 14% of the strikes, 17% of the workers involved and 11% of the days lost occurred in the last 13 years. Table 4.3 illustrates strike pattern during the one-party period.

*Table 4.3 Strike Activity 1966-91*

Year	No. of strikes	No .of people involved	No of days lost
1966	22	1,717	3,221
1967	20	3,078	4,817
1968	11	1,627	2,395
1969	8	1,116	569
1970	7	474	393
1971	16	354	3,202
1972	18	2,544	1,228
1973	6	1,387	4,890
1974	13	981	1,161
1975	4	272	643
1976	13	787	865
1977	8	596	437
1978	10	850	515
1979	6	596	283
1980	4	689	927
1981	2	534	473
1982	5	346	327
1983	Nil	Nil	Nil
1984	2	184	193
1985	2	653	250
1986	2	93	305
1987	Nil	Nil	Nil
1988	Nil	Nil	Nil
1989	Nil	Nil	Nil
1990	1	85	85
1991	2	105	200
<b>Total</b>	<b>182</b>	<b>19,068</b>	<b>27,379</b>

Source: Ministry of Labour (1969), Yearbook of Labour Statistics (several editions)

From the figures it can be noted that the number of strikes, workers involved and the days lost oscillated year after year without stabilizing. The rise and fall in the number of strikes had consistently been below the 1966 level. By 1978, both the numbers of strikes, workers involved and days lost declined below the 1966 level.



## Alternative to strikes

As there were few strikes in the one-party period, it would be important to establish the alternative forms of protest workers used to express their dissatisfaction with wages and conditions of employment. As Turner et al. (1967:90) argued, the suppression or forceful inhibition of collective expression of discontent might lead to more dispersed and individual action. In Thyolo, tea estate workers used loafing, absenteeism, desertion, non co-operation, and malicious retaliation as their means of protest during the colonial period.

In the Lower Shire of Malawi, Mandala (1990: 101-132) noted that not only did workers migrate to work in other countries to resist capitalist exploitation at home, workers used other means. These include feign illness, refusing to carry over-sized luggage, hiding from recruitment agencies, intra-district migration, self-inflicted injuries, slowdowns, running away with European property and rent boycott. For Manda (2000:37), the increased habit of lateness, fake sicknesses and the 'temporary out syndrome' were means workers used to protest during the one-party period. He also argues that some reported to work as a formality but spent time doing small-scale business activities in the office. The findings of the author support the above views. Interviews with employees in both the private and public sectors in Malawi confirmed that absenteeism, early retirement, lateness; taking fake sick leave and emergency loans were common. Workers lied that they wished financial assistance to help them buy a decent coffin for a dead relative. Others used to circulate anonymous letters in which they could alert other workers or high authority about the ineffectiveness of some senior managers. It was also common to circulate anonymous letters just to remind the employer that a salary increase was long overdue. Those with good qualifications went to work as expatriates in neighbouring countries. Thus, Turner et al.'s argument finds support in the context of the one-party state in Malawi.

Participants interviewed argued that the continuing repression of human rights further weakened the labour movement in the last 13 years. Freedom of expression and association remained restricted and dissent was effectively suppressed. As Manda (interview) noted, 'it was dangerous to talk of the economy at the time, not to mention of asking the employer to consider salary increase, as this would amount to saying Banda had failed to rule'. One trade unionist asked: 'with the youth leaguers and MYP spread everywhere in the country, how could one dare say anything that was in effect amounting to criticism of political and economic policies of the state?' (Antonio, interview).

For Chiwone (interview) 'people everywhere feared that even walls could hear their wage grievances and therefore report to the mighty MCP'. This was the period when political opponents were warned through public rallies that they would be meat for crocodiles - the tendency of state repression where opponents, as Chiume (1982:217) noted above, were murdered and thrown into the Shire River. Apart from

evidence given by Chiume about women who found human remains in the Shire River, and public statements by Banda himself, there was no hard evidence of people being killed and fed to crocodiles. However, there was a general agreement among participants on the 'meat for crocodile view'. In 1983, three Cabinet Ministers and a Member of Parliament were murdered 'by the police on instructions from state authorities' for dissenting views on Banda's economic and political policies (Mtegha, 1995:3).

There were increases in detention without trial, and the mysterious disappearance or murder of potential 'dissidents'. As Chiume noted above, the state placed informers and secret agents within organisations in Malawi and in some cities in other countries to 'hunt' and 'deal' with dissents.

For Manda (interview), with Dr Banda's Press Holding reaching every inch of economic activity, it would be unthinkable for one to contemplate going on strike. According to Chitwanga (interview) 'practical experience taught workers the hard realities of the time; we saw people being murdered, tortured, detained without trial, and banished into exile for expressing different views on the economy'. And for Chiwone (interview), 'to go on strike was tantamount to signing one's death warrant' 'At the height of Banda's iron rule between 1973 and 1990, it would have been foolish in the extreme and probably treasonous for anyone ... to agitate for improvement in the legal regime for industrial relations' (Ngo'ngo'la, 1994:2).

How could one explain the relatively large numbers of strikes that occurred during the early years of the hostile political climate? Could the nature of strikers and strikes and the location and ownership of the tea industry, help to clarify why strikes occurred during this period? That strikes occurred in the tea estates in spite of the alleged dangers strikers were exposed to could mean that these workers were ignorant of the political environment and public policy on strikes.

They were rural and illiterate and had no access to radios and newspapers. However, the politicisation of the rural areas casts doubts on the 'ignorance' thesis. The MCP was strong in the rural areas with youth leaguers and women league being instrumental at branch, area, district and regional levels. The youth leaguers' brutality on party cards, door-to-door campaigns and presidential speeches at crop inspection tours in the rural areas, socialised rural people on the MCP's unity, loyalty, obedience and discipline ideology.

The ownership of tea estates might be a clue. Apart from the tobacco estates owned mostly by political elites, Europeans dominated the tea industry. That most of the strikes were task-related or involved demands to remove harsh supervisors on foreign-owned estates suggest that they were politically unimportant. They could hardly provoke the wrath of the state since they did not draw the attention of other organisations outside the rural tea estates. They were not reported in the newspapers.

Thus, strikes in the tea estates were not significant enough to invalidate the argument that it was the political climate and the role of the state in industrial relations that accounted for the long period of industrial peace in Malawi. The question in this chapter is why Malawi experienced industrial peace during 1966-1991 and not whether it did. Banda acknowledged for the first time during the

massive wave of strikes of 1992-93 that 'Malawi has over the years established a good reputation of being peaceful. This industrial peace view was widely shared by participants in Malawi's industrial relations system.

Both McCracken (1988:281) and Wood (1992:738), writing on rail workers in Malawi have reached similar conclusions regarding the state's role in suppressing trade unions and strikes. Making reference to alternative union organizations that Malawi Railway workers created, Wood concludes that: 'only the heavy hand of Banda's government kept these new unions from becoming vehicles through which action could be undertaken'. Thus, the MCP tactics of infiltrating workplaces with informers to harass and intimidate workers paralysed alternative structures workers created to defend their interests. And in relation to the 1960 railway workers strike, McCracken noted that 'at a particular political juncture, conditions permitted a group of workers to achieve a significant improvement in conditions but when the window of opportunity closed, their effectiveness was rapidly eroded'. Thus, while the 'political juncture' of the colonial period opened the window of opportunity for the rail workers to defend their rights through the strike, the one-party state closed that window.

### **Economic and political policies and labour controls in East and Central Africa**

In chapter 3, it was noted that state intervention in industrial relations also led to a decline of strike activity in Zambia, Zimbabwe, Kenya and Tanzania. In this section, attempts are made to identify further illustrations of the linkage between state economic and political policies and freedom of association in these countries. What strategies did these states employ, as in Malawi, to ensure that trade unions supported state political and economic policies?

The Zambian state's objective at independence was 'to defend Zambia from hostile regimes; to consolidate political loyalty from competing sectional interests; to rally support for the governing party and to make up for the 10 years of criminal neglect the country suffered during the federal period' (Bates, 1971:27). This led to an increase in presidential powers to impose collective punishment, detain without trial, declare war without calling the national assembly, and the hire and fire of public servant during Kaunda's 27 year- rule. Dissidents were marginalised and, as in Malawi, kept under surveillance. The urgency of rapid economic growth in Zambia could be understood from the high growth rates set. For example, GDP was targeted at 11% per annum for 1964-70 (Bates, 1971:27). The state, therefore, sought to control the behaviour of the copper miners through a labour policy that asked workers to restrain wage demands, eschew strike action, work hard, and defer to the authority of their supervisor. Through the 1967 *Enhanced Productivity in Zambia*, the state called for discipline among workers and a pledge for the workers' representatives to support the National Development Plan.

Concerned with workers' obedience to supervisors, government elite believed that industries could maximise labour productivity and hence further its economic goals.

Consequently, the Minister of Labour, as in Malawi, called workers to respect their supervisors and work hard in industry. Between 1965 and 1970, the minimum wage rose by two thirds in real terms but during 1980-1985, it dropped by 25% when the consumer price index rose from 100 to 883 during 1980-1988 (Mihyo, 1995:203).

Through UNIP, the governing elite controlled the recruitment to posts within unions, and thus ensured their co-operation with its economic and political policies. The state rewarded loyalty and punished dissent. Loyal civil servants and public enterprise workers were assured of access to health, transport, subsidised meals, loans and allowances. The state subjected trade union to controls over registration, acquisition of foreign funds, travel outside the country, international affiliation, the recruitment of outside consultants and the holding of conferences. In 1985, the government banned strikes and removed the check-off system (payment of union dues through employers' wage deduction) in order to starve unions of the funds needed to mobilise workers against structural adjustment policies. Thus, as chapter three had demonstrated the interventionist role of the Zambian state through the 'stick and carrot' approach led to the decline of strike activity during 1964-1972.

As was the case in Zambia, its neighbour Zimbabwe, adopted a corporatist labour strategy that led to the curtailing of strikes and imposition of industrial peace in order to pursue state economic policies. The state incorporated trade unions and employers to ensure that they supported economic growth objectives and enforced government labour policies. It monopolised interest representation in political parties, women's and youth organisations to ensure that potential opposition supported government policy. Having adopted a capitalist development path in the 1990s, the structural adjustment programme forced the government to remove controls on prices, wages, and employment. By accommodating capitalism, the state continued to suppress the development of the mass movement of workers and peasants contrary to what it envisaged in its independence socialist development strategy. Through police surveillance, breaking of strikes, harassment and arrest of union leaders and Mugabe's threats to strikers, the state weakened the labour movement. As in Zambia, the impact of the state on industrial relations was a decline in strike activity in Zimbabwe during 1980-1983. Similarly in Kenya, the post-independence period witnessed state control of unions through the law, a presidential ban on strikes, co-optation of union leaders into policy-making bodies, presidential appointment of key union leaders and wage freezes.

In Tanzania, as was the case in Zambia, Zimbabwe and Malawi, state control of the labour movement led to a decline in strike activity during 1962-1997. In order for the Tanzanian state to achieve its Ujamaa development ideology, Nyerere intervened in industrial relations through presidential decrees to restructure unions and ban strikes to ensure that trade unions supported national economic development policies and plans. The president restricted wage increases to discourage the creation of a privileged minority class at the expense of many poor peasants. TANU, like the MCP in Malawi and UNIP in Zambia, became increasingly involved in industrial relations. As noted in chapter 3, the role of JUWATA became that of implementing political and economic policies of the Tanzanian state.

Thus, state control of the labour movement through the ruling party, the Minister of Labour and President, to achieve economic development goals was a common feature in Zambia, Zimbabwe, Kenya, Tanzania and Malawi soon after independence. While state control led to a decline in strike activity in all these countries, its impact on the labour movement was different. Unlike in Kenya, Zimbabwe, Tanzania and Malawi where unions became weak, the Zambian labour movement remained strong throughout the one-party dictatorial rule. Chiluba's (ZCTU chairman) victory in the 1991 presidential poll confirms this view. Apart from its long history of militancy, union independence was achieved as a result of internal union democracy that made it difficult for the state to manipulate union leaders and weaken unionism (Mihyo, 1995: 208).

The foregoing confirms three aspects of Kerr et al.'s industrialisation thesis. The first is that though industrialisation follows different patterns in different countries, some features are common since they are prerequisites to the process of economic development. The second element is the centrality of the state in the process of economic development in the countries examined in this chapter. In the early stages of a country's economic development, a tendency is towards a state-planned economy, state sponsored investment, state-controlled labour organizations, state appeals for hard work and national unity, and the concentration of rule making in the hands of the state. The third feature is the existence of dilemmas of labour organizations in societies under nationalist elite: between wages and capital formation, strikes versus production, grievance handling versus discipline. Economic development takes first priority over wage increases, and sustained effort is exerted to ensure that strikes do not interfere with production. By being subservient to the party and government, labour organizations are designed to increase labour productivity through higher standards of discipline and production that are vital to economic development (Kerr et al. 1973, 236-239).

### **The role of other actors in political leadership**

There is no question that the state plays a major role in the creation of a hostile industrial relations climate. In other words, trade union repression could be attributed to Kaunda, Nyerere, Mugabe, Moi or Banda for the enormous powers they wielded to suppress dissent and hence consolidate stability and develop their countries. However, it would be inappropriate to ignore the collective nature of leadership responsibility in government.

In Malawi, as elsewhere, one would expect that presidential advisers or 'henchmen' who stand to lose in the event of change of leadership, played their part in the formulation and implementation of the state's policies during the one-party period. The creation of an environment of terror – detention without trial, murder of opponents and the harassment and intimidation of workers and villagers in the collection of presidential gifts, and forced party cards sales – involved a hierarchy of MCP officials from the central executive to branch level. Senior officers in the civil

service, judges, the police and the army also played crucial roles in the implementation of state policies.

The 1995 Mwanza Trial during which Banda and two key members of the 'political inner circle' were accused of the murder of three Cabinet Ministers and one Member of Parliament in 1983 is an example. Evidence presented during the trial revealed that apart from the President, a number of top politicians, top civil servants and senior police officers were implicated in the planning and execution of the murder plot.

The suppression of the flow of information by senior government officials was evident everywhere even in the crucial Ministry of Health. Neither Ministry of Health officials nor the hospital administrators would dare to tell Dr. Banda of the deplorable hospital bed space every time he visited Queen Elizabeth Central Hospital at Christmas. However, it was the late John Chipangwi, former head of obstetrics section of the hospital that got bold enough to tell him about it in 1978. Banda responded by building a modern Gogo Chatinkha Maternity wing.

*In Living Dangerously*, O' Maille (1999) describes the detentions without trial of University of Malawi lecturers, mostly from the northern region, on alleged subversive charges. A lecturer's detention warrants, left with him by mistake on release, revealed that the President's name was used to the advantage of the other political elite within the ruling clique. As O' Maille noted, 'instead of bringing each case to the president for his personal attention as the law clearly demanded ... a blank pro-forma detention order with the President's signature had been photocopied and was being used repeatedly as if it had been approved personally by the President'.

The General Synod of the Church of Central Africa Presbyterian recently mentioned the issue of leadership and advisers. In reaction to what it saw as the political manipulation of the multiparty constitution, the Synod cautioned Dr. Bakili Muluzi against reverting to the thirty-year dictatorship Malawi experienced. It, therefore, suggested to him to select his ministers and advisers with care as some of them might give 'advice aimed at destroying what they see as a threat to their survival and self-aggrandisement and not in the interest of national development' (General Synod, 2001:7). This does not in any way absolve members of the political elite from being responsible for the type of society they create in the process of industrialization. It is an attempt to account for the role of other key players who by enacting or by not enacting their roles create the type of political economy Malawi experienced during the one-party period.

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### **Review questions**

1. Why did the state take a central role in the planning and implementation of development programmes in Malawi?

2. Identify and explain the various strategies the state used to develop Malawi after independence.
3. Why was there a cabinet crisis? How did it impact on the growth and development of the trade union movement?
4. Why were trade unionists 'enemies' of nationalist politicians?
5. The Malawi Congress Party influenced industrial relations in a big way. Discuss.
6. Identify a veteran politician and hold a discussion with him/her on the role of politics and the Malawi Congress Party in labour relations during the one-party period. Find out why trade unions leaders' relationship with politicians was not so good after independence.

## **Chapter Five**

### **Legal and Institutional Framework for Industrial Relations During the One-party Period**

#### **Introduction**

This chapter examines the impact of state institutions and industrial relations legal framework on individual and collective labour rights. It explains the extent to which the one-party state used the colonial legal framework to further weaken the labour movement and suppress 'serious' strikes in order to achieve its economic and political policies. The chapter will first analyse the Ministry of Labour's third party role and how other public service institutions impacted on collective and individual labour rights. It will then look at how the legal framework shaped labour relations. In other words, the argument is that the institutional and legal framework for industrial relations during the one-party period repressed freedom of association, restricted the right to strike and delayed the development of collective bargaining, thereby making workers vulnerable to exploitation.

#### **The ministry of labour and the third party role**

The Ministry of Labour is the key state institution for industrial relations and this role dates back to the colonial period. It initiates industrial relations legislation, acts as a labour bureau and a grievance handling machinery. It is also a key tripartite partner with private sector employers and trade unions, a vocational training administrator and inspector of employment establishments. Through district and regional offices, the Ministry handles employees' grievances over terms and conditions of employment, unfair dismissals and compensation for injuries. It acts as conciliator, mediator and arbitrator in trade disputes. Labour Officers visit employment establishments to check that employers observe minimum wages, hours of work, leave, and other conditions of employment.

The Ministry of labour is also responsible for the implementation of ILO recommendations and conventions, initiatives of the Organization of African Unity Social Affairs Commission and the Southern African Development Co-ordination Conference Employment Labour Sector ratified by the Malawi Government. From the catalogue of roles the Ministry has been performing, it cannot be denied that it has been a crucial state institution for industrial relations. Thus, to a large extent, the effectiveness of industrial relations in Malawi could be assessed from the manner in which this Ministry performed its role. How well did it just do this during the one-party period?



How the Ministry functioned as an arbiter between employers and employees and its role in the protection of workers' wages and conditions of employment are of interest. Ludaka (1997:13) argued that the Ministry had been constrained by inadequate personnel, financial and transport resources since Independence. The state was not keen to allocate sufficient funds to enable the Ministry to acquire enough resources for the performance of its duties. Besides, officers recruited for the headquarters for most of the one-party period were both inadequate and poorly qualified; by 1993, for example, 90% of the key staff lacked graduate qualifications and analytical ability to handle labour issues.

These problems made the Ministry inept. For instance, rather than visiting workplaces, labour officers simply waited for individual workers to visit their office to register complaints for investigation (Nyanda, 1989:42). The shortage of qualified personnel resulted in the fragmentation of labour records. The last comprehensive report produced by the Ministry of Labour was in 1969 when the Secretary for Labour was an expatriate (Ministry of Labour, 1969). Although the same Ministry has been responsible for submitting data on strikes to the ILO for the Yearbook of Labour Statistics, it has had no systematic records of strike activity. The last submission of strike statistics to the ILO was in 1988.

Inadequate transport facilities and staff hindered the Ministry from visiting and inspecting workplaces. Apart from the enforcement of statutory conditions of employment and minimum wages to protect employees, inspection tends to function as an educating mission for both the employer and employees. Labour officers are able to check the payments of overtime, tool allowance, environmental safety, sanitation, maintenance of employment records and labour registers. They also claim arrears of wages and allowances for individual workers. New labour legislation or policy changes are also disseminated in the process of inspection, and employers get clarifications in areas of labour law. Employers are able to bring to the attention of the inspectors some defects not specifically addressed by existing legislation. Thus, labour inspection serves the purpose of 'nipping problems in the bud', since it is a way of forestalling the outbreak of major disputes resulting from the cumulative effect of unresolved grievances.

The Labour Commissioner and the Southern Regional Labour Officer mentioned separately, that lack of transport and personnel during the one-party period was not a problem because the Ministry's industrial relations role was made easier by the party's intervention in industrial relations. Political elites, as noted in chapter 4, emphasised the need for 'unity', 'loyalty', 'obedience' and 'discipline' among politicians, civil servants, and private sector workers in their public rallies. They also intervened in trade disputes. This was viewed as a factor contributing to the creation of industrial peace. In the words of the Commissioner, 'the four corner stones did our job'.

The fact that the machinery entrusted with the industrial relations function lacked resources is very revealing. The Ministry could not collect, collate, analyse and present data on the situation of labour and send relevant statistics to international bodies. It could not visit employment establishments to enforce labour legislation or

conciliate because it had no funds, transport or staff (Dokali and Kanyongolo, 1996:49). What impact could this have on industrial relations? First, the welfare and interests of employees suffered. How could the state ensure that employers were observing minimum wages and conditions of employment if visits to workplaces were infrequent? Many employers treated the statutory minimum wage as a maximum, and others did not have written terms and conditions of employment. Could this provide one of the clues on why the minimum wage had significantly declined between 1982 and 1988?

As will be noted below, the Employment Act 1964 covered employees who were paid under MK480 per annum. As a result of gradual increases in wages over the years, all employees covered by this Act were receiving above this cut-off point. Yet, the law remained without amendments for over twenty years. As a Ministry of Labour official noted, 'Most of the statutory legislation is out of touch with prevailing labour practices, requirements and worker expectations, the process of revision is slow, even in the case of subsidiary legislation that did not require parliamentary approval' (Kantsemo, 1995.2). For example, the tool allowance stipulated in the early 1970s for workers using their own tools, remained at MK0.03 for over twenty years. That most labour laws remained out of touch with economic or social changes suggests that the Ministry of Labour was dormant during the one-party period.

### **Individual employment rights**

These are rights of employees as individuals, such as the need for written contract of employment, the right to a wage or salary, fair treatment, non-discrimination in employment, etc. Industrialisation creates a structure of managers and workers that are linked by a web of detailed rules, regulations and norms. One way in which individual employment rights could be analysed is by examining provisions in the Employment Act 1964 and the public service functioning and regulations. The African Employment Ordinance 1954 covered rules, regulations and procedures relating to the recruitment, terms and conditions of employment during the colonial period. In 1964 this was modified to consolidate the law relating to the recruitment and employment of workers and the regulation of conditions of employment.

The 'new' Act made provisions for contracts, procedures and processes involved in the recruitment, care of recruited persons, payment of wages and disputes settlement (ss.8-59). Section 66 empowered the Minister of Labour to make rules regulating and prescribing conditions of housing, water supply, feeding, rationing, equipment, care and medical attention for employees and recruited persons.

Although this Act was the major legal framework for regulating the employment of workers, it had in practice excluded a large proportion of them. For instance, no Government employee was covered by this Act except for industrial class employees such as drivers, builders, electricians, welders and cleaners. If the Act included all workers, like its successor thirty-five years later, one would conclude that the Malawian employee had enjoyed legal protection for a long time after Independence.

However, these provisions enacted through the African Employment Ordinance 1954 and retained for over three decades, were aimed at protecting workers inside as well as outside Malawi. Yet, more employees returned from Zimbabwe and South Africa following a presidential ban on labour migration.

Although the migrant labour system continued after Independence, it did not continue to occupy a significant part of Malawi's economy to warrant the retention of the Act for over three decades. By stipulating a wage limit of less than MK480 as the criterion for being covered by the Act during 1964-99, it excluded a large number of employees in both the public and private sector. As the minimum wage rate gradually rose, workers who were originally protected by the Act eventually came out of it to the extent that no employee was protected. Why such a situation persisted is important in that it reveals that the state could hold employment regulations constant in spite of change in the economic environment. That employers and employees accepted this situation is yet another indication of the role of the state to dictate events. The Ministry of Labour that had been entrusted with overseeing the legal framework for industrial relations did not function as a catalyst for reforms. The state saw no reason to change these provisions because these served its interest and that of employers.

The second way to analyse individual employment rights in Malawi during the one-party period is by examining the role of the Department of Human Resource Management and Development (DHRMD) in the Office of the President and Cabinet (OPC). The OPC is a central coordinating institution for the state's public service and political functions. As the biggest single employer, the public service consists of ministries and government departments, local government, the police, prisons, and the judiciary. The appointment, promotion and discipline of civil servants in ministries and departments had been the responsibility of an independent Public Service Commission formed in 1961. The earlier growth and development of the British civil service, like the legal system, influenced the structure, rules, procedures and functioning of the Malawi civil service during and after the colonial period.

The state's human resource planning, development and management functions are the responsibility of the DHRMD, which has over the years initiated policy on the grading structure, recruitment, appointments, promotions, training, wage levels, allowances, housing, hours of work, rights, privileges, discipline and termination of appointments in the civil service. Once approved by the OPC, recommendations became policy for implementation by ministries and departments. In the absence of trade unions in the civil service, wages and terms and conditions of employment were unilaterally decided from above. Circulars from the DHRMD usually carried directives of changes in employment terms and conditions for ministries to implement.

New appointed civil servants attended induction courses at the Staff Development Institute (SDI) under DHRMD to ensure that they were socialised into the public service authority and loyalty culture at the start of their careers. These courses covered terms and conditions of employment, the structure, grading and role of the civil service, career procedure, privileges, discipline and misconduct. They also learnt

treasury instructions, care and custody of Government property, office management and the management of human, material and finance in the public service. The state preferred worker committees and joint consultative committees composed of workers only, and workers and management representatives, respectively. These did not have the mandate to discuss workers' wages. But, what workers wanted to communicate with management was, in most cases financial-related concerns, without which the committees were useless. Although employees in the private and public corporations were not governed by civil service conditions of employment, their impact was significant. Private sector employers and public corporations modified some civil service terms and conditions of employment to suit their requirements - 'employers in the private sector waited for instructions from the state to raise wages; otherwise they could not do so on their own'. As the civil service had remained the 'model employer', the unilateral decision-making culture that characterised the civil service management influenced the private sector, as trade unions were either weak or absent.

Since the Government controlled public corporations and most private companies belonged to the ruling elite, it would be strange to have a different industrial relations regime in these sectors. In chapter 4, it was noted that the President warned civil servants against all forms of subversion. The Malawi Public Service Regulations contains 26 acts of misconduct such as absenteeism, negligence, insubordination to authority, incompetence, intoxication, drug addiction and pecuniary embarrassment, any of which would lead to penalties such as severe reprimand, surcharge, withholding of increment, demotion and dismissal.

Although the public service had a reputation of job security compared to the private sector, the context within which workers functioned prevented them from participating in decisions that affected their wages and conditions of service. By providing a top-down and dictatorial 'model employer' role, the state influenced the creation of a timid and non-participant employee culture in both public and private sector workplaces. This view was echoed by the British Government's Colonial Labour Advisory Committee when it noted that: 'if government as a major employer fails to encourage the development of standing joint machinery for its workers, this may reflect on the general attitude of private employers towards labour relations'.

The link between state economic and political policies and the operation of the civil service should not be difficult to find. As the machinery for implementing state policies, with the President being Minister responsible for the Public Service, it would be strange to find a radical civil service. Public servants are supposed to be loyal and disciplined in serving the government of the day to ensure that state functions are not disrupted by change of Government.

### **Freedom of association**

According to Anderman (1998:289), the rights of association underlying collective labour legislation are based on the basic political freedom of association of individuals, comparable to the freedom of speech, assembly and religion. As a way of enhancing the bargaining and economic power of employees, the rights of association

are meant to modify the prerogatives of the employer. For Chisiza (1961:23), the need to have sound laws for the establishment of effective trade unions in Africa was important at Independence because, 'for generations, the African worker had been ruthlessly exploited and condemned to sub-human conditions of work'. He saw the *raison d'être* for a trade union as securing better remuneration and reasonable conditions of work for its members.

As a former MCP Secretary General, it would be interesting to see the extent to which he would influence the state to promote freedom of association to ensure that workers had bargaining power. Trade unions emerged in Blantyre as a reaction to deteriorating wages and conditions of employment in the process of urbanization and industrialisation. How did the state safeguard the freedom of association after Independence? By freedom of association, we mean the right to form and join a trade union organization, form federations and affiliate to international organisations. Like those of other former British colonies, Malawi's legal system is rooted in the common law of England and Wales. The Model Ordinance on disputes settlement in essential services recommended for colonies was based on the Conspiracy and Protection of Property Act 1875 and the Trade Disputes Act 1906.

These Acts had influenced the legal structuring of union government and administration in Malawi during the colonial and post-colonial periods. Although at Independence the law books were changed from Laws of Nyasaland to Laws of Malawi, the substance of the law remained largely unchanged. The legal framework for freedom of association during the one-party period was the Trade Unions Act 1958 which provided for 'the registration and operation of trade unions, for the formation of employers' association and the regulation of trade disputes. Sections 4-7 empowered the Minister of Labour to appoint the Registrar, Assistant Registrar and other officers. Sections 8-25 provided for procedures for the registration of trade unions, the power of the Registrar in the registration process, rights and liabilities of a trade union, immunities in civil suits and liability in tort. The Act made provisions for the peaceful picketing and protection against torts of intimidation or annoyance and conspiracy in trade disputes. However, section 59(4) warned, that 'nothing in this section shall affect the law relating to riot, unlawful assembly, breach of the peace, or sedition, or any offence against the president or the Government'. The extent to which the legal framework for the registration and operation of trade unions promoted freedom of association is examined under union formation, registration, financial management, and international affiliation.

### **Formation of unions**

The process of trade union formation was not complicated. A union was formed when seven or more employees or employers agreed in writing or orally (s.9 (3)). The ease with which employees could form unions suggests that the law safeguarded the freedom of association. It was thus in line with the ILO Convention 87 of 1948 and Convention 98 of 1949 on Freedom of Association and the Right to organise and Collective Bargaining, respectively. However, section 9(3) was a threat to the

freedom of association. Kanyongolo (1995:8) noted that 80% of the unionists she interviewed before the Act was repealed, expressed fears that the provision was meant to prevent the growth and development of strong industry-wide unions. The minimum number seven had the potential of creating many small unions in one industry, thereby weakening the labour movement. This was a genuine concern especially in a small country with a small number of wage earners concentrated in urban and sub-urban areas. Although it was not possible to create small unions because party functionaries harassed trade unionists and employers prevented them from entering workplaces, the provision was retained to weaken the labour movement.

### **Registration of unions**

Section 9(1) of the Trade Unions Act 1958 provided that, a trade union be registered within three months; otherwise it 'could not perform any act in furtherance of its objects'. Registration conferred the immunity from civil suits for the union, its officers and members in respect of acts done 'in contemplation or in furtherance of a trade disputes'. These include acts to induce some other person to break a contract of employment or interfere with the trade, business or employment of some person or with the right to some other person to dispose of his capital or his labour at will (s.21). Thus, in Malawi, the provisions of the British 1875 Conspiracy and Protection of Property Act and the 1906 Trade Disputes Act could apply only to registered unions.

The point of contention is not whether registration was necessary, rather the extent to which it gave the state control over freedom of association. The need to submit an application for registration on specific forms accompanied by two copies of rules, a list of titles and names of officers, and signed by at least seven members (s.10), was not complex. The key problems were delays created by the process, the conflicting demands of the Registrar and the technicalities involved. For example, one union had applied for registration by copying the Form B's format. Having forwarded it to the Registrar with other necessary documents, it was returned three months later because the union did not use the official form B (Kanyongolo, 1995:14). After the application was made on the prescribed form, the Registrar wrote again inquiring why the union had its officers from one section of the organization, a demand not provided for under section 10. While union officials were supposed to have used the original form, the registration procedure, by not being flexible, reveals the potential difficulty rural employees had to get the official registration form from the capital. That three months passed before the Registrar gave feedback reveals the delays emerging unions could endure and how the Registrar could frustrate the process through selective fault finding on ad hoc basis. Had the question of representation been raised earlier, the applicant could have clarified these issues.

Further, form B contained a schedule that required fifteen members to sign an application for registration. This contradicted the provisions of section 10, which required a minimum of seven. Although there was no evidence that applications were

returned on account that only seven had signed form B, given the powers at the disposal of the Registrar, this could have been another area of frustration. Sections 15 and 16 also empowered the Registrar to refuse or cancel registration, if the union did not comply with the Act or was used for any unlawful purpose. While this was to prevent the use of trade unions for criminal acts or political activities against a constitutionally formed government, 'unlawful object' could be interpreted very broadly to include even activities that might have been within the ambit of trade union activity.

As we noted in chapter 4, members of the political elite warned against all forms of subversion against the President, the MCP and the Government. The Minister of Labour reminded trade unions and their members of their duty to maintain peace, calm, law and order as prerequisites for economic development. He further warned them against foreign ideologies that were not in line with 'the aspiration of our leaders and governments'. In the absence of guidelines for defining 'unlawful objects' even demands for wage rise and improved conditions of service in the public service or in Banda's personal estates and companies could easily be described as unlawful. This would lead to union cancellation and possible arrest of union leaders.

While there was no evidence to suggest that unions were ever de-registered in connection with this line of thought, the vagueness of 'unlawful object' in a climate marred by political intimidation and harassment of state opponents might have had a negative impact on freedom of association. As Banda (1995:47) noted, 'the requirement that a trade union be registered in order to operate while at the same time arrogating the state the power to refuse to register or deregister a trade union on arbitrary ground, was to give labour with one hand and take away the same with the other'.

Under section 15(1) (d), the Registrar could refuse to register a trade union if there was already a sufficiently representative union in the industry where the application for registration originated. The fact that the Registrar used his discretion without asking the registered union if there was a threat of duplication could be viewed as a breach of the freedom of association. In the early 1990s for example, a union was formed and registered as representative of all sugar plantation workers and all union officials were from Dwangwa in the Central Region. When a dispute arose in Nchalo in the Southern Region, officers from Dwangwa went to negotiate with management at Nchalo on behalf of the workers. Nchalo management refused to recognise them. Nchalo workers formed their own union but when they made an application for registration, union officials at Dwangwa argued that their union was representative of all sugar workers. Although the Registrar did not precipitate the tensions that emerged, it might be argued that the provision to refuse registration on grounds that there was already a registered union in a sector, suppressed the freedom of association and denied Nchalo workers a representation mechanism. Thus, the registration procedure restricted freedom of association by encouraging fragmentation or restricting union formation.

## **Financial management by unions**

Section 45 of the 1958 Act restricted the use of union funds to the payment of salaries, allowances and expenses of union officers, administrative expenses, legal fees, trade dispute expenses, affiliation fees, social insurance and other matters as directed by the Minister. No funds could be used to 'contribute to a charitable, educational or cultural institution or society, to any registered trade union, or for the educational, cultural and vocational training of members' without the approval of the Registrar (s.45, (l)(m)(n)). While this could be interpreted as a state attempt to safeguard union finances from dishonest union officials, the restriction imposed on patterns of expenditure might be viewed as a denial of the freedom to associate. Why seek state approval, for example, to assist fellow trade unions, charitable or educational institutions or training of their members? Does freedom of association not include freedom to make funding decisions?

On the receiving end, no trade union could accept assistance in the form of cash, gifts, loans, donations, property, travel vouchers or tickets from any person, association or organization outside Malawi except with the approval of the Registrar (s.47(2)). The Act did not require the Registrar to give reasons for withholding his approval. How could emerging unions survive and grow without support from outside? The restriction imposed on international financial assistance was a further denial of freedom of association. While in other countries this procedure could only be a formality, in Malawi where Banda's regime viewed unions as dissident organizations, approval would remain an additional state instrument for suppressing them. The Registrar's prerogatives to withhold reasons for refusing approval, is evidence of this.

## **International affiliation of unions**

While the Malawi Government has been a member of the Organization of African Unity, United Nations and the Commonwealth, trade unions' international affiliation was restricted. Section 34 empowered the Registrar of Trade Unions to approve any decision for a union to affiliate to an external organization. The part that raises suspicion is where the Act stipulated that the Registrar 'is not bound to give reasons for his/her withholding of approval'. Why should the Registrar not give reasons for withholding approval of affiliation when he was able to give reasons for refusal to register or cancel registration of a trade union? The history of trade union growth in many developing countries is associated with the help offered by big international affiliates such as the International Confederation of Free Trade Unions and the British Trade Union Congress. By being affiliated to other organizations, a trade union would have access to financial assistance, training and advice from other experienced unions. Restricting international affiliation was a restriction of freedom of association.

The Act also appeared punitive in state-union relations. Besides extensive control powers given to the Registrar, there were over ten threats of fines and imprisonment



for failure of trade unions to fulfill certain procedural or action requirements. Yet, the Registrar was 'not required to give reasons for withholding approval'. The view of one unionist was that the one-party regime kept these heavy-handed powers from the colonial era because these served the purpose of suppressing worker organisations. Although the Act catered for trade unions and employers' associations, it did not make any provisions that applied to employers' associations. This is not surprising since the Act was carried over from the colonial period when the employers and the government were foreigners who could not restrict themselves. State control of trade union formation and functioning through the powers given to the Registrar of Trade Unions, restrictions to international affiliation, funding and the intervention of political elite and ruling parties in employment relations, has already been mentioned in chapter 3. Trade Union laws of certain countries such as Kenya, Tanganyika, Uganda and Zambia for example, empowered the Registrar of Trade Unions to refuse or cancel the registration of a union. The Secretary General of the Organization of African Trade Union Unity (OATUU) noted:

As a trade unionist, the question that worries me most is why trade unions which fought side by side with political parties to dislodge colonialists ... are not now accepted by African Governments ... trade unionists are in jail or in detention ... some under investigation, splits are being encouraged to weaken trade union leadership...some unions are facing threats of dissolution. There are trade unionists living in exile because they have displeased home governments (Ananaba, 1977:175).

Many unionists in different African countries experienced state repression after independence. The state's preoccupation with economic development might explain the restriction on freedom of association in former British colonies in Africa. As Bates (1971:470) noted, instead of emphasizing the unions' role as defender of workers' interests, the state in Zambia saw it as defender of the nation's interests. Thus, judging from the Trade Unions Act 1958, it can be argued that the enactment of the legal framework for trade union government and administration could be tailored to restrict the development of a strong labour movement, fearing that it would challenge state development policies.

### **Dispute settlement and the legality of strikes**

One of the features of an industrial relations system is the degree to which it is able to create structures and procedures for handling industrial conflict. The freedom to take industrial action has been seen to offer the prospect of countervailing social power for employees via effective trade unionism. How did the one-party state safeguard the right to strike in both essential and non-essential services? Section 51 of the Employment Act 1964 made the proviso: that in individual disputes either party might report the matter to a labour officer who could settle the dispute through conciliation or resort to a court of law. Courts could award damages for wrongful

dismissal, impose any punishment, rescind any contract, award the fair value of services rendered or decide the relative rights and duties of an employer or employee.

The Trade Disputes (Arbitration and Settlement) Act 1952 dealt with collective disputes and made provisions for the establishment of arbitration tribunals and the settlement of disputes. Either party to an existing or potential dispute had to report to the Principal Secretary for Labour (PS) for conciliation (s.3). The PS would seek the Minister's endorsement for the negotiated agreement to become a legally binding award. The PS would seek the Minister's authority to refer the dispute to a tribunal if settlement failed. Where a voluntary procedure for settling disputes existed within a collective agreement, the parties would exhaust that procedure before the matter went to the PS, the Minister, or the tribunal, in that order. Where a strike was anticipated, the PS would report to the Minister who would in turn authorise the PS to refer the matter to a Board of Inquiry, even if it was not reported.

The Board of Inquiry consisted of a Minister-appointed chairman and not less than three members, one of whom was from outside the public service. It had to inquire into causes and circumstance of the matter, make recommendations and report to the Minister. Once a dispute in essential services was reported to the Minister, he had to appoint a tribunal to settle the dispute after voluntary negotiations and personal conciliation by the Minister had failed. In theory, the process for dispute settlement started with voluntary negotiations between parties and the state machinery for conciliation, mediation and arbitration followed. In practice, it was difficult to establish voluntary procedures for dispute settlement at the workplace in the absence of a legal framework for collective bargaining.

As the British Colonial Labour Advisory Committee emphasized, 'the successful operation of voluntary procedures for the settlement of disputes depends ultimately on the existence of well organised and responsibly led trade unions'. Section 19, however, exposed the vulnerability of the tribunal in decision making: 'Where any trade dispute referred to an arbitration tribunal involved questions of wages, hours of work or terms and conditions of employment regulated by other Acts, the tribunal shall not make an award which is inconsistent with the provisions of those Acts'. Thus, even if the tribunal found that wages and conditions of employment were poor, it would be handicapped to recommend appropriate improvements when the state stipulated a 1969 low wage policy. The role of the state in dispute settlement included the authority to determine legal representation and whether the press should be present during an inquiry (s.27 (1-3)).

Section 12(1) prohibited lockouts and strikes in essential services, unless the dispute had been reported to the Minister and 28 days had elapsed without referring to a tribunal. The Act made provisions under which workers could go on strike in essential services. In practice, it was difficult to find a situation that would satisfy the pre-conditions for such a strike. It would not be possible for the state to fail to refer the matter to a tribunal by the 28th day. Like the Employment Act, this Act gave the Minister many powers to determine 'essential services' with consequent danger of declaring every aspect of employment as essential service.

Since the Minister appointed key members to the Board of Inquiry as well as the Arbitration Tribunal, the likelihood of undue political influence on the outcome was high. How could one be assured of the independence of the tribunal or board if the dispute was in the public service? The fear over state-appointed persons was also expressed in a Colonial Office Circular Dispatch of 22 August 1951:

Government often occupies the dual role of employer and conciliator, and it is the Governor who appoints the members of an Arbitration Tribunal. The setting up of semi-independent public boards or corporations would do a great deal towards removing this particular difficulty; but so long as the salaries of the servants of such corporations or boards continue to be paid by government, then those persons continue to be servants of government and the basic difficulty remains.

This shows the problem that arises in trying to create a more independent tribunal. As noted in chapter 4, the Minister of Labour made statements at labour relations workshops and other important events, asking workers to be loyal and to obey their employers. He also asked union leaders to behave in the 'Malawi' way. What is at issue here is not the law as it stood, but the likelihood of bias because of the predisposition of the Minister in a political system known for suppressing workers' rights.

The Model Ordinance on which Malawi developed its Trade Disputes (Settlement and Arbitration) had made provisions to prohibit lockouts and strikes in general terms after a specified number of days had elapsed after the matter was reported to the Governor. However, the one-party state modified the provisions to suit its interests. The prohibition of strikes and lockouts in essential services implied that strikes and lockouts were permitted in non-essential services. The Trade Unions Act 1958 made reference to peaceful picketing, prevention of intimidation, annoyance, and conspiracy in trade dispute (ss.56, 57(1), 58, 59(1)). But, both the Trade Unions Act and Trade Dispute (Arbitration and Settlement) Act did not provide any procedure or conditions for strikes in non-essential services.

Thirty years after Independence, Ng'ong'ola (1994:25) noted the existence of a gap in the law on strikes both in essential and non-essential services. He wondered why there were no guidelines on the conduct of strikes and other forms of industrial action in both essential and non-essential services, and called for the need to develop appropriate rules and principles in an integrated manner.

If the 1952 Act did not provide for a systematic procedure for undertaking strikes in non-essential services, how could workers protect themselves against unscrupulous employers? Does this not amount to direct state prohibition of strikes? This in effect confirms trade unionists' view that 'the state had banned strikes as illegal'. In practice, the state did not ban strikes. It provided a cumbersome procedure for strikes in essential services and remained silent in non-essential services.

By remaining silent on strikes in non-essential areas, the state managed to create a sense of fear among would-be strikers. Furthermore, the constant appeals by political

elite for calm, peace, law and order, and calls to intensify vigilance against all forms of subversion added more fears to potential strikers. That the Minister had power to determine essential services suggests that the state had an additional weapon to control strikes. Furthermore, by insisting on statutory mechanisms for dispute settlement and methods to enhance industrial harmony and preventing work stoppages, the state created an obstacle to the full development of collective bargaining. It removed the incentive to set up and maintain effective voluntary machinery, thus encouraging an outlook that accepts imposed arbitration as the normal method of settling disputes.

The experiences of other former British colonies suggest that what was happening in Malawi was part of a wider phenomenon in industrial relations in other countries. As Nuabueze noted of Commonwealth Africa, 'many governments had passed legislation to regulate strikes, either prohibiting them or subjecting them to rather stringent conditions'. Presidential decrees banned strikes in Tanzania, Kenya, Zambia and Zimbabwe after independence. In relation to the dispute settlement procedure and the right to strike, Liatto noted that while in Kenya, a similar Act was 'a little liberal' in describing the procedure under which a legal strike could be undertaken, it was not clear in Zambia. She argued that it would take a very sharp union secretary general 'to make a thorough scrutiny of the statutes to find the circumstance under which he might call a legal strike'.

Perhaps it was true, as Nuabueze noted that African nations could not afford the freedom of industrial action in their early stage of development as even Britain and the United States have had to restrict the right to strike during their industrialisation.

## **Wages and attitude to collective bargaining**

In this section the main focus is determine the extent to which workers engaged in collective bargaining with their employers and the institutions used to determine wages and conditions of employment. It will also be necessary to identify the form of incomes policy the state had and how that affected collective bargaining rights.

## **Wages and conditions of employment**

The colonial state established the Wages Advisory Board (WAB) and six Wages Advisory Councils (WACs) under the Minimum Wages and Conditions of Employment Act 1958. At Independence this Act was modified and renamed the Minimum Wages and Conditions of Employment Act 1964. As the one-party state reduced trade from 19 to 5, and that they were docile, the WAB and WACs were useful institutions for regulating wages and conditions of employment in the many non-unionised industries. WACs determined wages and conditions of employment in specific industries while the WAB functioned in industries where WACs were not established. Both bodies advised the Minister of Labour on wages and allowances, hours of work, overtime, sick pay, gratuities, pensions, holidays, and authorised compulsory deductions from wages. The objectives of these institutions, the extent to

which they achieved them and the impact of such arrangement on collective bargaining are now analysed.

The objective of minimum wages was to establish workers' rights that provided a decent standard of living. In the absence of effective trade unions and workers' organisations, the creation of wages councils and a wage board was to protect workers from exploitation by employers and to maintain their purchasing power in times of rising consumer goods prices. While the Act had the potential to protect the wages and conditions of employment of vulnerable workers, the context within which the WACs and WAB functioned hindered the realisation of those stated goals. First, the Minister of Labour had powers to appoint members of the board and councils. This raises independence and objectivity questions in view of sections 8 and 9 of the Act, which provided that 'a member of the Board (council) shall hold office at the pleasure of the Minister'. While this would not have been a problem in democratic societies where a decision could be challenged, in a one-party state where politics and economics were fused, it was not possible to please a Minister without adhering to the state's low wages policy.

In 1963 the Tea Industry Wages Advisory Council proposed an increase in minimum wages of 71% for unskilled labourers. The Government and leading employers in the industry found this unacceptable and the former issued a statement that it could only consider proposals for minor increases (Ministry of Labour, 1969: 60). If the state and employers rejected a minimum wage proposal before independence, would there be any chance that such proposals could be accepted by the one-party state that promulgated a cheap labour policy from 1969?

The other issue is the choice of the 'most representative members of employees' to the councils or board. Both WACs and the WAB were tripartite bodies in which 'equal number of employers and employees' representatives and three independent members' deliberated to make recommendations to the Minister. While employers were well-organised and had the most representative organization, ECAM, the most representative employee organisation, the TUCM was integrated into the MCP. The TUCM chairman, Liabunya, was also the Mayor of Blantyre City.

The wages councils and board like tribunals rarely met. As a senior Ministry of Labour official noted, 'some of the advisory councils never met during their life span as financial constraints prevented the Ministry from convening councils' (Kantsemo, 1995:13). Between 1963 and 1965, the Board met nine times, then once in 1966 and once in 1967 (Ministry of Labour, 1969: 60). The further one goes away from the colonial period, the more infrequent the meetings. By creating institutions to safeguard the interests of wage earners, but in practice not functioning to the advantage of the intended beneficiary, the state cushioned the employer to accumulate profits, and perpetuated workers' exploitation.

The 1969 wage policy shaped by Malawi's development policy also paralysed the effectiveness of WACs and WAB. In a context where development policy focused on agricultural production and wage earners then constituted 10% of the economically active population, the state felt it was counterproductive to create a privileged minority class of wage earners. Increases in wages would lead to increases in prices

of manufactured goods, reduce farmers' incomes and therefore act as a disincentive to increased agricultural production. Consequently, the state introduced the wages and salaries policy in 1969, which provided a framework within which decisions pertaining to minimum wages were taken. Based on wage restraint, the policy aimed to raise employment, minimise the impact of inflation on the wage earner, raise effective demand and control rural-urban migration. The state gave employers a 5% annual wage ceiling without consulting the Ministry of Labour. However, the policy did not raise employment levels; reduce inflation and internal migration.

Political elites such as the Minister of Labour, in 1970, argued that workers had to increase productivity if their wages were to be increased (*Daily Times* 26 March 1970: 12). Between 1964 and 1979, Malawi's output growth was highest, yet wage freezes and tight presidential interventions on wages and salaries increased during this period. Apart from the October 1966 MCP Annual Convention announcement of an increase in civil service wages and salaries by the President, subsequent announcements had been against wage increases. In 1971 the President announced an indefinite ban on wage and salary increases for the civil service, public corporations and private sector 'until the country's financial position improved'. He justified the ban as an attempt 'to control prices to stop excessive rise in the cost of living and to curtail profiteering by shop owners, garage owners and some companies'. Whilst this demonstrated a concern for the welfare of the non-wage earners, a wage and salaries freeze, was a strong disincentive to workers' efforts to work hard. The President was a proponent of capitalism but apparently opposed to 'profiteering' by small businesses such as shops and garages and 'some' companies. One reason for the wage freeze was to wipe out the deficit on recurrent budget that the President emphasised at the 1967 MCP Annual Convention as 'humiliating' (MCP, 1967:3). For the *Malawi News* (16 July 1971:3), the freeze was an indication of 'the Government's determination to win the war against the budgetary deficit'. What was not clear, though, is that even when the deficit was wiped out by the early 1970s, the wage freeze remained for a long time except for a 6% rise in 1973.

The fact that workers could not bargain with employers in spite of a rise in the cost of living shows the extent to which workers were vulnerable as a result of the state's wages and salaries policy. The Government's preoccupation with wage restraints resulted in wages that had fallen behind the cost of living such that by 1992 the purchasing power of the minimum wage earner was a quarter below the 1982 value (GoM, 1993a: 57).

### **Attitude to collective bargaining**

Collective bargaining tends to stem from freedom of association. Although the colonial state provided a framework for freedom of association and there were more unions during the colonial period than there were in the one-party period, the framework for collective bargaining was not clear. The Trade Union Act 1958 concentrated on rules and regulations relating to the structural aspects and procedures

for the formation, registration and financial management of unions and their relationship with the state. It had not paid attention to the functioning of unions and, in particular, recognition and status of collective agreements .

As Dickens and Hall (1995: 274) noted of Britain, 'the law could be used to encourage the growth of collective bargaining by encouraging freedom to organise in trade unions without state or employer interference; encourage employers to recognise unions and enter into joint regulations; and ensure that collective bargaining agreements are observed'. Thus, in the absence of provisions to encourage collective bargaining in the Trade Union Act 1958, there was no framework for effective functioning of trade unions as instruments for the protection of workers' wages and conditions of employment.

The absence of collective bargaining in the labour law could be explained by the influence of voluntarism in British industrial relations up to the 1970s. The growth of collective bargaining in Britain owed little to legal supports until the Donovan Commission made recommendations in 1968. As a former British colony, which perpetuated the colonial legal framework, Malawi could not inherit a detailed legal framework for collective bargaining. While the absence of such a framework for collective bargaining did not have a negative impact on trade union functioning in Britain, the impact had been greater in Malawi.

With the arrest and co-optation of experienced unionists after the 1964 cabinet Crisis, there was need for guidance through a well-articulated legal framework. Furthermore, the scope of collective bargaining was narrowed in 1964 when the state reduced the number of trade unions. While this would be a way of strengthening unions and creating industry-wide or multi-employer bargaining, state control of the trade union movement was a major problem for the growth of collective bargaining. The biggest single employer, the civil service, did not have institutions for collective bargaining, wages and conditions of employment were unilaterally determined.

By denying the civil service a collective bargaining mechanism, the largest group of employees was excluded from enjoying the right to determine wages and conditions of employment. Although recognition agreements were signed in a few companies, heavy intimidation of unionists by the party functionaries at workplaces, and the need to maintain loyalty, discipline and obedience, forced unionists to retract from pursuing their interests through collective bargaining. It needs to be emphasised, however, that it is not a matter of detailed legal framework that enhances collective bargaining. The attitude and motive of the state need to be considered. For instance, while the law generally abstained up to the early 1970s in Britain, collective bargaining blossomed. Yet, the 1979 Conservative Government's 'sustained step by step legislative programme, comprising a major statute every two years or so, saw the final death of voluntarism in Britain' (Dickens and Hall, 1995:256).

The shortcomings in the wages advisory councils and board as institutions for safeguarding workers' wage and conditions of service, and the unilateral culture of wage determination in the private and public service organizations, meant that the state did not support workers' right to better wages and conditions of employment. The 1969 wage policy and presidential wage freezes created some paralysis in the

entire industrial relations system. The extent to which this paralysis reached its zenith is revealed through the panic reaction of the state to the strikes in 1992-3. That employer' associations, trade unions and the Ministry of Labour were helpless. Instead, politicians took over industrial relations roles and 'preached' peaceful means of resolving industrial conflicts. Both employers and employees lacked the experience to handle collective bargaining and industrial disputes in the early 1990s. That is why Ng'ong'ola (1994:21) pointed that 'the search for the appropriate legal framework in Malawi's industrial relations be complemented by education and socialisation'.

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### **Review questions**

1. Why is freedom of association important to employees?
2. Explain the role of the Ministry of Labour and the Department of Human Resource Management and Development
3. The Wages Advisory Councils and wages Advisory Board and the national minimum wage policy of 1969 were inimical to the growth and functioning of trade unions in Malawi. Discuss.
4. How far would you argue that the legal and institutional framework for industrial relations during the Banda regime restricted individual and collective labour rights?



## Chapter Six

### Strike Activity During the Multiparty Period

#### Introduction

This and the next chapter examine the impact of the transition from the one-party to a multiparty state on industrial relations in Malawi. The transition created an outburst of strikes, a rebirth of trade unionism and a reform in the legal and institutional framework for industrial relations. This chapter analyses the transformation of industrial conflict in the form of strike activity during the transition period.

#### **The transition to a multiparty state and worker activism**

As indicated in chapter one, the high handedness of the one-party state between 1966 and 1991 created a strong desire for change (Migdal, 1988:6). As part of the process, and the consequence of the transition, there was an increase in strike activity in Malawi. Starting at David Whitehead & Sons on 5 May 1992, strikes spread to other companies. As van Donge (1995:230) noted, 'the fabric of society seemed fundamentally shaken by riots resulting from industrial unrest during which there was widespread looting of shops in Blantyre and Lilongwe'. Public and private sector organisations took turns in strike activity during the following months. In 1993, the biggest single employer of over 120,000, the civil service, experienced two big strikes that paralysed the country's health, education, transport and other services. Different sections of the civil service such as teachers, nurses, junior doctors, custom officers, and clerical officers went on strike at different times. Between 1992 and 1999, the *Daily Times* reported of 90 strikes (Dzimbiri, 2004). 54 organizations that reported only 4 strikes for the 1966-91 period reported 75 strikes involving 70,000 workers and 400,000 days lost. Official records, which did not include 50 strikes including many in the civil service, show that there were 300 strikes involving 270,000 workers and 800,000 days lost.

The dramatic transformation of the conflict landscape in Malawi's industrial relations in the 1990s is that strikers did not just demand improved wages and conditions of employment. They also demanded the removal of senior managers and challenged or defied employers' and Government dismissal threats. Some challenged Government policy on privatization and maize prices and refused to meet middle managers and demanded to meet the State President Bakili Muluzi. We analyse strike statistics during 1992-99 to show their significance in shaping labour policy and the transformation of industrial relations in Malawi.

## Strike activity during the multiparty period 1992-99

In this section, strike trends are presented by data sources before building up a larger picture. Official strike statistics from the Ministry of Labour headquarters and regional offices are analysed. To create a national strike activity for 1992-99, four official sources are integrated. As official sources did not record some civil service and other strikes, newspaper sources will be presented to reveal some trends not available in the official sources. A strike trend based on employers' responses to questionnaires will also be created. Newspaper strikes for 1992-97 will be added to the official figures in order to construct an overall picture.

### Strike activity 1992-94

As noted earlier, the first big strike in the 1990s was at the David Whitehead Textile Company in Blantyre. This strike triggered many strikes in other companies and organizations in Blantyre, Lilongwe and other towns in the country. The Ministry of Labour headquarters reported that 194 strikes involving over 200,000 workers and close to 700,000 days lost occurred in Malawi between 1992 and 1994. Table 6.1 summarises this.

*Table 6.1 strike activity 1992-94*

Year	No. of strikes	No. of workers	No. of days lost
<b>1992</b>	88	67,577	220,033
<b>1993</b>	66	99,335	360,340
<b>1994</b>	40	55,622	73,505
<b>Total</b>	<b>194</b>	<b>222,534</b>	<b>653,878</b>

*Source:* Ministry of Labour (1994:47)

One of the problems with the above data is that the Ministry did not show some of the strike measures such as organisations involved, causes of strikes, duration and number of days lost in each strike. However, these figures provided trends in strike activity useful for comparison with previous years. An average of 65 strikes per year during 1992-94 suggests a higher strike activity than any similar period in the one-party state. Additionally, an average of a74,000 people involved and nearly 218,000 days lost per year shows a greater rate of worker mobilization and impact of strikes. Finally, an overall strike duration of 3 days during this period suggests that strikes were longer than most strikes in the past.

## Strike activity in the Southern Region 1992-99

There were 137 strikes, 67,000 workers involved and over 200,000 days lost for the Southern Region between 1992 and 1999 as shown in table 6.2.

*Table 6.2-Strike activity in the Southern Region 1992-99.*

Year	No. of strikes	No. of workers	No. of days lost
1992	41	28,310	114,400
1993	17	6,395	18,329
1994	5	894	1,354
1995	3	1,148	5,524
1996	16	4,689	5,908
1997	24	12,051	40,142
1998	16	5,112	6,720
1999	15	8,274	16,166
<b>Total</b>	<b>137</b>	<b>66,873</b>	<b>208,543</b>

*Source:* Ministry of Labour (1999a) (Recalculated)

*Table 6.3 Strikes by location and union involvement in the Southern Region 1992-99.*

Strikes by location		Strikes by union involvement	
		Involved	Not involved
Mulanje	73	27	110
Thyolo	25		
Blantyre	18		
Others	21		

*Source:* Southern Region Labour Office Report, 1999(reconstructed)

There was a tendency for strikes to rise and fall and rise again during this period. Between 1996 and 1999, strike levels fluctuated at a relatively higher level than during 1994-95. Apart from one strike at Queen Elizabeth Central Hospital, no other civil service strikes were included in the Southern Region report. Yet there were several strikes that occurred in the Southern Region which were not reported by the Regional Labour Office. With 137 strikes involving nearly 67,000 workers and over 200,000 days lost in 8 years, the Southern Region experienced three times worker

involvement and almost eight times more days lost than in the entire 26 years of the one-party period. As table 6.4 indicates, most strikes were in agriculture and most of them were over wage demands.

**Table 6.4: Strikes in the Southern Region by industry and cause 1992-99**

Strikes by industry		Strikes by Cause	
Manufacturing	20	Wages and conditions	113
Agriculture	99	Removal of supervisor	12
Service	10	Task size	12
Others	8		

*Source:* Southern Region Labour Office Report, 1999(reconstructed)

Non-involvement of unions in many strikes is not peculiar to post-1992 period. A 1969 Ministry of Labour report noted that there was little union involvement in strikes after 1964. This is one of the major features of the strikes in the 1990s to which we will return later in this chapter.

### **Strike activity in the Central Region 1992-99**

The Central Region experienced 34 strikes during 1992-99 with 79% occurring in Lilongwe. 31 were over wages and other financial demands while 2 were demands to remove senior managers. 31 were in the private sector, 2 were in the civil service and 1 in a public corporation. A further analysis shows that 20 strikes involved conciliation by labour officers, 5 negotiations, 1 police intervention and 1 intervention by the Secretary to the President and Cabinet. Table 6.5 shows strike activity in the Central Region.

**Table 6.5 Strike Activity in the Central Region, 1992-99**

<b>Year</b>	<b>No. of strikes</b>	<b>No. of workers involved</b>	<b>No. of days lost</b>
<b>1992</b>	3	3,533	8,834
<b>1993</b>	12	86,074	415,348
<b>1994</b>	2	300	400
<b>1995</b>	1	58	116
<b>1996</b>	2	205	565
<b>1997</b>	9	9,558	45,937
<b>1998</b>	3	166	188
<b>1999</b>	2	131	281
<b>Total</b>	<b>34</b>	<b>100,025</b>	<b>471,669</b>

*Source:* Ministry of Labour, 1999b

The above table indicates that the greatest strike activity in the Central Region was in 1993 and 1997. A total of 100,000 workers involved and 472,000 days lost in 34 strikes at the regional level further supports the view that strikes were more protracted from 1992. The Central Regional Labour Office reported only 2 civil service strikes. Yet, there were several civil servants strikes at the Capital Hill in 1993, 1994, 1995 and 1997.

### **Strike activity in the Northern Region 1992-99**

Northern Region experienced 25 strikes with up to 11,000 workers involved and close to 40,000 days lost between 1992 and 1999. Of these, 22 were over wage demands and 3 were demands to remove senior managers. 20 strikes occurred in the private sector, 2 in local authorities and 3 in public corporations. 22 of the strikes were resolved through conciliation by labour officers, 1 by mediation and 2 by negotiation between employers and employees. While 2 involved trade unions, 23 did not. Table 6.6 shows trends in strike activity in the Northern Region during 1992-1999.

**Table 6.6: Strike activity in the Northern Region 1992-99**

Year	No. of strikes	ers involved	Days lost
1992	2	1,378	6,012
1993	1	40	150
1994	5	1,700	8,820
1995	4	816	1,599
1996	1	368	1,104
1997	4	1,056	2,032
1998	4	3,385	15,320
1999	4	2,485	4,624
<b>Total</b>	<b>25</b>	<b>11,228</b>	<b>39,661</b>

Source: Ministry of Labour Report (1999c)

Although many strikes occurred in Government departments and ministries as recorded by the *Daily Times*, these strikes were not reflected in the three regional reports. One reason given by the Labour Commissioner was that as regional reports cover a specific region, civil service strikes could not be reported at the regional level since they cut across the whole country. For example, teachers' strike, which covered 27 districts and 3 regions, could not be reported at any regional labour office. However, this is not convincing when one takes the view that the Ministry of Labour headquarters receives reports from regional offices and that some civil service strikes were included in the central and southern regional strike statistics cited above. A second reason was that many strikes were not reported to regional offices because the very people who would have reported were also involved in the strikes. But the Principal Secretary for Labour has the power to intervene in disputes even if they have not been formally reported. This suggests that no civil service strike would escape the attention of the Ministry of Labour. Whatever the reason for the failure to record civil service strikes, the number of strikes presented by official statistics does not reflect a full picture of the transformation of industrial conflict in the civil service. That is why we resorted to additional data sources to fill this gap.

### **Overall official strike activity 1992-99**

By combining the three sets of regional strike data for 1995-99 with the 1992-94 Ministry of Labour statistics, we can construct figures for 1992-99. Table 6.7 shows this picture.

**Table 6.7 overall official strike activity 1992-99.**

<b>Year</b>	<b>No of strikes</b>	<b>No. of workers</b>	<b>No. of days lost</b>
<b>1992</b>	88	67,577	220,033
<b>1993</b>	66	99,335	*360,340
<b>1994</b>	40	55,622	75,505
<b>1995</b>	8	2,022	7,239
<b>1996</b>	18	5,262	7,577
<b>1997</b>	36	22,665	88,111
<b>1998</b>	23	8,663	8,430
<b>1999</b>	21	10,890	21,071
<b>Total</b>	<b>300</b>	<b>272,036</b>	<b>788,306</b>

Source: Ministry of Labour ( 1994, 1999a; 1999b; 1999c)

\*That the number of days lost in 1993 at regional level (Table 6.5) is higher than the overall national figure provided by the Ministry of Labour for that year (Table 6.1) suggests that the Ministry had not included big strikes recorded at the regional level.

From the above table we note that in only 8 years, 300 strikes occurred, over 270,000 workers participated and close to 800,000 days were lost. Compared to 182 strikes, 19,000 workers involved and 27,000 days lost during the 1966-91 period, 1992-99 experienced a much greater amount of strike activity on all counts. Thus, there were one and half times the numbers of strikes, 13 times as many workers involved and 28 times as many days lost during 1992-99 than in 1966-91. The Ministry of Labour did not include some of the strikes reported in the newspapers. Out of the 90 strikes, 50 were not included in the official statistics. Apart from the 3 strikes reported by the Southern and Central region labour reports, as many as 21 civil service strikes were not reported. By the time of the most protracted strike of 1997 over the implementation of the Commission of Inquiry on salary and conditions of service, civil servants had gone on strike more often than any group. Others excluded from official strikes included 12 in public corporations, 6 in local authorities and 11 private sector organizations. As shown in Table 6.8 close to 700,000 workers and nearly 9,000,000 days lost were excluded from official statistics.

**Table 6.8 Strikes Reported by Newspapers but not Official Statistics**

<b>Year</b>	<b>No. of strikes</b>	<b>Workers involved</b>	<b>Days lost</b>
<b>1992</b>	3	3,500	59,500
<b>1993</b>	18	220,270	675,580
<b>1994</b>	11	100,250	2,562,205
<b>1995</b>	8	244,800	2,550,860
<b>1996</b>	5	40,000	115,300
<b>1997</b>	5	50,150	2,901,050
<b>Total</b>	<b>50</b>	<b>658,995</b>	<b>8,864,495</b>

Source: *Daily Times* (several)

### **Overall official strike figures 1966-99**

If strike activity during 1966-91 is combined with 1992-99 trends, the pattern that emerges is summarised in table 6.9. Official statistics shows that there were nearly 500 strikes between 1966 and 1999, attracting close to 300,000 workers and leading to over 800,000 days lost. The majority of strikes, workers involved and days lost, as newspapers and questionnaire sources also indicate, occurred during 1992-99.

**Table 6.9 strike activity 1966-99 (official figures)**

<b>Year</b>	<b>No. of strikes</b>	<b>Workers involved</b>	<b>Days lost</b>
<b>1966</b>	22	1,717	3,221
<b>1967</b>	20	3,078	4,817
<b>1968</b>	11	1,627	2,395
<b>1969</b>	8	1,116	569
<b>1970</b>	7	474	393
<b>1971</b>	16	354	3,202
<b>1972</b>	18	2,544	1,228
<b>1973</b>	6	1,387	4,890
<b>1974</b>	13	981	1,161
<b>1975</b>	4	272	643
<b>1976</b>	13	787	865
<b>1977</b>	8	596	437
<b>1978</b>	10	850	515



<b>1979</b>	6	596	283
<b>1980</b>	4	689	927
<b>1981</b>	2	534	473
<b>1982</b>	5	346	327
<b>1983</b>	0	0	0
<b>1984</b>	2	184	193
<b>1985</b>	2	653	250
<b>1986</b>	2	93	305
<b>1987</b>	0	0	0
<b>1988</b>	0	0	0
<b>1989</b>	0	0	0
<b>1990</b>	1	65	85
<b>1991</b>	2	105	200
<b>1992</b>	88	67,577	220,033
<b>1993</b>	66	99,335	360,340
<b>1994</b>	40	55,622	75,505
<b>1995</b>	8	2,022	7,239
<b>1996</b>	18	5,262	7,577
<b>1997</b>	36	22,665	88,111
<b>1998</b>	23	8,663	8,430
<b>1999</b>	21	10,890	21,071
<b>Total</b>	<b>482</b>	<b>291,104</b>	<b>815,685</b>

Source: Ministry of Labour (various)

### Strike pattern as reported by newspapers

That there were more strikes during the multiparty than the one-party period is further confirmed by newspaper sources. The *Daily Times* reported 3 strikes during 1966-91, against 90 strikes during 1992-99. It is important to note that while a count on number of strikes from newspaper sources was straightforward, data on workers involved are mere approximation based on reporters' estimates and my own estimates based on knowledge of the organisations involved. Consequently days lost are also approximations based on the estimated workers involved and the duration of the strike. Thus, during 1992-99, there were 90 strikes, approximately 800,000 workers involved, and 9,000,000 days lost as shown in table 6.10.

**Table 6.10: Strike activity as reported by Newspapers 1992-99**

<b>Year</b>	<b>No. of strikes</b>	<b>No. of workers involved</b>	<b>No. of days lost</b>
<b>1992</b>	7	11,700	85,100
<b>1993</b>	22	260,687	768,000
<b>1994</b>	14	125,300	2,920,000
<b>1995</b>	12	246,000	2,556,600
<b>1996</b>	7	46,000	121,000
<b>1997</b>	6	72,300	2,988,500
<b>1998</b>	12	2,350	9,500
<b>1999</b>	10	7,345	14,780
<b>Total</b>	<b>90</b>	<b>771,682</b>	<b>9,463,480</b>

*Source: Daily Times (several editions 1992-1999 reconstructed)*

The number of workers involved is three times greater and days lost 12 times more than the official strike activity in Table 6.10 above. The numbers of workers involved and days lost are higher than official data sources because newspapers reported strikes in the civil service and other public corporations. The number of days lost in 1994, 1995 and 1997 are high because there was an average of 2 civil service strikes every year in which over most of the 120,000 employees participated. This is in addition to sectional strikes by teachers, nurses and custom workers.

Further analysis of newspaper data shows that up to 55 strikes occurred in Blantyre, 25 in Lilongwe and 10 in other districts. In terms of sectors, 28 strikes were in the private sector, 28 in the civil service, 27 in the public corporations and 7 in local authorities. While the Ministry of Labour reported 94 strikes in agriculture and fewer in service industries, newspaper sources reported only 2 strikes in agriculture, 18 in manufacturing and 59 in the service sector. This suggests, as we noted before, that newspaper coverage was urban biased compared to figures from regional labour offices. While news reporters might have travel problems to access tea estates, the regional labour offices' reliance on district reports make them compile predominantly rural strikes. Compared to urban employers, those in tea estates have a tradition of reporting strikes and seeking assistance from a District Labour Officer. 70 strikes were over wages and other financial demands such as professional, subsistence and house allowances; emergency advances and holiday grants. The rest were demands to remove oppressive managers, or over solidarity, localisation and retrenchment.

### Strike activity from questionnaire sources

An analysis of responses from 54 organisations asked for their strike patterns between 1966 and 1999 supports the newspaper and official sources. Employers were asked to list strikes they had experienced, showing, for each strike, cause, number of workers involved and days lost. As noted before, only 4 strikes were reported with 2 in 1990 and 2 in 1991 and none between 1966 and 1989. However, as table 6.11 indicates, these organizations experienced a total of 75 strikes between 1992 and 1999. Within these 8 years, up to 70,000 workers participated in strikes and over 400,000 days were lost in the 54 organizations.

*Table 6.11 Strike activity reported by organisations 1992-99*

<b>Year</b>	<b>No. of strikes</b>	<b>No. of workers involved</b>	<b>No. of days lost</b>
<b>1992</b>	13	17,840	89,290
<b>1993</b>	11	5,236	26,108
<b>1994</b>	14	17,300	50,800
<b>1995</b>	9	8,083	18,190
<b>1996</b>	9	10,881	204,169
<b>1997</b>	8	2,960	34,425
<b>1998</b>	6	4,320	6,030
<b>1999</b>	5	3,220	4,560
<b>Total</b>	<b>75</b>	<b>69,840</b>	<b>433,572</b>

*Source:* Questionnaire Responses (reconstructed)

From the three tables above, it can be noted that there were more strikes, workers involved and days lost during the 1992-99 period compared to those during 1966-91 period. If the 50 strikes from newspaper sources which were not included in the official statistics are combined with official figures, the pattern that emerges for the number of strikes, workers involved and days lost during 1966-99 is illustrated by Table 6.12. The italicised figures between 1992 and 1997 combine official and newspaper figures.

**Table 6.12: Strike activity 1966-99 (official figures and Newspaper Sources)**

<b>Year</b>	<b>No. of strikes</b>	<b>Workers involved</b>	<b>Days lost</b>
<b>1966</b>	22	1,717	3,221
<b>1967</b>	20	3,078	4,817
<b>1968</b>	11	1,627	2,395
<b>1969</b>	8	1,116	569
<b>1970</b>	7	474	393
<b>1971</b>	16	354	3,202
<b>1972</b>	18	2,544	1,228
<b>1973</b>	6	1,387	4,890
<b>1974</b>	13	981	1,161
<b>1975</b>	4	272	643
<b>1976</b>	13	787	865
<b>1977</b>	8	596	437
<b>1978</b>	10	850	515
<b>1979</b>	6	596	283
<b>1980</b>	4	689	927
<b>1981</b>	2	534	473
<b>1982</b>	5	346	327
<b>1983</b>	0	0	0
<b>1984</b>	2	184	193
<b>1985</b>	2	653	250
<b>1986</b>	2	93	305
<b>1987</b>	0	0	0
<b>1988</b>	0	0	0
<b>1989</b>	0	0	0
<b>1990</b>	1	65	85
<b>1991</b>	2	105	200
<b>1992</b>	<i>91</i>	<i>71,077</i>	<i>279,533</i>
<b>1993</b>	<i>84</i>	<i>319,605</i>	<i>1,035,920</i>
<b>1994</b>	<i>51</i>	<i>155,872</i>	<i>2,637,710</i>

<b>1995</b>	16	246,822	2,558,099
<b>1996</b>	23	45,262	122,877
<b>1997</b>	41	72,815	2,989,161
<b>1998</b>	23	8,663	8,430
<b>1999</b>	21	10,890	21,071
<b>Total</b>	<b>531</b>	<b>950,099</b>	<b>9,380,180</b>

Source: Ministry of Labour (various) and newspapers

Although the number of workers and days lost in strikes reported by newspapers are approximations, as Table 6.12 and tables 6.13, 6.14 and 6.15 show, there were more strikes, a far greater number of workers involved and days lost during the multiparty period than during the one-party period.

**Table 6.13: Number of strikes by Data Sources 1966-99**

<b>Data source</b>	<b>1966-1991</b>	<b>1992-1999</b>	<b>Total</b>
<b>Official statistics</b>	182	300	<b>482</b>
<b>Newspapers</b>	3	90	<b>93</b>
<b>Questionnaires</b>	4	75	<b>79</b>

Source: Various tables above

**Table 6.14 Workers Involved in Strikes by Data Sources 1966-99**

<b>Data source</b>	<b>1966-91</b>	<b>1992-99</b>	<b>Total</b>
<b>Official statistics</b>	19,068	272,036	291,490
<b>Newspapers</b>	2,262	771,682	774,944
<b>Questionnaire</b>	2,368	69,840	72,208

Source: Various tables above

**Table 6.15: Number of Days Lost by Data Source 1966-99**

<b>Data source</b>	<b>1966-91</b>	<b>1992-99</b>	<b>Total</b>
<b>Official statistics</b>	27,379	788,306	815,685
<b>Newspapers</b>	4,761	9,463,480	9,468,241
<b>Questionnaire</b>	3,686	433,572	437,258

Source: various tables above

## **Nature of strikes -1992-99**

This last part of the chapter analyses the nature of strikes during the period 1992-99. The analysis focuses on the features such as strikes without warning; informal leaders as agitators; the chain effect of strikes; duration of strikes; strikes as economic

weapons and strikes as political instruments. By analyzing the nature of strikes during the multiparty state, a broader understanding of the transformation of strike activity in the 1990s is obtained.

### **Strikes without warning**

One of the areas of general consensus among actors in industrial relations in Malawi is that workers did not understand the strike procedure. Many interviewees felt that strikes were characterised by spontaneous outbursts by workers who took their employers by surprise. For example in 1997, the chief executive and other senior officers at Blantyre City Council found that workers had locked the main gate to the car park, flashing placards containing wage demands. As they chanted, they also queried why the Chief Executive bought a Toyota Camry when their wages and conditions of employment remained poor. Strikes reported in the *Daily Times* support the above experience. On 17 November 1994, senior managers at David Whitehead found an angry group of workers outside the entrance to the main building, chanting anti-management songs with their demands written on placards: 150% salary increase, K75 housing allowance, and improvement on funeral benefits. Strikers refused to enter the main gate and therefore agitated outside the fence. Management found it difficult to discuss with them.

By 21 November, workers threw stones and became violent. The employer called the police who dispersed workers using teargas. Malawi National Examinations Board's (MANEB) junior and middle level staff also closed the main entrance in 1995 demanding the removal of the deputy chief executive as a condition for their return to work. As we will note below, the deputy chief executive was removed.

Similarly, Malawi Railways' workers went on strike in November 1995, demanding to know the amount of their severance pay and the new conditions of service as the company was in the process of being sold. The General Manager was surprised that strikers 'had not consulted their union representatives' and 'had not exhausted all avenues of dialogue' before going on strike. Malawi Bureau of Standards (MBS) employees struck in December 1996 demanding a 50% salary increase with effect from April 1996. They demanded the removal of the Director General whom they accused of making many external trips and paying for the administrative assistant's driving lessons. They also alleged that he had backdated his allowance arrears from April 1996 and from October for the rest of the staff. While the strike illustrates both economic and political elements to be discussed later, the manner in which the strike started is of interest.

Like strikes at the City of Blantyre, David Whitehead, MANEB and Malawi Railways, the MBS strike started before any discussion with the Director General. Workers closed the front gate where they stuck placards each listing a particular demand. One of them warned clients: Strike in Progress: No Entry. The Director General lamented, 'unfortunately workers had decided to go on strike without giving negotiation any chance'.

Why should the above strikes and others during the multiparty period be characterised by an erratic start when workers should have been aware of the

importance of prior presentation of grievances to an employer? As will be noted later in chapter 7, the state has enshrined freedom of association and collective bargaining in the 1994 National Constitution and the Labour Relations Act 1996. The latter had provided procedures for dispute settlement and strike action. An orderly strike procedure to reflect an understanding by employees of the 'rules of the game' is what one would have expected by 1996. But as Manda (2000:89) pointed out, the tendency to resort to strike action without negotiation was not a sign of immaturity but a symbol of desperation as well as wisdom to force reluctant employers to do something. Workers at the Universal Industries who went on a violent strike, throwing stones at the company premises, singing songs critical of their personnel manager and calling for his resignation, is further evidence of this. One of the employees pointed that because their general manager failed to hear their grievance against their personnel manager, striking was the only way to tell him that they were serious.

Malawi Posts and Telecommunication Company employees defied their union leaders and staged a strike until their employer paid their gratuity when the company changed ownership. One of them had expressed similar sentiments: 'We have been waiting for our money for a long time, we can't hold any longer'. Similarly, Blantyre Water Board employees who went on strike on 10 November 1998 pointed out that despite presenting their grievances for a long time, management was reluctant to assist. When workers realised that such an approach was yielding results, they took it as the best strategy to protect their interests. For Mikundi (interview), many Malawian managers were brought up during the one-party period when dictatorial management styles flourished and had therefore found it difficult to respond to calls for democracy at the workplace.

### **Informal leaders as agitators**

Related to this feature is also a tendency where strikes were engineered by informal leaders or sometimes leaders of welfare committees, who used their personal grudges against top management to mobilise others to go on strike, by capitalising on 'popular' grievances. For instance, in the 1997 MANEB strike mentioned above, the chairman and deputy chairman of the welfare committee mobilised strikers to demand the removal of the chief executive for what they called 'uncompromising, dictatorial and uncaring attitude'. The chief executive had downgraded the welfare committee's chairman's post from engineer to 'technician' claiming that it was over-titled. She turned down the deputy chairman's request for a diploma course because he did not meet the entry qualification. Although these leaders used popular grievances that every employee shared, the chief executive was aware that the strike leaders used their personal grudges against her.

In 1996, what started as an informal meeting by a few concerned lecturers of the University of Malawi developed into a University-wide Academic and Administrative Staff Consultative Committee (UMAASCC) that provided leadership to a 6-month strike. As they were dissatisfied with low salaries and professional allowances, informal leaders mobilised pressure against the University Council.

Beginning with individual consultations, posters were pinned on strategic locations to call academics and administrators to an urgent meeting where grievances were discussed and strategies agreed and a committee was set up to liaise with other colleges. This led to UMAASCC's formation. Lecturers agreed not to administer end-of-year and final examinations until their salaries were increased by 100% and professional allowance by 35%. UMAASCC met the University Council to present its demands after meeting the Vice Chancellor on 9 August 1996. Although the University Council was reluctant to enter into negotiations with UMAASCC when the strike was still on, it was forced to constitute its negotiation team on 7 October 1996. Initially, the University had written to the UMAASCC that it could start negotiations only after students had been examined and assessed and other college activities were re-instituted.

UMAASCC rejected this precondition, arguing that it would be the process of negotiation that would bring colleges to normal functioning. Students asked the State President to intervene as the delay in settling the dispute was creating uncertainties, missed job opportunities and stress. 'We turn to your Excellency as both Head of Government and as Chancellor of the University, to intervene in order to address this matter with the urgency it deserves'.

The Council Negotiating Team and UMAASCC met on 28 October and 5 November. After 6 months of stalemate, the University Council approved the recommendations from the joint negotiation committee and requested Government funding for the implementation of the recommendations. Lecturers were awarded a 50% increase in both salary and professional allowance. Thus, informal leaders successfully mobilised others to put pressure on the employer to improve their salaries and allowances. The fact that UMAACC was disbanded after the strike confirms the view that this committee was a temporary structure designed to provide a legitimate framework for the functioning of the informal leadership that emerged to mobilise for action.

Contrary to the experience of Southern African sub-region and similar to Namibia in the 1990s (Christie and Madhuku, 1996:4), most of the strikes during the multiparty period were not organised by trade unions. The fact that welfare leaders or joint consultative committee and informal leaders were able to drum up support for protracted strikes using popular grievances supports Batstone et al.'s (1978) view of the social organisation of strikes discussed in chapter 2. It needed a few lecturers to 'sell' the strike idea to others and the university came to a standstill for six months.

### **The chain-effect of strikes**

Another facet of strikes experienced in Malawi was the chain-effect of many strikes. Employers, unionists and government officials interviewed agreed that in many organisations strikes occurred as a result of the 'demonstration effect' (Hyman, 1989b). The proximity of the organisations to each other and the flow of information arising from press commentaries had a powerful influence on worker consciousness and mobilisation for action. In the City of Blantyre, the David Whitehead and Sons



(DWS) strike triggered strikes at Blantyre City Council, Brown and Clapperton, Manica among others .

A year later, the *Nation* confirmed that Malawi was 'helpless' due to what it termed, 'copy-cat strikes'. Besides proximity to striking organisations, workers in the same industry or with a common employer demonstrated a tendency to go on strike because their counterparts in other towns were on strike. For instance, junior staff who demanded salary increases and improved conditions of service at Queen Elizabeth Central Hospital from 10 to 12 August 1993 were followed by their counterparts at Lilongwe Central Hospital between 16 and 18 August 1993 and Zomba Central Hospital on 1 September.

In the private sector, a 12-day strike in 1995 by mission hospital workers at Likuni Mission Hospital in Lilongwe spread to Phalombe Mission Hospital, Bembeke Hospital in Dedza, St. Luke's Hospital in Zomba, St. Joseph Mission Hospital at Nguludi in Chiradzulu, and Mlambe Hospital in Blantyre. They demanded to enjoy terms and conditions of service similar to those in Government hospitals. African workers in Asian shops who went on strike in Blantyre in 1994 triggered a similar strike in Lilongwe and Zomba. They asked for a 100% wage increase, a stop to inhumane treatment and the introduction of a house allowance, leave grant, loan facility, written terms and condition of employment and terminal benefits.

### **Strike duration**

From 1992 to 1999, the duration of strikes were longer. The 90 strikes reported by newspapers between 1992 and 1999 showed an average length of 9 days per strike. There were wide variations. In the private sector, strike duration ranged from 1 to 3 days. In local authorities, it was from 2 to 12 days with the City of Blantyre's 12-day 'mother of strikes' being the longest. In the civil service and Government funded public corporations, strikes were even longer. They ranged from seven days for departmental strikes to several weeks for the entire civil service. The longest strike in the civil service lasted over 8 weeks in 1997. The 1996 University strike discussed above, took 24 weeks. Two explanations could be suggested for such variations. First, with their profit-orientation, private companies were anxious to settle disputes, as time lost in production was money lost. This contrasted with non-profit motive orientation in public service organisations where money was guaranteed through the annual budgeting system. This was also reflected in the paucity of dismissals or deductions from wages even in unlawful strikes. It seemed that government turned a blind eye to the laws that it made. On the other hand, private sector employers were stern, firm and ready to dismiss workers or deduct wages when workers participated in unlawful strikes. They were also able to deduct wages from employees on illegal strikes. For example, in 1995 the Smallholder Fertilizer Revolving Fund dismissed 34 of its employees who went on strike demanding the removal of the Depot Supervisor and other senior managers for not listening to their grievances. Malawi Broadcasting Corporation dismissed over 350 striking workers for refusing to return to work after a 10% salary increase was awarded against their 50% demand. Except for the 1997 civil service strike in which the Government dismissed workers but later withdrew

after pressure from the MCTU, it had portrayed an image of a liberal employer. This leads us to the second explanation. Since the UDF Government took over in the 1990s after workers' freedom of association and the right to strike had been suppressed for some time, such permissiveness could be seen as an attempt to allow workers a 'honeymoon' with their newly acquired labour rights. It might also reflect the lack of experience of the new state machinery to handle labour disputes to internationally accepted standards, norms and procedures.

### **Strikes as economic weapons**

There is a sharp contrast concerning the cause of strikes between the one-party and multiparty periods. According to available records in the tea estates districts of Mulanje and Thyolo, most of the strikes during the one party era there were caused by factors such as concerns for amount of work (task-related), the poor treatment of workers by their capitao (supervisors) and demands to transfer capitao to other department. Of 16 strikes during 1979-90 in Mulanje, only 5 were associated with pay demands and 11 were friction-related demands with capitaos. Of the 7 strikes in 1981 all but one was associated with bad human relations of the supervisors. 'We don't want this supervisor because he uses abusive language'; 'He boasts of being champion in dismissing workers'; 'The section manager is very rude ... he calls us uneducated people' (osaphunzira), were some of the causes of the strikes .

Similarly, of the 35 strikes that occurred in Thyolo between 1966 and 1991, only 7 were demands for pay and the rest with poor relationships with the capitao and task-related demands. Workers felt that the task to be done was too big.

However, most of the 1992-99 (Multiparty era) strikes were demands for wages and improved conditions of service. For instance, of 99 strikes on the tea estates during 1992-99, 70 were wage and financially related demands. The latter included allowances, terminal benefits, severance pay and assistance with funerals also dominated. The four strikes of doctors and nurses at Queen Elizabeth Central Hospital, Zomba Central Hospital and Kamuzu Central Hospital were demands for increase in wages and salaries, house allowances, risk allowances, overtime allowance, and duty allowance. The demand for higher salaries and other financial grievances were not peculiar to civil service organisations.

Public corporations such as ESCOM, University of Malawi, MANEB, and private sector companies such as DWS, East and Central Africa Railways Ltd. and Eastern Produce experienced economic strikes. The 1997 longest civil service strike that had paralysed health, education, community and social services was staged because government failed to implement the Commission of Inquiry recommendations to raise civil servants salaries and other financial benefit. These economic causes of strikes are also supported by data from the 54 employers who responded to a questionnaire. Of the 75 strikes they experienced during the period 1992-99, 68 were wage and other financial demands. In most of the strikes, workers returned after employers met less than half of their demands. For example, ESCOM employees returned to work after a 20% was awarded against a 95% salary increase in July

1993; Blantyre City Council workers went back in October 1994 after a 25% increase was effected and not their original 100% demand. Similarly, civil servants on a 6-week strike demanding up to 150% salary increase in 1994 returned with 25%. The high salary demand presented to the employer was an attempt by workers to exaggerate their plight and gain sympathy from the employer.

The second explanation is that wage demands, as Hyman (1989b) argued, are used to express other demands such as poor working conditions, cruel managers, too much work, and so on. The fact that even when workers made numerous demands, any wage increase below the original demand made them return to work without follow-ups on other demands, is evidence of this. The New Building Society workers went on strike in 1994 over poor working conditions, low wages, and demanded the removal of a 40% contribution to a housing scheme, the resignation of the general manager and a 75% salary increase. They returned to work after a 50% salary increase with no changes to the other demands.

### **Strikes as political instruments**

The strike has been used as a way of getting rid of an incumbent government starting from the colonial period. Even before Malawi's Independence, nationalist politicians used workers to stage protracted strikes in order to press home demands for immediate independence. In the early 1990s, underground pressure groups, like pre-independence nationalist politicians, used workers to help galvanise discontent and pressurise for the collapse of the one-party authoritarian rule. The popular view was that the 1992 strike at DWS – mentioned above – was used as a political tool to dismantle Banda's one-party regime. There was an instrumental belief among workers that by helping to dismantle an oppressive political structure, the new political order would create an enabling environment for economic and social policies that would meet their needs and concerns. Trade unionists are aware that whilst the main objective of the trade union movement was to get economic benefits for its members, they believe that once political freedom is achieved, economic and other benefits would follow. Political strikes also included protest against specific government policy, demands to remove oppressive managers and in some cases workers' demand to meet top-ranking officials with final decision-making power.

There were strikes that were staged to protest against government policy on privatisation of public corporations and also against increases in the price of maize. The 1992 strike at Malawi Railways and the 1996 Chitakale Strike were protests against the sale of companies. Workers doubted of job security and terminal benefits. Most of the strikes staged by non-unionised workers succeeded in creating pressure on Government compared to strikes authorised by unions. Government was believed to have suppressed a mass strike of workers to protest against maize prices in 1998 and the 1997 mass strike to put pressure on government to implement recommendation of the Commission of Inquiry on civil servants wages. The MCTU and the Civil Service Trade Union (CSTU) organised these two strikes.

While it was easy to mobilise and co-ordinate formidable pressure against a particular general manager at a workplace, it was difficult to exert similar pressure on 'government'. This was due to the sheer size and multiplicity of institutions in Government. The Government's perception of mass strikes was also important. There was fear that opposition politicians would use strikes to achieve political ambitions. Consequently, the Government took pre-emptive strategies, such as threats on national radio, the use of police to break the strike and of the law to question the legality of the strike. For example, the May 1998 MCTU's meeting to force the Government to control consumer price increases, received a threat of arrest from the Director of Public Prosecutions who warned that part of the MCTU's press release had 'the potential to promote violence'. In the 1994 Civil Servants Grievance Committee's strike call, the Government reminded civil servants their terms and conditions of service and warned of possible disciplinary action if they participated in the mass action.

The desire to achieve political freedom even at the workplace by workers against oppressive employers was manifested by strikes to remove chief executives and other senior managers. The role of the strike to dismantle oppressive management structures at workplaces is supported by data from 54 respondent organisations. Newspapers, interviews and official statistics reveal workplace strikes demanding the removal of top managers.

MANEB workers went on strike because they wanted to remove the deputy chief executive in 1995 and their chief executive in 1997 for oppressive behaviour. In 1995 strikers demanded the cancellation of the deputy chief executive's new contract and his immediate retirement. The denial of emergency advances in times of bereavement and lack of training opportunities for junior staff were examples of oppressive behaviour strikers resented. The Board of Directors cancelled the new contract and retired the deputy chief executive because of the intensity of the strikers' pressure. The 1997 MANEB strike was a demand for the removal of its chief executive for 'dictatorial and unsympathetic behaviour'.

Chitakale Tea Estate workers in Mulanje forced the resignation of the general manager because they 'were tired of his arrogance and deafness to their plight'. The Electricity Supply Commission of Malawi (ESCOM's) 1998 strike in Blantyre, demanded the removal of the managing director because of his 'rigid and highly centralised procedures for purchases and subsistence allowance'. This is not different from the Universal Industries workers' demand in August 1998 for the immediate removal of their Personnel Manager for being 'cruel and inconsiderate'.

What is evident in all the above cases is workers' determination to remove their managers for what they saw as oppressive behaviour. The fact that these demands have been numerous in the multiparty period, suggests that workers could not tolerate dictatorship at the workplace when the authoritarian one-party regime had given way to democracy. Closely related to demands to remove authoritarian managers at enterprise level was the tendency among strikers to refuse to negotiate with middle-level managers because they lacked final decision-making authority. For instance, embittered by wage and condition of service grievances, junior staff of the University

of Malawi refused to meet the College Principal and the Vice Chancellor in 1995, but went to speak to the State President. Similarly, 200 striking junior hospital workers demanding better salaries and conditions of employment at Queen Elizabeth Central Hospital in Blantyre in August 1993 refused to talk to their hospital administrators but demanded to talk to the Minister of Health.

The Local Government Employees Union decided to meet the State President to ensure immediate resolution of their grievances because officials and politicians in the Ministry of Local Government did not address their grievances. These included unpaid 12-month salary and unpaid 3-year salary increment. The union leaders felt that 'they had been patient enough and did not want to become slaves in their country'. This suggests that workers had experienced oppressive managers who took advantage of the one-party industrial relations climate. Past experiences might have taught workers how decision making bureaucratic structures could employ delaying tactics at the bottom without the knowledge of top management. Implicit in workers' action was a feeling that experiences of the past should not repeat themselves. An example of fear that workers had in dealing with lower level managers was supported by a countrywide strike in mission hospitals whereby workers demanded to have wages and conditions that were applicable to government hospitals. All Mission hospitals are under the Christian Health Association of Malawi (CHAM). Their salaries and conditions of service were different from those in Government hospitals. Ignoring workers' demands - and confirming their fears in dealing with middle level management - the Hospital Administrator at Mlambe Hospital said:

I don't know what these people want ... CHAM has tried its best to improve conditions of service. Surely it is unrealistic for anyone to expect that all CHAM staff should have the same conditions of service as their counterparts in Government hospitals (*Daily Times*, 16 March 1995:1).

At a meeting attended by the Ministries of Labour and Health, workers learnt that the Government had promised financial support for CHAM to review conditions and salaries in their hospitals but CHAM 'withheld the truth from the workers'. New Building Society employees struck on 3 November 1994 after a three-week deadlock with their general manager. When the board chairman intervened, employees realised that their general manager lied when he previously said 'he had told the Board all their grievances'.

The courage and determination of workers in the 1990s, was a product of the political change that had occurred in Malawi. Junior workers in the University of Malawi would not demand to meet Banda, then Life President of the Republic of Malawi and Chancellor of the university. Again in the one party era, the striking nurses at Queen Elizabeth Central Hospital in November 1998 demanding an introduction of K2, 000 risk allowance, speedy promotions and increases in salaries, would not have defied fifteen armed police officers who threatened to 'take unspecified action' if they continued to assemble outside the hospital. Yet, in 1998 they were defiant:

We are not moved by any threat from anyone because we are fighting for our rightful cause. With or without police we are going ahead with our strike and would only return to work after our demands are met in full (*Daily Times*, 11 November 1998:3)

It would also have been impossible in the one party era for 1,000 civil servants to march to Sanjika Palace to petition President Muluzi to intervene in their salary and conditions dispute in 1995, having gone to the Second Vice President's Office earlier. The strikers' attitude to Government's dismissal threats when it announced it would not implement the disputed salary recommendations is another evidence of workers' defiance. Those who had received interdiction letters ignored them, closed their offices and the strike continued for three weeks despite Government's directive to dismiss striking civil servants.

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### Review questions

1. To what extent would you argue that there were more strikes in Malawi during the 1990s than any time before?
2. How different were strikes during the one-party period from those in the multiparty era in terms of:
  - (a) causes
  - (b) duration
  - (c) number of workers involved
  - (d) number of days lost
3. Basing on the nature of strikes in the 1990s, to what extent would you argue that strikes can be used as political and economic weapons?
4. Identify and explain the major features of strikes in the 1990s.
5. Visit any Labour Office and inquire strike statistics for the district over the past ten years. What is the trend like? How do you explain such trends?
6. Interview 5 employees and 5 employers/managers in any chosen organization to compare their perception about the transformation of strike activity in Malawi in the 1990s. How do they characterise the 1990s? Do you discern any pattern in their perceptions?

## Chapter Seven

### The Transformation of Industrial Relations in the 1990s

#### Introduction

This chapter analyses state's response to strikes in the early 1990s. These strikes revealed the extent to which a communication gap existed between employers and employees. Employers found it difficult to call for the attention of angry workers who had stopped working, asking the employer to meet their demands before returning to work. Institutions were caught sleeping having enjoyed so much unaccountability. This could be explained in terms of the weakness of the labour movement precipitated by state control of trade unions. The perpetuation of statutory means of wage determination, a top-down culture and a hostile political environment further weakened the labour movement. The panic reaction experienced during the strikes was 'the price we had to pay for our pretences at peace and calm through the Government's labour policy of threats of dismissals' (*Nation*, August 9, 1993:4).

The response of the state to increasing worker activism could be analysed in terms of immediate reaction and long-term response. The immediate responses relate to the firefighting role of political elite in making appeals to both employers and employees to resolve their disputes peacefully and the press conference organised by the OPC. The long-term response relates to the creation of the new policy on trade unions and collective bargaining, renewal of trade unionism and the reform of the labour laws.

#### Panic reaction: fire-fighting

With strikes taking the nation by surprise and refusing to 'wither away', President Banda made a national broadcast on 7 May 1992 after the David Whitehead strike. He acknowledged the widespread nature of the strikes and the existence of deadlocks in many disputes:

I have heard that since yesterday there have been grievances on wages at David Whitehead and Sons and at the Blantyre City Council, among other several organizations. I have also heard that no satisfactory agreement was reached yesterday and that thereafter there were demonstrations in Blantyre, which later degenerated into looting. (*Malawi News*, 9-15 May 1992:1)

He appealed to all companies and employees 'to stay calm and continue to be peaceful.' He asked employers to look into workers' grievances 'expeditiously and to take corrective measures with speed in order to maintain Malawi's long- established reputation of being peaceful'. Thus, although strikes during 1966-91 could have been important in a repressive state, they were not threatening to the regime. This is further demonstrated by rallies political leaders conducted. Cabinet Ministers, Members of

Parliament and MCP District and Regional Officials addressed employees, employers and the general public at different places. The MCP District Chairman and other party officials addressed employees at David Whitehead on the day of the first big strike. He deplored the use of the strike and instead asked them to discuss their problems with employers with patience and through proper channels to ensure that Malawi maintained its peaceful image. The District Party Chairman in the Central Region asked civil servants on 10 May 1992 at Capital Hill to express their grievances through appropriate channels and not strikes. The Minister of Labour appealed to personnel managers in Blantyre on 11 May to 'solve workers' grievances promptly' while the MCP Regional Treasurer called on workers 'to resolve their differences with employers through contact and dialogue'. The District Chairman for Nkhoswezi pleaded with Dwangwa Sugar Corporation employees against staging strikes, following their threats to damage company property if wages were not increased. At the bureaucratic level, senior state officials from the OPC, Ministries of Labour, Finance, Trade and Industry, Economic Planning and Development, DHRMD, and Controller of Statutory Bodies, organised a round table conference in Blantyre in August 1993 to express Government's concern over the 1992-93-strike activity. They appealed to companies and organisations to form Joint Consultative Committees (JCCs) 'to facilitate amicable resolve of employees' grievances.

### **Joint consultative committees**

The Civil Service JCC was formed 'to improve the running and performance of the civil service through effective two-way communication between the government and the civil servants'. Consisting of the administrative, accounting, medical, secretarial, personnel, teaching, clerical, professional, technical and messenger services, the Civil Service JCC's role was to receive and discuss concerns from either employees or the Government. Although the Civil Service JCC was able to discuss and gain inroads in wage increases and improved conditions of service such as housing allowance and maternity leave for cleaners, civil servants saw them as top-down, manipulative and a panic reaction by the state. They also perceived JCCs as delaying tactics and toothless as they had no legal mandate to authorise strikes. The wide diversity of grades in the civil service at headquarters, regional and district levels made meaningful representation difficult.

The only feasible level could be at the Ministry, but the centralisation of terms and conditions of service made decentralised JCCs operationally impossible as no wage increase could be awarded to one group without affecting similar levels in other Ministries. It was the TUCM committee, which first criticised JCCs and called the state to withdraw JCC initiatives and lay the foundation for an independent and democratic trade union movement and a proper system of industrial relations. That it was the MCP-integrated committee, which criticised the MCP Government's JCC initiative, suggests that union leaders were no longer afraid of harassment or arrest.



## **New policy on trade unions and collective bargaining**

With the 1992-93 strikes the state realised the strangling effect the existing institutional and legal framework had on voluntary collective bargaining and industrial relations. Consequently, the Ministry of Labour announced a policy on collective bargaining and trade unions two months after the formation of the Civil Service JCC. This was an attempt to reform the Trade Unions Act 1958, which restricted freedom of association and did not provide a framework for collective bargaining. In an official press release of 4 October 1993, the Ministry promised to encourage the right to organise and engage in collective bargaining and affiliation to international organisations. It promised to support employers and workers' education programme and the training of union leaders and negotiators, to encourage freedom of association and non-victimisation in employment and to provide the necessary legal framework and administrative arrangement for freedom of association and collective bargaining. The Government promised to initiate tripartite consultations, the ratification and adoption of international labour standards, the enactment of new legislation and the establishment and administration of labour tribunals and an Industrial Relations Court. It also promised to strengthen and support the duties of the Registrar of Trade Unions, provide physical infrastructure and equipment and to provide orientation and training to Ministry field staff as conciliators.

Given our analysis of the weakness of the institutional and legal framework for industrial relations from the 1960s to the 1980s, the Government's public commitment to encourage the right to organise, collective bargaining, employers and workers' education and training, reveals two things. First, it strengthens the view that the state did not support labour rights during the one-party period. Second, such commitment represented a major shift in Malawi's industrial relations system since the policy statement acted as a framework for later reforms in industrial relations under the multiparty state.

Thus the 1992-93-strike wave amidst political reform forced the Government to take on board labour reforms within its package of social, economic and political reforms.

## **Renewal of trade unionism**

The renewal of the labour movement stemmed from the wider impact of the 1992-93 strike waves that revealed that Malawi's existing industrial relations system could not manage a more demanding labour force. The 'fire-fighting' response demonstrated a serious communication gap between employers and employees. In its report to the Consultative Group in Paris on progress made on governance and human rights, the Malawi Government (1993b:8) acknowledged that in response to unprecedented strikes in both the civil service and private sector since May 1992, it had put in place structures for collective bargaining. Against the background of positive state policy in industrial relations, a process of worker self-organisation and renewal was underway.

In October 1993, TUCM organised a Commonwealth Trade Union Council funded workshop attended by Malawi Railways Workers Union, the Building Construction, Civil Engineering and Allied Workers Union, the Transport and General Workers Union, the Local Government Workers Union and the Plantation and Agriculture Workers Union. A new committee emerged at Shire Highlands Hotel in Blantyre to challenge the old TUCM for failing to execute union duties. It also argued that TUCM had no office, and had not convened a committee meeting or conducted any elections since 1964. The committee alleged that TUCM had failed to organise workers and to prevent their exploitation. It then issued a press statement calling all employers to 'recognise and work together with the unions and play their part in building a sound industrial relations system to avoid unnecessary industrial conflict'.

A month later the interim committee organised a three-day 'basic educational seminar' at the Blue Bird Motel in Blantyre. The Kenya-based ICFTU African regional representative promised to assist TUCM through logistical and educational assistance to 'ensure that its lost credibility is restored in the country's new political atmosphere'. On 27 June 1995 the TUCM was registered under the name Malawi Congress of Trade Unions (MCTU).

The Civil Service Trade Union (CSTU) was born of dissatisfaction with the JCCs. A month after the publication of the trade union policy, there were still signs of cracks in the civil service JCC as members resolved to form a trade union. On 7 October 1993, the Ministry-controlled Teachers Association resolved to change its name from an association to a trade union 'in a bid to gain more autonomy'. By 1994, the civil service had three unions: the CSTU, the Customs Workers Union and the Teachers Union of Malawi. By the end of 1994 the Ministry of Labour had registered twelve private and public sectors unions (5 existing and 7 new). With the state taking the leading role in trade union development, union membership increased from 56,000 in 1990 to 63,270 in 1994, an increase of 13% and a density of 36%.

The registered unions were: the Building Construction Civil Engineering and Allied Workers Union (BCCEAWU); Local Government Workers Union (LGWU) which included Cities, Municipal, Town and District Councils (CMTDC), National Water Boards (NWB), Malawi Housing Corporation Workers Union (MHCWU) and Electricity Supply Commission of Malawi Workers Union (ESCOMWU); the Plantation and Agriculture Workers Union (PAWU); Railway Workers Union (RWU) which later changed to the East and Central Africa Railway Workers Union (CEARWU); Transport and General Workers Union (TGWU); Teachers Union of Malawi (TUM); Textile Garments and Leather Workers Union (TGLWU); and Hotel Food and Catering Workers Union (HFCWU). Although doubts can be cast on the accuracy of the figures, the trends created are unmistakable. Table 7.1 shows the rebirth and growth of trade unions in 1994.

*Table 7.1 Rebirth and Growth of Trade Unions in 1994*

<b>Registered Unions</b>	<b>Potential Membership</b>	<b>Actual Membership</b>	<b>Density</b>
BCCEAWU	40,000	20,000	50%
LGEU			
(a) CMTDC	4,000	700	18%
(b) NWB	2,500	300	12%
(c) MHCWU	2,500	200	8%
(d) ESCOMWU	2,000	Na	Na
PAWU	30,000	4,000	13%
RWU	2,000	1,500	75%
TGWU	8,000	3,000	40%
TUM	30,000	24,770	83%
TGLWU	25,000	1,800	7%
HFCWU	32,420	7,000	22%
<b>TOTAL</b>	<b>178,420</b>	<b>63,270</b>	<b>36%</b>

Na = Data not available

Source: Manda (1994).

The growing interest among employees to join trade unions was shown by the overall density of 82% for the TUM, 75% for the RWU, 50% for the BCCEAWU and 40% for the TGWU. As the process of union formation, resuscitation and restructuring continued, registered unions increased from 12 to 19 during the period 1994-99. The additional unions include: the MCTU; CSTU; Customs Workers Union (CWU); National Union of Commercial and General Workers, which changed to Commercial and Industrial Workers Union (CIWU); Sugar Plantation and Allied Workers Union (SPAWU); Electronic Media Workers Union (EMWU); Carlsberg and Southern Bottlers Trade Union (CSBTU) and the Tobacco Tenants and Allied Workers Union (TTAWU). The Textile Garments Workers Union had changed to Textile, Garments Leather and Security Services Union (TGLSWU) as it widened its area of representation. Although some unions such as the RWU, BCCEAWU, PAWU,

LGEU and the TGWU had existed for three decades, they were re-registered in 1995. Table 7.2 shows union growth by 1999.

*Table 7.2 Union growth in 1999*

Name of Trade Union	Date registered	Membership		Density %
		Actual	Potential	
MCTU	27-6-95	17 unions	20 unions	
CSTU	23-1-95	2,000	45,000	4
TUM	1-2-95	35,000	50,000	70
CWU	1-2-95	200	1,000	20
CIWU	1-2-95	10,000	30,000	33
SPAWU	1-2-95	500	12,000	4
HFCWU	9-2-95	5,000	15,000	33
LGEU	9-2-95	1,200	12,000	10
TGWU	1-2-95	3,000	10,000	30
BCCEAWU	17-3-95	20,000	40,000	50
RWU	24-2-95	1,200	1,800	67
PAWU	14-2-95	9,000	200,000	4
TGLSSU	14-2-95	1,800	30,000	6
EMWU	15-4-98	284	800	36
CSBTU	21-4-98	Na	Na	Na
ESCOMWU	21-4-98	1,600	2,000	80
TTAWU	21-4-98	Na	Na	Na
MHCWU	9-11-98	Na	Na	Na
MPTCWU	26-11-98	3,500	5,182	68

Source: Ministry of Labour(1999)

The issue of accurate membership figures is a major problem. However, what is important is that, from 1993, Malawi experienced a trade union boom. By 1999, there were 19 unions and in 2000 the Congress for Malawi Trade Unions (COMATU), an MCTU breakaway, brought the total to 21. By 2005, there were 25 registered unions in Malawi.

## **Constitutional provisions for labour rights**

The 1966 one-party constitution provided that the Government and the people of Malawi 'shall continue to recognise the sanctity of the personal liberties enshrined in the UN Universal Declaration of Human Rights and adherence to the Law of Nations'. However, section 2(2) provided that 'nothing in or done under the authority of any law shall be held to be inconsistent with or in contravention of section 2(1) to the extent that the law in question is reasonably required in the interests of defence, public safety, public order or the national economy.' Thus, although the constitution had indirectly provided freedom of association, domestic labour legislation could prevail over such constitutional protection.

The 1994 Constitution had a different constitutional order. It stressed that the constitution was the primary law of the country and was to be given consideration in the interpretation of all laws. Thus, labour legislation could not make laws and the courts could not interpret them, contrary to the spirit of the constitution. It enshrined human rights provisions that support independent trade unions. Section 13(1) provides for the peaceful settlement of disputes through negotiation, good offices, mediation, conciliation and arbitration. Section 31 gives the right to a fair and safe labour practices, fair remuneration, the right to form and join trade unions or not form or join trade unions, fair wages and equal remuneration for work of equal value and the right to withdraw labour.

## **The labour relations act and freedom of association**

This section analyses legal reforms initiated by the multiparty state in order to enhance freedom of association, collective bargaining, dispute settlement, the right to strike and individual labour rights. One of the biggest steps in Malawi's industrial relations history was the enactment of the Labour Relations Act (LRA) 1996 to 'promote sound labour relations through the protection and promotion of freedom of association, the encouragement of effective collective bargaining and the promotion of orderly dispute settlement conducive to social justice and economic development'.

Section 4 gives the right to freedom of association, and to form or join organizations of one's choice. Section 5 gives the right of an organization to draw its constitution, elect officers and organise its administration, form any federation of trade unions or employers' organizations and affiliate to and participate in the affairs of international workers' or employers' organizations and to receive financial and other assistance. Section 6(1) protects individual workers from discrimination; dismissal, prejudice and threats by union leaders or employers on grounds that they have or not joined a trade union. Section 7(2) prohibits discrimination on grounds of race, colour, nationality, ethnic or social extraction, religion, political opinion, language, sex, marital status, family responsibilities, age, disability, property or birth. Section 11(2) provides that any seven or more members could form a union and two or more employers could form employers' organization. Although the provisions of immunities to registered unions (s.12) and procedures for alteration of rules (s.14),

change of name (s.15), amalgamation (s.16), annual returns of funds (s.18) and cancellation of registration (s.21) are similar to the 1958 Act, the main difference is that the Registrar's power to control union formation and operation is limited. The Registrar cannot cancel the registration of a trade union at his or her own volition unless at the request of the organisation itself or by an order of the Industrial Relations Court (IRC) (s.19). Even if in his own view, the organisation is unable to continue to function as a trade union or an employers' organisation, his or her notification to cancel registration can be challenged by the organisation in question through the IRC (ss.22-23). While previously the Registrar had authority to control union finances, the LRA gives unions freedom to receive external funding and to spend monies on activities that a union deems appropriate. The only requirement is to send an annual audited account to the Registrar (s.18).

The 1992-93 wave of strikes revealed that employers and employees lacked a bargaining tradition. The exclusion of collective bargaining in the Trade Union Act 1958 had created a gap in the legal framework and prevented the development of bargaining experience among workers and employers. The LRA makes provision for enterprise and sectoral level bargaining as long as a 20% membership threshold has been attained (s.25). Section 24(4) provides that where an employer refuses to recognise a trade union, the latter can appeal to the IRC, if the employer is the Government or a public corporation or to the Secretary for Labour for private sector employers/employees.

Where the 20% threshold is not possible, a union or an employer association could apply for the establishment of an Industrial Council (IC) (s.27). Composed of employer and employee representatives, an IC negotiates wages and conditions of employment, establishes dispute resolution machinery, and develops an industrial policy for the industry concerned (s.30). Thus, ICs widen opportunities for the right to collective bargaining. The need for parties to negotiate in good faith (s.31), produce written and duly signed collective agreements (s.32), the legal enforceability of collective agreements (s.33), submission of copy of collective agreements to the Registrar (s.34) and disclosure of information by parties to the negotiation (s.38), have the potential to enhance collective bargaining and the protection of workers' and employers' interests.

The creation of Tripartite Labour Advisory Council has the potential to enhance workers' right to participate in broad industrial relations issues than just wages and conditions of employment. Composed of 12 members, 4 from each of the three social partners, the Council advises the Minister of Labour on labour and employment issues, collective bargaining, the labour market, human resource development and the review, operation and enforcement of the LRA and ILO conventions (s.58). However, employers criticised provisions for recognition for collective bargaining requiring a 20% threshold as undemocratic and pro-workers. Both employers and employees had mixed reactions on the legal framework. Employers believed that the multiparty state has spoiled the investment climate by giving workers more rights including the right to strike. Trade union leaders, on the other hand, have criticised the state for creating a legal framework that made them vulnerable to exploitation by *capital*. A closer

analysis of the LRA reveals that it has provided a more enabling environment for workers to enjoy freedom of association, collective bargaining and the right to strike than was the case during the one-party period.

In chapter 5, we noted that the Trade Disputes (Settlement and Arbitration) Act 1952 did not clarify the right to strike. The political environment, which treated strikers as opponents of the state, also circumscribed it. The right to strike was guaranteed in the 1994 Malawi Constitution following the 1992-93 strikes. Section 31(4) of the Malawi Constitution gives the right to withdraw labour. Sections 42-54 of the LRA provide for the settlement of disputes and the right to strike. Section 43 stipulates the need for either party to report any dispute to the Secretary for Labour (PS) to arrange for conciliation after voluntary procedures have been exhausted. Sections 45-47 provide procedures for a strike or lockout in case a dispute is unresolved but prohibits strikes in essential service.

Unlike the 1952 Act that had a pre-determined list of essential services and gave the Minister power to determine essential services, the LRA empowers the IRC to make determination (s.45) without any preliminary list. If a dispute in an essential service remains unresolved, either party can apply to the IRC for determination, and the Court's decision is binding to both parties. If 21 days expires after a dispute in a non-essential service was reported, the parties might apply to the IRC for further determination. A party might give a seven-day-notice to the other party and the PS of their intention to strike (s.45). In order to protect the right to strike, the LRA provides that the status of collective agreements and employment contracts shall not be breached by a strike (s.48). Section 49 provides civil immunities for strikers, and workers have a right to return to employment after the strike (s.50). Section 51-52 restrains an employer from employing temporary labour to replace strikers and gives workers the right to refuse to do strikers' work. However, the use of a strike as a tool to pressurise an employer conflicts with the period it takes to exhaust procedures, particularly where workers perceived that an employer was using delaying tactics.

A major transformation in dispute settlement procedures was the creation of the IRC to hear and determine labour disputes (s.64). The fact that the IRC's decision 'shall have the same force and effect as any other decision of a competent court' (s.75) is important because it has an equal number of representatives of workers (five) and employers (five). This suggests that decisions arrived at by the IRC have full participation of the workers' representatives as members are nominated by their most representative organisations. As relatively independent trade unions exist, the potential for workers to influence decisions of the court could be greater than that during the one-party period.

The LRA has reduced the Minister of Labour and the Registrar of Trade Unions' influence on freedom of association, collective bargaining and the right to strike, thereby enabling workers to gain more rights. As part of the legal reforms, individual employment rights are now in the Employment Act 2000 (EA). The Employment Bill was tabled and discussed extensively by employers, employees and parliamentarians in 1999 before being enacted in 2000. The central objective for the EA is 'to establish, reinforce and regulate minimum standards of employment with the purpose

of ensuring equity necessary for enhancing industrial peace, accelerated economic growth and social justice'. It incorporates employment principles enshrined in the 1995 Constitution and the ILO conventions. One significant provision is that the EA applies to all employees including those in Government, public authority or corporation (s.2), unlike the previous Act that applied to the lowest paid employees.

Section 5 prohibits discrimination in recruitment, training, promotions, terms and conditions of employment, termination of employment and termination on grounds of race, colour, sex, language, religion, and political or other opinion. Section 6 provides equal pay for work of equal value and section 7 provides that the Court shall hear and make appropriate remedies in case of alleged infringement of fundamental rights. An employee has a right to written particulars of employment (s.27), a right to a notice of termination of contract (s.29), payment in lieu of notice (s.30) and the right to severance allowance on the termination of contract.

Sections 36-63 provide for hours of work, overtime, payment of wages, annual leave, and maternity leave, disciplinary procedure, dismissals and remedies for unfair dismissal. As this Act was enacted six years after the country became a multiparty state, there was a lot of input from employers and trade unions through tripartite workshops and seminars. While the employer has the power to summarily dismiss an employee on grounds of misconduct, lack of skill or any other reason, an employee has a right to lodge his grievance with the IRC for 'unfair dismissal' or 'unfair labour practices' with the burden of proof resting with the employer. As with the LRA, the balance of power created by the EA is a product the process of withdrawing some of the powers from both employers and the state to enhance workers' power. While in the past the state could dictate labour-related issues for employers and employees to comply, and that employers could change 'rules of the game', the EA empowers workers to challenge the employer's right to manage.

However, while the EA applies to Government employees like civil servants, local authority personnel, and judicial service personnel, a unilateral system of wages and conditions of employment determination still remains in the public service. The DHRMD is still the major instrument for the formulation and implementation of Government policy on human resource planning, recruitment, training and development and management. The MPSR that governs terms and conditions of employment is not amended to reflect the new industrial relations framework. The Civil Service Commission, the Local Authority Commission and the Judicial Service Commission are still functioning as key institutions in the recruitment, appointment, selection for training, promotion and the discipline of Government employees.

There have also been efforts to recruit university graduates to fill positions of district labour officers and regional officers. Government has organised workshops and tripartite seminars to equip employers, trade union leaders and Ministry of Labour staff with industrial relations knowledge and skills since 1994. As one Ministry of Labour official noted, its current role in industrial relations is 'challenging, dangerous, and risky'. He argues that labour officers 'do not sleep', as was the case during the one-party period when MCP functionaries did industrial relations tasks. He talks of increased calls by employers for the Ministry of Labour's



conciliators since 1992. The demand for skills in handling industrial disputes in many private sector organisations strained the Ministry's capacity to respond effectively. Some companies 'poach' Ministry of Labour staff thereby creating additional shortages at district, regional and headquarters levels.

### **State attitude towards unionism**

Employers, union leaders, workers, analysts and state officials interviewed agreed that the one-party state had suppressed the growth of independent trade unions through open hostility towards freedom of association. Workers' fear of party functionaries intensified in the 1980s when the President dismissed ministers, party officials, heads of public corporations and senior civil servants during presidential rallies, and on the national radio - on allegations, from party informers, that they had broken the four party corner stones: unity, loyalty, obedience, discipline

The political system that existed between Independence and the end of the 1980s silenced workers from demanding improvements in wages and conditions of employment. Labour had no voice but remained a loyal recipient of orders from employers and the state. Laws of detention without trial and the sudden disappearance of dissidents scared workers and employers. It was also agreed that the transition from the one-party to a multiparty state led to a shift in the state's official position on trade unions. Legal and institutional reforms the state carried after 1992 were evidence of its commitment to promote trade unionism. That trade unions have mushroomed in recent years and that several public offices such as the IRC and the Ombudsman have been created provide workers with many options for seeking redress. Workers are able to challenge unfair dismissals and their conditions of employment have improved in recent years. Maternity leave and housing allowances for cleaners and other junior staff originally enjoyed by senior staff were often cited as improvements in both private and public sector industrial relations.

### **Similarity: same ends, different means**

Although trade unions have been accepted officially and have flourished, it is argued that the multiparty state does employ tactics that undermined the growth of independent unions. It is said that the attitude of the state in both the one-party and multiparty state has not been static. It has been 'changing like a chameleon'. The relationship between unions and nationalist politicians was favourable during independence struggles but soured before and during the one-party period. During the transition period the opposition AFORD and UDF used workers to stage political strikes but the state 'has started to wear a thicker coat' after the breakdown of the one-party state. The alliance between labour and nationalist politicians before independence and their subsequent clash towards and after Independence had been repeated in recent years.

Thus, the legal reforms examined in this chapter are but the beginning. What is important is the extent to which labour rights are realised. A closer analysis of the

means employed by the multiparty state to restrict freedom of association reveals 'divide and rule' and 'hide-and-peek' tactics..

### **Divide-and-rule tactics**

The divide-and-rule tactics relates to state sponsorship of splinter unions to create chaos in the labour movement and manipulation of union leaders. While the multiparty state sought to promote unionism, it is alleged to encourage rebellions within unions. The MCTU breakaway, COMATU, created in 2000 as a second labour federation, is perceived to be a state machination to strangle the labour movement. Unionists questioned the wisdom of registering COMATU when section 11(3c) of the LRA stipulates that the Registrar would register a union when the name 'does not so closely resemble that of another trade union or employer's organisation so as to mislead or cause confusion'. The closeness between the Malawi Congress of Trade Union and the Congress of Malawi Trade Unions suggests that there might be confusion of identity.

The state is also believed to work towards creating splinter unions in the CSTU and BCCEAWU. The fact that the state has proceeded with the registration of enterprise based unions in building, civil engineering quarrying and mining contrary to the sectorisation agreement is viewed as a ploy to weaken unions. The state is good at 'nipping leaders in the bud' through manipulation. It was widely held that the state had silenced the most vocal and articulate CSTU President by giving him a car loan and allocating him a house suitable for a Professional Officer/Administrative Officer or Under Secretary according to the MPSR. The house and the car loan had been a focal point of allegations for his withdrawal from an agreed mass action to force the Government to reduce maize and fuel prices and to raise the minimum wage to K2000 in 1998. As a CTSU legal advisor decried in a similar instance in 1995, Government's action was aimed at frustrating civil servants' effort by buying off some of them to weaken their collective power'.

The sudden change of mind of the MCTU President on a threat of strike against the Government's 1995 maize price announcement was another example of state manipulation of union leaders. Closer to the end of the period of the ultimatum, the Union President changed his mind and announced that MCTU was withdrawing its ultimatum because 'we did not know what we were doing'. While some union leaders were promoted and sent to foreign services, others were transferred to other parts of the country to weaken union leadership. During the longest civil service strike (in 1997) against delays in the implementation of the 1995 Commission of Inquiry recommendations, the state posted away the TUM General Secretary to South Africa and CSTU leaders to different parts of the country . At the same time the state arrested and charged workers for participating in the strike or for being union leaders in areas where vandalism occurred.

## Hide-and-peek tactics

The 'hide-and-peek' tactics are means the state uses to acknowledge the presence of unions' rights at one time and withdraw them at another. These include recognition, labelling unionists as opposition agents, delaying tactics, use of state apparatus to suppress labour rights and unilateral decision making. Although the LRA is clear on the recognition threshold, the state has not been exemplary as an employer in recognising two of the three civil service unions. It had not signed a recognition agreement with CSTU and TUM. Resuscitated and registered in 1995, TUM has a density of 82% but since handing over its draft recognition agreement to the Ministry of Education in 1995, the latter, according to a union official, 'has been looking at it'. A former TUM's Secretary General said that every time he reminded the Ministry to sign the document, he was told that it was not necessary since the state was aware of the existence of unions in Malawi. The hide-and-peek tactic is clear here. The LRA makes the signing of the recognition agreement a prerequisite for negotiation. Although the Ministry has not come out to frustrate TUM, there is a danger that the Ministry could challenge the union on grounds that it had not been recognised.

In spite of the fact that the state was the employer of over 100,000, CSTU has continued to function for a long time without a recognition agreement. In 1999, CSTU had a 4.4% density and 10% in 2000 well below the recognition threshold of 20%. The state nevertheless engages in collective bargaining with the CSTU. What is interesting is that when CSTU threatens to strike, the Government warns that the anticipated action is illegal, as the union is not recognised. This is where unionists view the state as employing 'hide-and-peek' tactics. What is even more interesting is why CSTU has not been able to secure up to 20% membership for recognition purposes out of a potential membership of over 100,000 employees. Could the hide-and-peek, divide-and-rule tactics provide clues to the stunted growth in membership in the civil service?

Another indicator of 'hide-and-peek' tactics is the manner in which the state viewed unions' actions. The state viewed unionists as agents of opposition politicians bent on inciting the masses. The 1998 mass rally on maize and petrol prices are examples where unionists were viewed as opposition agents bent to frustrate the Government. As a Ministry of Labour official noted, opposition politicians have 'threatened us for frustrating their plans when we announce the illegality of a planned mass action'. It is interesting to note that both the unions and the state accuse each other of meddling in industrial relations through underground manoeuvres.

Trade unions complain that the state sponsors splinter groups among existing unions in order to weaken unionism in the CSTU, MCTU and BCCEGWU. For example, when the President of the MCTU visited the state President in 1998, he argued that the major problem facing unions in Malawi was the strong anti-union elements within the Government and employers. On the other hand, Government officials argued that the problem was the MCTU's unproductive leadership and its alliance with opposition politicians (Manda, 2000:66).

Malawi's regional voting patterns since the 1994 multiparty elections might make the Government feel very strongly that disaffected politicians could use workers. The MCTU President came from the stronghold of the opposition AFORD party and the MCTU Secretary General was from the opposition stronghold of the then MCP President Chakuwamba. Within the leadership ranks Manda (2000:59) sees 'each camp as accusing each other as sell-outs' due to political party affiliations. Pro-opposition leaders would favour, while pro-government would discourage, any plans to pressurise Government through a mass strike.

Civil servants felt that the state employs delaying tactics in the implementation of agreements. For example, there were a series of strikes in 1995 that forced the state to appoint a commission of inquiry on salaries and conditions of service in the civil service. It accepted to implement the recommendations 'in full' effective April 1995. When it became clear that the Government did not honour its promise, the CSTU threatened and took part in a series of strikes between April and August 1995 to force the Government to implement the new wages and salaries. In August 1995, the Government announced that it would start implementing the new salary structure in phases starting from April 1996 because it had no money. Faced with further threats of strikes, the Government shifted its focus to the need to establish the exact number of civil servants as rumours of 'ghost' employees intensified. It called for another study to verify the number of civil servants on the payroll and those physically in the offices. Although the state verified that there were more 'ghost' workers and that it could save money through cost cutting measures agreed with the CSTU, the new wage and salary structure was not implemented. In 1997, the Minister of Finance announced that the Government would not implement the wages and salaries recommendations because it had no money and that it did not promise wages and salary increases in its 1994 election manifesto. This led to a series of strikes culminating in the 1997 dispute that accounted for the largest number of days lost.

The Office of the President and Cabinet has also the tendency of changing its negotiating team members during negotiations with the CSTU. For instance, in August 1995, talks between the CSTU and the Government 'collapsed' after the Government side had replaced its negotiating team. Another example union leaders saw as the state's tendency to employ delaying tactics in industrial relations was when cabinet ministers failed to turn up to a Government-arranged meeting to discuss workers' concern on minimum wages and the price of maize in 1998. This created frustration among public service unions' leaders and their members who accused the Government of not negotiating in good faith. For Chitwanga (interview) noted, 'the Government likes preaching freedom without giving it to the workers'.

Another mechanism the state uses to limit the right to strike is the police and the law. Every time workers decided to strike, the state or employers mobilise police to tear-gas strikers. The High Court rejected MCTU's application, for an injunction restraining the police from blocking MCTU because the police and city authorities 'were empowered to determine whether or not an assembly or demonstration should go ahead'.

The Ministry of Labour is another state machinery union leaders felt was used to weaken the solidarity of the labour movement during a planned strike. Using the state-controlled radio, the Ministry intimidated workers by invoking certain provisions of the LRA to label the strike illegal. Union leaders do not have the opportunity to communicate to members using the same radio to ensure that their side is heard. The consequence of this was the poor turn out at mass rallies, failed strikes, and a loss of confidence by workers in their union leaders and strikes in general. A unionist argued that state interference through the police and the law made the availability of freedom of association 'mere window dressing': *Ufulu ulipo koma mphamvu zatengedwa* (there is freedom but our influence is eroded).

Although the state negotiates with the CSTU on wages and salaries and conditions of employment, there was unilateral decision making on wage rises. CSTU leaders at times heard on the radio or through a circular letter about such changes to which they were not a party. Such manouvres, according to one unionist, are attempts by the state to sideline unions and portray to employees 'how unimportant unions are.

### **The Impact of State Attitude on Private Sector Industrial Relations**

What impact did the state's 'hide-and-see' and 'divide-and- rule' tactics have on private sector industrial relations? Anti-union behaviour in the form of victimisation of union leaders, refusal of time-off for union activities, refusal of access by unions to workplaces by employers, divide and rule tactics are some of the experiences in the private sector. As the CIWU vice-president stressed, retrenchment was one of the dangers unionists were exposed to. 'When you are a union leader, you are the first person to be retrenched'. She lost her job because as president of the MCTU Women's Section, she was involved in union activities. This did not please her employer because of frequent requests for time-offs. She was transferred and later declared redundant.

The Hotel, Food Processing and Catering Workers Union have a related experience. 'We organised a branch at Tambala Food Products but when we went the other time, we found that the Human Resource Manager had retrenched the whole department'. The National Bank of Malawi Workers Union (NBMWU) was banned following disagreements with management over annual salary increments. NBMWU had accused senior managers of awarding themselves hefty packages and small increments to bankers. According to an MHC union leader when there is an impending strike, the general manager called heads of department to ask their subordinates 'to return to their offices if they wanted to secure their jobs'. At times, 'the General Manager calls the police to stay around and keep on intimidating workers the whole day in return for payment'. This, he argues, makes threats of strikes meaningless and leads to loss of interest in unionism among the shop floor workers.

A 1997 Human Rights Report noted that although unionisation had increased since the advent of democracy in Malawi, there was 'increasing resistance from employers'. A Human Rights and Employment study commissioned by the Ministry

of Labour in 2000 to assess the effectiveness of the freedom of association and collective bargaining found anti-union behaviour in public and private sector employers. Anti-union factors were employers' refusal to allow trade union leaders to workplaces and time-off for union activities, recognition and victimisation of unionists through dismissals, lack of promotions, lack of training, funding rival groups and the use of the police to disrupt strikes. The study also blamed the state for constraining freedom of association because it 'took with one hand what the other gave'. The foregoing anti-union attitudes were viewed as impacting on union growth negatively. For instance, out of the 11 unions the Ministry of Labour's study analysed, 6 were declining as shown in Table 7.3 below.

*Table 7.3: Membership growth and decline 1995-99*

Name	Estimated number		Rise(+) / decline(-) )
	1995	1999	
<b>CSTU</b>	2000	800	-1200
<b>TUM</b>	30,000	35,000	+5,000
<b>TGWU</b>	3,000	6,500	+3,500
<b>LGEU</b>	1,200	1,100	-100
<b>CIAWU</b>	1,000	6,000	+5,000
<b>SPAWU</b>	1,000	6,000	+5,500
<b>HFPCW U</b>	500	5,000	+4,500
<b>RWU</b>	1,2000	800	-400
<b>BCCEW U</b>	20,000	2,000	-18,000
<b>PAWU</b>	9,000	2,000	-7,000
<b>TLSWU</b>	1,800	1,000	-800

*Source:* Ministry of Labour (2000: 13) recalculated.

While some unions are gaining members, others are losing members. BCCEAWU and PAWU are examples of the latter case. State officials viewed membership decline as a product of many factors such as members' loss of faith due to failed strikes, reluctance to paying union fees, poor leadership, financial constraints, travel problems to meet members, and the alliances some union leaders made with opposition politicians. Unionists viewed the decline as the result of the state's 'hide-and-see' and 'divide-and-rule' tactics. For Manda (2000:59-63) political affiliations and struggles for power among union leaders create quarrels and tensions, which

hinder the growth and effective functioning of trade unions in Malawi. While these could be genuine explanations for low membership in some unions, the gains shown in the other unions within the same period require other explanations. But a negative verdict on trade unions in Malawi cannot be passed given the inaccuracy of figures. It is sufficient though at this stage to see the declining membership as a product of many forces within the political economy of the labour movement.

Thus, despite the current multiparty state's positive official attitude towards trade unions, other actors see it as 'diplomatically' hostile. Unlike the open and conceited effort to suppress freedom of association during the one-party state, the two forms of state differ in the means used and not the ends pursued. The negative state attitude towards trade unions is reflected in different countries in the Southern African region.

The right of any state to mould its own industrial relations system seems to be embedded in the ILO labour standards. For example, the 'right to strike' is not absolute as it is dependent on 'national laws or regulations'. Madhuku's (1997:529) study of Botswana, South Africa, Namibia, Zambia, Zimbabwe, Malawi, Lesotho and Swaziland, revealed different degrees of state restrictions on the right to strike. He argued that these restrictions could be explained by the high priority accorded to economic development, with human rights being perceived as luxuries.

In a study of union rights in Zambia, Botswana, Swaziland, and Malawi, Sibanda (1999:16) argued that, although the ILO Convention No.48 gave workers the right to organise, and the UN Declaration of Human Rights recognised union rights as human rights, 'these rights were under threat in Southern Africa'. Although there was a decline in unilateralism in employment in Southern African region, some countries such as Zimbabwe, Botswana and Lesotho were reluctant to provide for trade union formation and collective bargaining in the public services (Kalua and Madhuku, 1997:4-5). There was a blanket prohibition of the right to strike in the public service in Zimbabwe, Botswana, Lesotho, and Zambia and Tanzania's top management. Although most countries in this region oblige employers to bargain collectively with unions which achieve a certain threshold, collective agreements are vulnerable to court review and ministerial sanctions as they are enforceable after being registered by either the Ministry of Labour or the Industrial Relations Court (Christie and Madhuku, 1996:4-6).

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### **Review questions**

1. How far would you agree to the view that industrial relations reforms in Malawi stemmed from the political reforms that occurred at the beginning of the 1990s?
2. The strike waves in the 1990s created a panic reaction among political elites in Malawi. Discuss
3. The 1993 Policy on Trade Unions and Collective Bargaining became the major basis for industrial relations reform in Malawi. Discuss.
4. Write notes on the following:
  - (a) Rebirth of trade unions

- (b) Constitutional grantee for freedom of association and trade union rights
- (c) Labour Relations Act 1996
- (d) Employment Act 2000

5. Critically analyse the strength and weakness of the Labour Relations Act 1996.
6. Discuss with the Labour Commissioner or any Senior Ministry of Labour official to find out their views about the current functioning of the Ministry of Labour in relation to industrial relations compared to the one-party period.  
What differences and similarities do you discern?
7. Discuss with two Employers, two trade union leaders and two senior labour officers concerning the attitude of the state on trade unionism during the multiparty compared to the one-party period. What continuities and changes do you discern?
8. Discuss with two Employers, two trade union leaders and two senior labour officers concerning the attitude of employers towards trade unionism during the multiparty compared to the one-party period. What continuities and changes do you discern?
9. Discuss with two Employers, two trade union leaders and two senior labour officers concerning the role and effectiveness of trade unions during the multiparty compared to the one-party period. What continuities and changes do you discern?



## **Chapter Eight**

### **The State and Industrial Relations: Theory and Evidence**

#### **Introduction**

This chapter analyses the extent to which explanations for strike activity discussed in chapter two help us understand industrial relations and strike activity in Malawi in view of the political, economic and legal context discussed in previous chapters. An analysis of the role of the state, political elite, the political environment, economic environment, institutions and the law in understanding industrial relations is presented. It concludes with issues that will continue to shape Malawi's industrial relations in future.

#### **The role of the state**

The role of the state and industrialising elites in shaping the process of economic development and containing worker protest is one of the major thrusts of the industrialisation thesis. How do these features help illuminate Malawi's experience? An analysis of the impact of the state in industrial relations in East and Central Africa has shown that the state controlled the registration and management of trade unions. Whilst the colonial state controlled the growth of an active labour movement through labour migration policy, a restrictive legal framework and the inadequate industrial infrastructure, it did demonstrate a caring attitude at the level of individual employment rights. The colonial state in Nyasaland was less repressive compared to the post-Independence Malawian state if levels of industrial conflict and the number of unions are used as measures. There were 220 strikes in the last 17 years of colonial rule compared to 182 during the 26 years of the one-party period. There were 19 trade unions created during the colonial period compared to 5 from the year of Independence 1964.

The role of the state in engineering socio-economic and political policies and programmes became imperative at independence in 1964 as its colonial heritage left the independent state with limited choices in its development strategy due to the shortage of indigenous entrepreneurs, finance and human resources. It was an agriculturally dependent economy supported by a migrant labour tradition. Therefore, the state took the role of economic planning and implementation using the public service, public corporations, state-run agricultural estates and commercial and industrial enterprises belonging to political elite. It also encouraged and stimulated private sector investment. The state's commitment to balanced regional development, transfer of the capital city from Zomba to Lilongwe and the construction of social and economic infrastructure in the form of a road network, schools and hospitals, was reflected in various development policies.

Attempts to enhance political stability, national integration and economic development without dissent from within, led to executive dominance and the emergence of a one-party state. The role of the MCP changed from agitation for independence to mobilisation for development at grassroots level and as an instrument of political control to ensure that the state's four cornerstones of unity, loyalty, obedience and discipline were observed. Changes from the pre-Independence Lancaster House Multiparty Constitution to a One-party Constitution in 1966, and the subsequent swearing-in of Banda as Life President of the party and the Republic of Malawi, were moves to consolidate executive powers.

The consequence of state involvement in economic and political development bore hard on human rights. The one-party state under Banda achieved its economic and political policies at the expense of human rights. Forced party card sales, forced gifts to political leaders and the President, forced attendance at party meetings, denial of freedom of expression, freedom of speech, assembly, detention without trial, are some of the features of the one-party state. The impact of the one-party's policies and practices on human rights and people's welfare created internal and external dissatisfaction with the Banda regime. This caused an enormous degree of pressure that led to the change from the one-party to the multiparty state in the 1990s. The role of the state in economic development has remained central even after the transition to a multiparty state in the 1990s. Although some public corporations have since been privatised, as part of the public sector reforms, economic liberalisation has not diminished the role of the state in economic development. It remains the single biggest employer through the civil service. Most of the key public corporations remain under the control of the OPC through line ministries or the Controller of Statutory Bodies. The state therefore has continued to be instrumental in Malawi since Independence in 1964. As Kerr et al. (1973:51) argued, 'the role of government in countries entering upon industrialisation, regardless of political form may be expected to be greater than before'.

As Malawi is one of the poorest countries in Africa, the state would continue to be instrumental in shaping national socio-economic development priorities. For example, when the multiparty state was created in 1994, it inherited estimated poverty levels of 60% for the rural areas and 65% for the city dwellers. Despite the positive economic development Malawi experienced in the first decades of Independence, the majority of the people did not benefit from the fruits of economic growth. High infant and maternal mortality rates, high population density, household food insecurity, environmental degradation, high illiteracy rate, low educational coverage, declining levels of income and high unemployment, forced the state to formulate a poverty alleviation policy. As an operative development philosophy of the country, poverty alleviation was a policy and strategy aimed at guiding all development activities in the short, medium and long-term perspectives.

Although local communities, the private sector, non-governmental organisations and donors are involved in the process of poverty alleviation, the state takes a central role through its structures at district and ministerial levels.. The breadth of sectors identified for targeting in the policy suggests a far greater state involvement. These

include agriculture and food security, irrigation, education, health and population, community and social services, water, sanitation, environment and natural resources, gender, housing, land, transport and infrastructure, human resource development, micro and small enterprises and the informal sector.

Without detailing state involvement in the poverty alleviation programme, its involvement in education can be shown briefly. The basic assumption of the multiparty state was that an increase in the coverage of basic education would lead to improved agricultural productivity, better prospects of employment, reduced infant mortality, lower incidence of disease and a lower fertility rate. The central objective, therefore, became that of increasing access to quality, relevant and efficient education to children and youth. This has led to an increase in state budgetary allocation for basic education, introduction of a free primary school policy, creation of community schools, a commitment to establish more secondary schools, technical, vocational and teacher training colleges, and a review of the curriculum.

Further evidence of state involvement in economic development since the multiparty state has been the 1998 official launch of the Vision 2020. The state and civil society organisations view good governance, sustainable growth and development, achieving a vibrant culture, economic infrastructure, food security, science and technology, equitable distribution of income, environmental management, and human resource development and management as crucial for achieving Malawi's short and long term development aspirations. A study of the role of civil society in economic and democratic development noted that both state and non-governmental organisations have been involved in efforts to enhance human rights, education, health, housing, gender equality, income generation among the rural poor and civic education for democracy (Dzimhiri, 1999: 144-156).

Thus, while civil society organisations and the private sector will remain instrumental in socio-economic development programmes in Malawi, the state continues to be involved in social, economic and political facets of life.

As our focus is not to evaluate the achievements of the multiparty state in its involvement in economic development, it is sufficient to argue that with the continuing poverty that the country has faced since Independence, the state will remain central in economic development endeavors. The role of the state in economic development and the centrality of Banda in shaping economic and political policies had impacted on industrial relations. By adopting a number of strategies including integration of unions with the ruling party, harassment and intimidation of unionists, workers could not agitate for improved conditions of employment and higher wages. The state placed party functionaries at workplaces to check on dissent, and created party branches there. It also employed loyalists to fill executive positions in public corporations and the public service. The President and other political elite warned workers to desist from any forms of subversion, threatening severe consequences if found involved. The presidential wage freezes and the 1969 low wage and salaries policy were other strategies used by the state to attract investors, increase employment, control inflation and reduce rural-urban migration. Although these strategies did not achieve their intended objectives, it was the involvement of the

state in these economic policy decisions that is important for understanding its role in industrial relations.

The state maintained the Trade Unions Act 1958, which restricted freedom of association by enhancing the powers of the state to control unions. It also remained vague on collective bargaining. The Trade Disputes (Arbitration and Settlement) Act 1952 prohibited strikes in essential services and failed to mention strikes in non-essential services. These strategies led to the weakness of trade unions to defend workers' interests through strikes. With key unionists fleeing into exile, and loyal unionists being integrated into the ruling party and offered other civic responsibilities and Foreign Service appointments, there was a marked shift in the tone of unionists as regards their role. That they saw their role as assisting the President in developing Malawi was an obvious sign of a state-controlled labour movement. The consequence of this was industrial 'peace' during the one-party period.

An analysis of state-labour relations during the same period in Zambia, Zimbabwe, Kenya and Tanzania showed that attempts to achieve post-independence economic development plans in these countries forced states to adopt anti-union attitudes and strategies to weaken the labour movement. While state control of the labour movement led to docility of the labour movement in Malawi, in Zambia the ZTUC and its affiliates remained strong. The industrialisation thesis views state control of unions as an attempt by industrialising elite to nip worker organisations in the bud in order to control worker protest in the interest of economic development.

The centrality of the state in industrial relations is further evidenced by what occurred during the period 1992-99. Legal and institutional reforms led to a major transformation in industrial relations. The multiparty state took a leading role in the reform of the legal framework for industrial relations to enhance freedom of association, collective bargaining, individual employment rights and the right to strike. Starting with a call for the formation of JCCs in the private and public sectors, the state introduced a broad policy within which it articulated its commitment to freedom of association and collective bargaining in 1993. It also publicised its support for the review of previous Acts and the development of trade unions and the strengthening of state machinery for industrial relations. The 1994 national constitutional guarantee for freedom of association and the subsequent enactment of the LRA 1996, and the EA 2000, were attempts by the state to enhance individual and collective labour rights hitherto denied. The increase in the number of trade unions from 5 to 25 between 1992 and 2005 is one of the key indices of the impact of the multiparty state on industrial relations.

The fact that during the period 1992-1999 up to 300 strikes were officially reported by the Ministry of Labour as contrasted to 20 strikes during the period 1980-91 shows the extent to which the conflict landscape was transformed during the multiparty period. One explanation for this shift in strike activity had been the change from an authoritarian state that curtailed civil liberties to a democratic state with enhanced civil liberties like freedom of assembly, freedom of expression, freedom of association, freedom of the press, freedom of speech, and religion.

Although freedom of association, collective bargaining and the right to strike were enshrined in the 1994 national constitution and 1996 LRA, the multiparty state was still perceived as anti-union. Although a key player in the transformation of the legal framework and the growth of trade unions, the state was also employing other strategies to restrict these freedoms. These include delays in recognising unions, non-implementation of collective agreements, manipulation and victimisation of union leaders, and the use of state apparatus to restrict the right to strike. The landscape of industrial relations is being determined and shaped by the state.

The difference between the one-party and the multiparty state was not the ends, rather it was the means used to achieve those ends. Both states were committed to socio-economic development. While the one-party state was openly hostile towards workers' organisations and any forms of dissent, the multiparty state employed subtle tactics such as 'divide-and-rule' and 'hide-and-seek' to weaken the labour movement. Subsequently, private sector employers have imitated state tactics in industrial relations. The effect of anti-union behaviour has been associated with the decline of union membership in some unions. This suggests that institutional and legal reforms for industrial relations have been forced on the state due to increased demand for human rights and democracy in modern society. One unionist pointed out that, by officially accepting trade unions, the multiparty state was forced to swallow a bitter pill in the name of democracy. While open hostility towards unions reduced strike activity during the one-party period, the diplomatic hostility employed by the multiparty state has led to an increased level of strikes in recent years. Thus, the one-party state had been more successful in controlling worker protest than has the multiparty state. The fact that both the one-party state and the multiparty state have been perceived as anti-union does not invalidate the view that the latter had transformed industrial relations in Malawi. It revived trade unionism and reformed the industrial relations framework. What the similarity in attitude towards trade unions confirms is that irrespective of political form, the state will remain instrumental in industrial relations in Malawi, as in other African countries. The one-party state and the multiparty state have had considerable but different impact on industrial relations. While the former restricted freedom of association and collective bargaining for close to three decades, the latter transformed the terrain for these labour rights to ensure workers are able to exercise them without fear of harassment.

### **The role of political elites**

The role of elites in shaping the industrialisation process has already been discussed. For Malawi, the 1964 cabinet crisis, which was a challenge to Banda's domestic and foreign policies and threatened national integration and economic development, created a strong justification for him to exert enormous powers over other institutions of government. This included control over the judiciary, the legislature, and public services. From 1966, Banda dominated economic and political life in Malawi. Using the MCP Annual Convention and political party functionaries from grassroots to the central executive committee of the party, he was able to achieve political control and economic development policies. The World Bank attributed Malawi's economic

transformation during 1964-72 to a 'dynamic but prudent management of the economy' (Thomas, 1975:32). While Banda dominated socio-political and economic life during the one-party period, Muluzi's political and economic policies dominated the multiparty period in the mid to late 1990s in Malawi. As a former politician in the one-party state and a wealthy businessman, Muluzi was one of the leaders of the underground pressure groups that campaigned secretly for political change when donor organizations and foreign governments exerted pressure on the one-party regime.

Since taking the presidency from Banda in the 1994, Muluzi had influenced the political, social and economic life of the country. As the first President in a democratic Malawi, he provided leadership for various political, legal and economic reforms to ensure that features of the one-party state are transformed to support human rights. Reforms of repressive laws, the judiciary and the police service, the creation of the new multiparty constitution, public offices like the Anti-Corruption Bureau, the Ombudsman, Law Commission, the Human Rights Commission and industrial relations reforms have given the multiparty state a democratic flavour. Of particular significance were his emphasis on human rights, freedom of speech and the press. Consequently, newspapers, political parties, non-governmental organisations mushroomed in the first few years of the multiparty period.

As human rights campaigner, Muluzi never signed any death sentence since coming to power in 1994. In the economic field, he was known for his poverty alleviation policy, which for sometime became an official framework for initiating, formulating, implementing and evaluating national development policies. As he prefaced the poverty alleviation policy document in 1995, Muluzi argued: 'I launched the poverty alleviation programme on 25 August 1994 outlining my vision on poverty alleviation centered on a process of economic and social development in which people are directly involved and empowered right from the community level to the national level to improve their livelihood'. Though the extent to which this poverty alleviation policy has been achieved is a hot bone of contention, such a direction reflects a particular political elite's vision.

In last few years of his rule, however, he was criticised for allowing the development of undemocratic elements in his party and government, in particular the growing violence perpetrated by the young democrats - akin to the MCP youth leaguers and deliberate interference with the national constitution. The young democrats have been alleged to harass and beat up sympathisers of opposition parties and Muluzi's critics. For example, it was alleged that the ruling UDF drew up a list of journalists to be beaten up for allegedly tarnishing the image of the party. The Roman Catholic Justice and Peace Commission (RCJPC) had deplored what it described as 'state-sponsored violence' aimed at government critics. This was after a Young Democrat was captured when his group harassed Christians on a fund raising walk, thinking that they were supporters of UDF breakaway opposition pressure group - the National Democratic Alliance. Because of their stance on governance issues in Malawi, the Anglican and Muslim clergy had been victims of assaults by the Young Democrats.

The independence of the judiciary was at some point under attack. Angered by judgments in favour of political opposition leaders, the UDF government had threatened to remove three High Court judges - Dunstain Mwaungulu, George Chimasula Phiri and Anaclet Chipeta. The Malawi Law Society's plea for President Muluzi to make a strong public statement against a plan by his party, UDF to move a motion before parliament to remove the three judges did not bring the intended results. Muluzi remained silent as on petitions on state-sponsored violence. Parliament moved a bill to remove the three judges. Political interference in judicial independence was also reported in neighbouring Zimbabwe where some senior judges were under pressure to resign and the government proceeded to 'handpick judges it thought would remain sympathetic to its cause in a number of court actions' (*Financial Times*, 2 August 2001). The 2000 Human Rights Commission (HRC) report corroborates this undemocratic behaviour reminiscent of the one-party period. In its 2000 report, the HRC had received 172 complaints of human rights violations compared to 78 in 1999, suggesting that human rights abuse has been increasing in spite of adopting a democratic constitution.

Civil society organisations including the protestant and Muslim clergy reacted bitterly to what they saw as the development of undemocratic features in which the government was manipulating certain sections of the constitution to its advantage. In their pastoral document of 2001, titled 'Some worrisome trends which undermine the nurturing of our young democracy', the General Synod of the Church of Central Africa Presbyterian expressed its 'deep concern on current developments', which they feared would jeopardize the development of a democratic culture. The document was critical of the amendments to the 1994 National Constitution to abolish the Senate, to control non-governmental organisations, to give the President power to appoint up to 20 Members of Parliament and to abolish limitations of presidential tenure. In a similar manner, the Muslim clergy outlined Muluzi's failures in politics and governance, religion and the economy. Like the Church of Central Africa Presbyterian, they criticised his Government's failure to demonstrate in practice, the tenets of democracy such as tolerance for opposition views and freedom of speech.

Since 2004, Dr Bingu wa Mutharika, initially handpicked by Muluzi to ensure his survival behind the scene, has become one of the most astounding political elite for his attempt to crack down all the ills of the Muluzi Administration. He is known for his stance on waging war on corruption, a position that has seen some top political elites in the Muluzi Administration becoming casualties on allegation of corruption. After being sworn in as the President of the Republic of Malawi in June 2004, Bingu has had significant influence in charting his own vision toward the social economic development of Malawi. Although the Bingu Administration is part of the multiparty period, it is rather too early to analyse the impact of its Administration on industrial relations in Malawi. That is why this book restricts itself to the analysis of industrial relations to the end of the last millennium.

There is a parallel between the one-party and the multiparty state of the Muluzi administration and industrial relations. It was earlier noted there was no difference in the attitude of the one-party and the multiparty state towards trade unions. In the

political arena, a politician who fought for the restoration of democracy is later encouraging undemocratic behaviour. This might confirm the view that the multiparty state was in the forefront of being anti-union using tactics that were different from the one-party state. As political elite shape social, economic and political destinies of the state, one would not be surprised that the state is implicated in anti-union behaviour in spite of the generous labour rights in Malawi's industrial relations law. The relationship between the anti-union attitude and the undemocratic tactics which civil society organisations were worried about is not hard to infer. It only supports Kerr et al. thesis of the influence of political elite and the state in shaping the industrialisation process. If the multiparty political elite display undemocratic sentiments in the general public domain, how could they be expected to support, in practice, the role and activities of independent trade unions?

### **The role of the political environment**

Two issues in the political explanation of strikes are relevant to this discussion. The first is political exchange, a tendency where strikes decline as a consequence of workers' alliance with political parties. The second is the use of the strike as a political weapon to dismantle an unpopular policy or regime. It was noted that the last 17 years of colonial rule witnessed up to 220 strikes. From 1 strike in 1947 the number increased to 15 in 1953, then 15 in 1958 and 77 in 1960. It was argued that the fight against the Federation of Rhodesia and Nyasaland and the need to gain independence could explain increase in strike activity in peak years. There were demonstrations of protest like civil disobedience, non-payment of taxes, disobeying court orders and defiance of state agricultural regulations in Thyolo and other districts.

In 1958 Banda arrived in Malawi to lead the MCP against the Federation of Rhodesia and Nyasaland and to gain Independence. The rise in strike activity could be seen as part of the mobilisation of civil society organisations to exert pressure on the colonial state. Banda was released and constitutional talks began at Lancaster House in London in 1960. The 77 strikes during the year could also be viewed as political mobilization to speed up the hand-over process. The decrease in strike activity to an average of 23 strikes per year during the period 1961-3 was explained in terms of the MCP's change away from collaborating with the labour movement in order to avoid jeopardising progress towards Independence. Thus, an alliance between nationalist elite and the labour movement led to an increased number of strikes during the pre-Independence period and vice versa when they failed to take a common stance on strikes against the colonial state. The number of strikes rose to 64 at Independence before declining from 28 to 2 during the period 1965-91. The increase in 1964 could be explained in terms of raised expectations from Independence as political freedom was expected to bring economic benefits. It was an attempt by workers to pressurise both employers and the state to reward them for participating in the dismantling of colonial administration. This was the time when the independent state was new and weak and workers might have taken advantage.



The gradual decline in strike activity after independence is explained in terms of the increased state control over unions and civil society organisations.

From 156 strikes in the first 13 years of the one-party period, there were only 26 in the last 13 years. The 1966-91 period characterised by fewer strikes is explained in terms of the 'cordial' relations between workers and the state. The TUCM and its members were affiliated to the MCP, which created party branches at workplaces to ensure that workers were involved in party activities. Speeches from union leaders were pro-government, seeing their role as that of helping political elite in developing the country. Thus, the dormancy of the labour movement was a direct result of the relationship between the state and the labour movement. However, unlike in Britain where unions made a decision to affiliate to political parties with the consent of union members, the alliance between the one-party state and the labour movement in Malawi was a unilateral decision by the state. The impact of this integration was lowered strike activity. This did not imply satisfaction of the workers to their wages and conditions of employment. Industrial peace was achieved through the sacrifice of freedom of association, collective bargaining and other labour rights. Union leaders, therefore, enjoyed good relationships with the state at the expense of workers.

As Panitch (1980:173) argued, one response of the state in dealing with the economic behaviour of unions is a corporatist strategy that integrates organised socio-economic producer groups through a system of representation and co-operative mutual interaction at the leadership level and mobilisation and social control at the rank-and-file level. The consequence is the incorporation of trade union congresses and employers' associations into tripartite economic planning bodies directed particularly towards agreement on incomes policy programmes in which the unions become involved in the support and administration of wage restraint to their members.

In former British colonies in Africa, unorganised workers staged strikes as protest not only against poor wages and working conditions, but also against colonial domination. In other words, they were also political strikes. An increase in strike activity in Malawi in the 1990s has also a political explanation. This increase was in part associated with the temporary alliance between opposition politicians in the AFORD and UDF and workers to dismantle the one-party state. AFORD and UDF pressure groups exploited the Catholic Bishops' Pastoral Letter to drum up support for action, a view strongly maintained by workers at DWS where the first major strike occurred in 1992. Workers targeted Banda's business enterprises and chanted anti-Banda songs while demanding improvement in wages and working conditions.

These strikes were attempts to dismantle a dictatorial regime that had repressed labour rights for a long time. Banners carried by striking workers not only demanded higher pay, but also the replacement of oppressive management and political elite. Examples include civil servants who continued with a strike, despite the Government offering an 'olive branch', and further demanded the resignation of the Minister of State in the President's Office; striking civil servants chanted anti-government slogans demanding the resignation of Banda's Government, and the 'inner circle. Although this alliance was not open, and functioned only briefly, it nonetheless

influenced not only worker activism and an increase in strike activity it also created a turning point in industrial relations. The state reviewed its role and initiated legal and administrative reforms in favour of trade unions.

Thus, both pre-Independence and post-Independence periods witnessed some alliances between workers and political elite. Where workers collaborated with opposition or nationalist elite against the state, strike activity increased. However, the alliance between the labour movement and the state during the one-party state led to a decrease in strike activity. Although the multiparty state viewed union leaders as agents of opposition parties, an increase in strike activity could not be viewed from the point of view of an alliance with opposition parties. Rather, to the existence of civil liberties enhanced by the democratisation processes.

With the enshrining of freedom of association and the right to strike in the new constitution and LRA, following the protracted strikes of the 1990s, strikes against Government policy (such as privatisation, and prices of consumer goods) have increased. Strikers have not only demanded the removal of state-appointed chief executives, and private sector managers but they have also challenged Government threats and demanded to meet top officials with final decision-making powers including the state President. While the pre-Independence strikes and the 1992-93 strikes were meant to dismantle repressive state structures, political strikes after 1994 were attempts to exert workers' influence on the new state. As Shorter and Tilly pointed out, these strikes were attempts to impress the authorities and force them to change their policies.

### **The role of the economic environment**

Economic explanation links the business cycle, employment levels, wages and inflation to levels of conflict. In the first decade after Independence, Malawi's economic growth was impressive before economic and non-economic shocks towards the end of the 1970s led to a decline. Even in the first decade after Independence the majority of the population had not benefited from the fruits of economic growth. In order to develop the estate sector, the state imposed a heavy tax through the state crop buying board (ADMARC) leading to a decline in real return to peasant labour. This led to an increase in distribution inequalities and a reduction in standards of living for the majority of the population. What a Member of Parliament said in 1971 shows that political elite supported inequalities:

Our duty here is to create wealth, which our children who come later will come, and dispute on its share...how they are going to divide that wealth. But it is no good now for us to scramble how we should divide that wealth which does not exist. Therefore our main task in this country is to create wealth ... and later our children will come and argue how to share that wealth.

This period was associated with wage freezes and a low wage policy. While the 1969 wage and salaries policy was aimed at reducing inflation, attracting investors, creating employment and curbing rural-urban migration, it did not achieve its goals.

Consumer prices increased, wages declined and rural-urban migration increased. Although employment increased during the period, the continued use of capital-intensive methods in various private sector companies suggests that the economy could not absorb many entrants into the job market. This is not to assess the effectiveness of the wages and salaries policy. Rather, it is to point that, by failing to meet its professed objectives, the policy created a deep sense of grievance among workers.

A study on poverty in Malawi noted that between 1982 and 1992, the purchasing power of the lowest income earner had fallen below the poverty line. The purchasing power declined by 42% during 1982-1988. Despite the doubling of the minimum wage in 1989 and a further increase in 1992, its purchasing power in 1992 remained a quarter below the 1982 level. Between 1970 and 1980, the nominal earnings per estate worker had increased at an average of 3.9% while the low-income retail price index increased at an average of 9.8% per annum (Kydd and Christiansen, 1982:370).

What raises a big challenge to economic explanation for Malawi's experience is that there were fewer strikes during this period. Between 1980 and 1991 there were only 20 reported strikes, and there were no strikes in 1988 when the minimum wage declined by 42%. How can the low strike activity during this period be explained when economic indicators were not favourable?

Could the economic explanation provide insights for pattern of strike activity during the period 1992-99 when there were many economic strikes? For instance, of the 137 strikes in the Southern Region, 113 were related to wage demands; 27 strikes out of 34 in the Central Region and 22 out of 25 in the Northern Region were economic strikes. In most strikes, workers returned to work even when less than half the financial demands were met and non-wage demands were not met. Again, the 1995 Commission of Inquiry into the wages and conditions of employment of civil servants confirmed the low salary and wages in the civil service and private sector organisations in Malawi. This would suggest that economic demands were central to strikes during this period. Studies on labour disputes in the Southern Africa region also noted that wage disputes triggered strikes in the 1990s (Christie and Madhuku, 1996:4).

Economic variables, which started declining towards the end of the 1970s, reached their zenith in the 1990s. Inflation had increased from 15.7% in 1989 to 83% in 1995 before declining to 36.1% in 1998 (Chipeta, 1999:37). The exchange rate shifted from US\$1=MK2 in the mid-1980s to US\$1= MK33 in 1998 before declining to US\$1=MK80 by 2000. As Chipeta noted, whilst in 1993 the average wage could buy slightly less than half of the amount of goods and services than one could buy in 1980, by 1995, it could buy only a quarter. He further noted, like Kydd and Christiansen that the impact was a fall in standards of living of workers and their families, rising incidence of malnutrition, disease, corruption and decreasing morale and productivity. As shown in chapter 1, the impact of economic decline on health, nutrition, among other aspects forced the state to embark on a poverty alleviation policy framework. The vision 2020 was an attempt by the state to reverse these adverse conditions and improve the living standards of the people by the year 2020.

Taken in isolation, the economic explanation could not account for the increased strike activity during the 1990s. Why should workers rise up against employers and the state to defend their wages and conditions of employment in the 1990s after three decades of Independence? Why were there fewer strikes between 1982 and 1991 when workers' wages were below the poverty line? Thus economic explanation needs to be placed within a political context and the transformation of the state. The shift from the one-party authoritarian state to a multiparty state allowed workers to express freely their economic demands and to withstand most threats by employers or the state. The fact that workers defied police or threats of dismissal by employers and the state in the process of defending their economic interests confirms this view. Earlier, we raised a few questions relating to the influence of political changes and state transformation on workers' freedom of association and speech. We queried, for example, whether during the one-party period, nurses would defy threats from heavily armed policemen; whether junior workers in the University of Malawi would have refused to talk to the Vice Chancellor and instead demanded to meet the Chancellor - the State President.

Thus, while workers experienced economic deprivation and worked in conditions they would have liked improvements made, the political environment in the 1970s and 1980s did not allow opportunities for workers to express their economic demands through strikes. Workers began to articulate their economic demands when the strong arm of the one-party state started to weaken following international pressure for political reform. Thus, the 1992-93 strikes were influenced by the vulnerability of the state - a process that was ignited by the Bishops' Letter, withholding of non-humanitarian aid, and pressures from the international community. As Snyder (1975) noted, economic explanation has to be placed within the political and institutional setting in which economic strikes occur.

### **The role of institutions**

Institutional explanation argues that the process of creation of institutions, procedures and rules for managing conflict would explain the rise and decline of strike activity in a particular context. In a country's development process, strike activity declines when trade unions and collective bargaining institutions are created and have become 'centralised, formalised and legitimised' to manage conflict inherent in the employment relationship. Shorter and Tilly's argument that each of the strike waves in France was associated with the organisational capacities of the labour movement supports this view. Knowles (1952:146) argued that unionised workers wage more strikes than the non-unionised suggesting, that the stronger the labour movement, the greater is the number of strikes.

It has been noted that there were fewer strikes during the period 1966-91 compared to the period 1992-99. By Independence in 1964, there were 19 trade unions, 10 employers' organisations, 6 wages advisory councils and 1 wages advisory board. Malawi labour had had wide exposure in mining industries and agricultural estates in South Africa, Zimbabwe, Zambia, Congo, and Tanzania. Trade unions were not only streamlined in number and severely restricted, they also faced legal and political

constraints during the period 1966-91. The legal framework inherited and perpetuated by the one-party state further restricted worker organisations. The weakness of trade unions during the one-party period and the low strike activity experienced during the time supports the institutional explanation. By being weak and docile, the labour movement failed to mount big strikes in defence of its interests.

However, it cannot be concluded that it was the organisational capacity of the labour movement that led to increased strike activity during the multiparty period. Unorganised workers staged most of the strikes. Out of the 137 strikes that occurred in the Southern Region between 1992 and 1999, only 27 involved trade unions. No union was involved in the 34 strikes during the same period in the Central Region. In the Northern Region, out of 25 strikes during the same period, only 2 involved trade unions. It was also noted that some of the big organisations such as the civil service had a low union density. The CSTU, for example, had only 5,000 members out of potential membership of 100,000 by 2000. The fact that some unions including the CSTU and the MCTU are struggling to achieve a 20% recognition threshold confirms the weakness of some trade unions as institutions for mobilising worker protest. Even when some unions have a higher union density above 50%, such as the MHCWU, they fail to mount effective strikes due to employers' anti-union behaviour. The divide-and-rule tactics that MHC managers used, is an example of how union-sanctioned strikes have not been successful in some organisations. Thus, although trade unions gained state acceptance through the 1994 National Constitution and the Labour Relations Act 1996, and have increased, they have not been crucial in mobilising strike activity.

As collective bargaining was non-existent throughout the one-party period, strike activity in the 1990s could neither be explained in terms of the structure of collective bargaining nor the development of comprehensive procedures for dispute settlement. Presidential wage announcement and freezes, a low wage policy, wage advisory councils and wage advisory board were means for determining wages, and terms and conditions of employment during the one-party state. The state's industrial relations institution - the Ministry of Labour - was unable to visit workplaces to resolve individual disputes and to check on whether employers observed minimum wages and conditions of employment. Instead, workers visited the Ministry to report grievances and as a result numerous cases remained unresolved for years.

The Ministry also failed to initiate review of the labour law that remained outdated. The MPSR, the Employment Act 1964, the Trade Unions Act 1958 and the Trade Disputes Act 1952 provided a framework for dispute procedures in terms of clarifying the role of various actors (minister of labour, principal secretary, employer and employees). But these procedures were not instrumental in accounting for the industrial peace that reigned. The 1992-93 strikes, which took employers and the state by surprise, revealed the absence of comprehensive procedures for dispute settlement.

The state was anxious to popularise JCCs as industrial relations institutions against the wishes of employees. This, together with the fact that strike activity was erratic and spontaneous further confirms that there were no comprehensive procedures for

grievance handling and disputes settlement in many organisations. As noted before, politicians travelling from one place to another asking workers to use appropriate channels during 1992 strikes, demonstrates the presence of a deep crisis in procedural norms and institutional capability to handle industrial disputes. Thus, the institutionalisation of industrial conflict during the one-party state was not achieved by the growth of strong unions and comprehensive procedures. It was through the powerful role of the MCP which had opened party branches at workplaces, intervened in disputes and used party informers to enforce the party's ideology of unity, loyalty, obedience and discipline. Even employers found it beneficial to invoke the MCP ideology when they detected any feeling of resistance or opposition from employees.

The increased scope of industrial conflict during the period 1992-99 could not be explained in terms of a 'fragmented' collective bargaining as the Donovan Commission noted of British experience in the 1960s. Most strikes did not arise from the process of collective bargaining. They had been staged in most cases before any negotiation was done. If anything, strikes were a precursor to collective bargaining. Other unions have not achieved the recognition threshold due to anti-union practices by the state and private sector employers.

Procedures for dispute settlement and the provisions for collective bargaining have, since 1996, been comprehensive. Yet, there were more strikes that defy these procedures. Workers go on strike without exhausting the required dispute procedures. Why do workers ignore the legal framework provided by the state? This also strengthens the view that strikes in both the one-party and multiparty period cannot be understood by relying on a purely industrial relation's institutional explanation. A strong political party, presidential intervention in industrial relations matters and the top-down employer model the state provided through the public service weakened the labour movement during the one-party period. The increase in strike activity in the early 1990s could be explained in terms of the political change that transformed the role of the state in industrial relations. Through the 1992-93 political transition, the state lost its past strength vis-à-vis the civil society and workers took advantage to vent their accumulating grievances of wages and conditions of employment.

### **The role of law in restraining workers' behaviour**

One of the questions examined in this book is the impact of the institutional and legal framework on industrial relations in Malawi. A related question arising from this is the extent to which the law restrained workers' behaviour since the colonial period. When the British colonial administration accepted the formation of trade unions in their colonies after the Second World War, the colonial state in Malawi created a legal framework that restricted freedom of association and the right to strike.

Central to this was the Trade Unions Act 1958, which enhanced the power of the Registrar of Trade Unions to refuse and cancel registration, approve and refuse international affiliation and financial assistance and overall financial management of

trade unions. The Trade Disputes (Arbitration and Settlement) Act 1952 restricted the right to strike in essential services and was silent in non-essential services. However, the restrictive Trade Unions Act 1958 did not prevent workers from forming trade unions. By Independence in 1964, there were 19 trade unions. Again, restrictions imposed by the Trade Disputes (Arbitration and Settlement) Act 1952 did not prevent workers from engaging in strike action. Between 1947 and 1963, there were 220 strikes - a greater number of strikes compared to the 26 years of the one-party state. Despite state prohibition of strikes, workers went on strike during the colonial period in Zambia, Zimbabwe, Sierra Leone, Tanzania, Kenya and Nigeria.

In Malawi, the independent state inherited the colonial industrial relations legal framework with minor modifications. It retained the restrictions on freedom of association and the right to strike imposed on the labour movement by the colonial state. These provisions suited the new state's objective to maintain political stability and economic development without inhibitions. It was noted that the Employment Act 1964 became redundant; and the WACs and WAB rarely met as the statute provided. Though the law restricted the right to strike, it was noted that there were 156 strikes in the first half of the one-party period, followed by 26 in the last 13 years. However, the declining trends in strike activity in the last half of the one-party period could not be due to the impact of law. These laws coincided with a hostile political environment in which political elite used the MCP to restrict freedom of association. By intervening in industrial relations, the MCP made the law and other industrial relations institutions irrelevant. It explains why strikes were noticeably absent in the mainstream public service and private sector organisations in the urban areas of Malawi during the one-party rule. Thus, workers' 'discipline' to maintain industrial peace did not occur as a result of the law, rather from other state structures notably the party, which was a supreme policy-making body.

The fact that workers went on a massive strike wave in the period 1992-93 despite the existence of the restrictive legal framework, demonstrates also the extent to which the law could not restrain workers' behaviour. The transition to a democratic political system opened a window of power for the workers to defy the law. Although the multiparty state reformed the legal framework and enhanced freedom of association and provided a comprehensive procedure for dispute settlement and strike action, workers have continued to stage strikes in defiance of the LRA 1996 and state threats of dismissals. Thus, the law has not been successful in restraining workers' behaviour during the colonial, one-party and multiparty periods in Malawi.

As the UDF party has not intervened in industrial relations like the MCP, the multiparty state's reliance on the legal framework has led to more defiance on legal procedures. In Malawi therefore, an authoritarian political environment, acted as a restraining force on workers' behaviour during the one-party period while a more democratic one in the multiparty period was so liberating that workers went to the streets and disregarded the law

## **The future of industrial relations in Malawi: summary and concluding issues**

In this section, five key issues and their implications on industrial relations theory and practice are examined: the role of the state in industrial relations; the significance of political parties in industrial relations; the dilemma between economic development and human rights; the role of the international donor community in the democratisation process and its impact on Malawi's industrial relations; and, the question of change and continuity in state transformation and industrial relations are also highlighted.

The role of the state in industrial relations and the transformation of strike activity over a long period of time have been crucial in this book. It has been demonstrated that it streamlined the number of trade unions, restricted freedom of association, and constrained collective bargaining and the right to strike during the one-party period. The MCP President, ministers, and party cadres at all levels warned of the consequences of subversive activities and called for unity, loyalty, obedience and discipline among workers and all Malawians. Through the Office of the President and Cabinet and the Department of Human Resource Management and Development, and the Malawi Public Service Commission, the state created a top-down model of employer that the private sector emulated. By perpetuating the provisions of the Trade Union Act 1958, Trade Disputes (Arbitration and Settlement) Act 1952, and starving the Ministry of Labour financial and human resources, the state restricted freedom of association, collective bargaining and the right to strike. Thus, using a strong political party and party officials who intervened in industrial relations, top-down public administration machinery and a restrictive legal framework for industrial relations, the state weakened the labour movement during the one-party period.

The implications of this are that although most of the strikes in the 1990s raised economic demands, the sudden transformation of strike activity could not be explained by economic factors in isolation from the role of the state. The transition to a multiparty state allowed workers to express freely their economic demands and to withstand any threats by employers or the state. Workers' ability to defy both their employers' and the state's dismissal threats in the process of defending their economic interests, confirms this view.

The influence of political change on workers' freedom of association and speech was great. Although workers experienced low wages and poor working conditions, the one-party state authoritarianism prevented them from expressing economic demands through strikes. It was only after the one-party state became weakened by democratic reforms that workers began to articulate, aggregate and channel economic demands through strikes. Thus, political, economic and institutional factors shade light in explaining the transformation of industrial relations and strike activity in Malawi when rooted in the transformation from the one-party to a multiparty state. Malawi's experience during the one-party and multiparty periods show that economic demands are better expressed through strike activity when the state supports freedom of association; that authoritarianism suppresses strikes while democracy facilitates



them. Even without unions, workers are able to strike more often in a democratic Malawi if their demands are not met. The transformation of the strike, reforms in industrial relations and the growth of the labour movement in the 1990s, have been explained in terms of the changed state attitude towards freedom of association, collective bargaining and the right to strike.

The significance of the state in industrial relations during the one-party and the multiparty periods strengthens the applicability of industrialisation thesis to the understanding of industrial relations and strike activity in Malawi. It is relevant in providing a broad setting within which we have been able to link economic, political and institutional theories to state transformation. It has also enabled us to study long term trends in strike activity during several phases of Malawi's economic and political transformation. The concept of the industrialising elites and the role of the state provide a framework for understanding how and why the Malawi state functioned the way it did during the one-party and multiparty periods and how that influenced industrial relations in general and strike activity in particular.

The second point relates to the role of political parties in industrial relations. Workers' alliance with political parties and the use of the strike as a political weapon to dismantle an unpopular policy or regime are important features in explaining Malawi's experience during the colonial, the one-party and multiparty periods. Both pre-Independence and post-Independence periods witnessed some alliances between workers and political elite. The alliance between trade unions and the ruling political party during the one-party period led to a decrease in strike activity. Unions were integrated into the MCP, which also had created party branches at workplaces to involve workers in party activities. Union leaders perceived their role as that of helping nationalist elite in Malawi's economic development programmes. The MCP rewarded loyal leaders with Foreign Service appointments and political positions within the country. The weakness of the labour movement was a direct result of the relationship between the ruling party and trade unions.

An increase in strike activity from 1992 was a result of a temporary alliance between opposition politicians, in the AFORD and UDF, and workers to dismantle the one-party state. The centrality of the ruling party in industrial relations during the one-party period is crucial in understanding industrial relations and strike activity in Malawi. An examination of the role of the state in industrial relations in Zambia, Zimbabwe, Tanzania and Kenya supports the view that the ruling party shaped the industrial relations climate during one-party regimes in these countries. The party functioned as a political instrument for the mobilisation and control of the citizenry. It was also entrenched in industrial relations issues at national and workplace level.

While the western understanding of the role of political parties did not entail what the MCP, UNIP, TANU or KANU did in Malawi, Zambia, Tanzania and Kenya respectively, it is important to note that in Malawi, the party controlled employment relations. The party recruited and promoted top executives and party functionaries at the shop floor in the public service and public corporations and was also responsible for workers' discipline. It inculcated into the workers the country's political ideology

of unity, loyalty, obedience and discipline in Malawi, Humanism in Zambia, and Ujamaa Socialism in Tanzania.

The significance of the party in industrial relations in Malawi is also evident in its absence in the multiparty period. The UDF did not intervene in industrial relations, as did the MCP, so the outcome was different. With freedom of association and the right to strike entrenched in the country's constitution and LRA, there were more unorganised strikes and workers were more defiant. Thus, the weakened role of the party in industrial relations in the 1990s when workers' rights increased contributed to a rise in strike activity. The one-party state, which had a strong political party that intervened in industrial relations, had an additional instrument for controlling union activities.

This raises a question about the extent to which the law could be used to restrain workers' behaviour. Although the law restricted freedom of association and the right to strike during the colonial period, it did not affect the formation of trade unions and worker protest. The picture was different during the one-party period. The number of trade unions was reduced and strikes declined. Although the same colonial labour laws regulated industrial relations during the one-party period, the decline in strike activity and trade unions could be attributed to the hostile political environment in which political elite used the MCP to restrict all forms of dissent including freedom of association.

By intervening in industrial relations, the MCP overshadowed the role of law and other industrial relations institutions and therefore helped to create 'industrial peace' during the one-party period. Under the most repressive industrial relations laws, workers went on more protracted strikes in 1992-93, suggesting that the political environment facilitated workers' action to defend their wages and working conditions. This emphasises the view that the repressive political environment that the MCP created - and not the laws - would explain workers' inability to mount politically and economically threatening strikes during the one-party period. Under very clear and less repressive labour laws during the multiparty period, workers have mounted big strikes, often without trade unions, and in defiance of the legal procedures and state threats because the political environment is 'conducive'.

The third point concerns the tensions between human rights and economic development. Both in the one-party and the multiparty state, like other developing countries in Africa, economic development has been a major priority in Malawi. Because of the critical resource and material shortage in most poor nations, the state has been in the forefront in formulating and implementing economic development policies. Through its efforts in collaboration with the private sector and non-governmental organisations, the Malawi state has been concerned with increased productivity in order to enhance the welfare and standards of living of the rural people, alleviate poverty, and reduce infant mortality and other ills of society.

The need to provide workers, who constitute 13% of the economically active, with a decent wage and conditions of employment in a context where the majority of the people live below the poverty line, is one of the most difficult challenges of the state in Malawi. Should it widen workers' rights to higher and better wages at the cost of

scaring away private investors, who would help the state in developing the country for the benefit of the majority? Should workers be given unrestricted freedom of association, collective bargaining and the right to strike in defence of their economic interests when the state cannot afford to meet such demands?

The IMF and World Bank have over the years insisted on reduction in government expenditure, the need to privatise some public service and corporations as part of economic reforms. These demands have in most cases run counter to workers demands for job security, higher wages and better working conditions. Under these circumstances, it would not be surprising to observe that while the National Constitution and labour laws have enshrined freedom of association, collective bargaining and the right to strike, the multiparty state restricts them through 'hide-and-see' and 'divide-and-rule' tactics. The one-party state was notorious for the violation of human rights in general and workers' rights in particular in order to achieve political stability and economic development. The consequence was the total control of trade unions and the suppression of strikes. On the other hand, the multiparty state has witnessed open defiance from unorganised workers who have continued to mount both political and economic strikes in recent years. The fact that the multiparty state manipulates union leaders, creates splinter unions, delays recognition of some unions, uses the police and the law to control strikes, suggests that it faces a dilemma in dealing with questions of human rights and economic development at the same time. Thus, tensions between the need to meet demands for human rights and economic development, in which the state takes a major role, will remain one of the major challenges facing industrial relations in Malawi.

The fourth point is the significance of the international donor community in influencing the behaviour of the state in Malawi and other developing countries in Africa. In Malawi, the industrial relations reforms in the 1990s stemmed from the political reforms that led into the transition from the one-party state to a multiparty one. This major state transformation was possible as a result of international pressure and in particular the withholding of Malawi's non-humanitarian aid and calls for democratic reforms. Since 1989 the World Bank has abandoned its previous economist interpretations of African crisis and advocated instead, good governance, gender equality, decentralisation of power, human rights, the need to check corruption and the involvement of local people in decisionmaking. The consequence of this pressure led to the 1993 National Referendum and the 1994 General Election that in turn led to the formal creation of a multiparty state in Malawi.

The one-party state had not been subjected to pressures for good governance and democratic reforms for close to three decades. Human rights violations such as detention without trial, forced donations to the President, murder of dissidents, repression of freedom of speech and association, which Amnesty International documented, did not lead to an international outcry at the time. One reason for this had been Malawi's capitalist and pro-Western stance during the Cold War and Western capitalist nations saw Malawi as a good ally. Banda's moderate policies of modest economic goals, slow Africanisation, stability, unity, loyalty obedience and discipline were viewed as likely to provide a climate of stability attractive to Western

investment. Like other authoritarian Africa states, which received international financial support despite human rights violations, Malawi continued to receive financial aid from the donor community.

The fact that such a position was maintained for three decades suggests that the international community indirectly helped the creation of a status quo in the role of the state in industrial relations. By reacting to human rights violations and imposing economic sanctions, the Western donor community facilitated the breakdown of an authoritarian one-party state and the creation of a multiparty state. The question that follows is how far externally induced changes become institutionalised and sustained in practice. There are numerous examples of failures of democracies in Africa as evidenced by arguments over electoral results, voting along regional lines as the case of the 1994 and 1999 General Elections in Malawi, lack of tolerance for dissenting views, and suppression of labour rights. This is symptomatic of deep-rooted problems, which would continue to confront democracy, human rights and therefore, industrial relations in Africa.

Newspaper headlines confirm these symptoms: 'Democracy is failing in Sub-Saharan Africa' (*Financial Times*, 5 March 2002); 'Zambia's leader in crackdown on dissent' (ibid, 4 January 2002); 'Protests over Madagascar's poll' (ibid, 30 January 2002); 'Madagascar dispute deepens as Ratsiraka rejects vote recount' (ibid, 30 April 2002); 'South African unions condemn Zimbabwe violence' (ibid, 5 March 2002); 'Only closest allies at Mugabe's inauguration' (ibid, 18 March 2002); 'Violence still rising since poll in Zimbabwe' (ibid, 30 April 2002). For Malawi, headlines include 'Catholics denounce UDF attack' (*Daily Times*, 29 October 2001); 'UDF draws up list of journalists to be beaten' (ibid, 1 November 2001); 'Young democrats implicated in intimidation' (ibid, 4 November 2001); 'World jurists protest removal of judges' (ibid, 30 November 2001).

While international structures and institutions of democracy and human rights can be imported from the Western advanced industrial nations to poor developing states like Malawi, is it possible to do the same with values and norms of democracy? Why should the state interfere with freedom of association, collective bargaining and the right to strike in Malawi, when the national constitution and the labour laws reflect international democratic principles and ILO norms? As analysts have noted, externally imposed state transformations through aid have the potential danger of 'propping up theoretically multiparty regimes' (*Financial Times*, 5 March 2002).

Thus, until, and only, when an internally developed structure and norms which might have sufficient anchorage within societal norms and traditions are created in Malawi, there will still be significant degrees of discrepancy between what is provided and what actually happens on the ground. As it might be difficult to develop indigenous structures and value systems because of Malawi's incorporation into the capitalist global political economy since the colonial period, Malawi's industrial relations will continue to be characterised by discrepancies. The discrepancy between what is provided in the labour laws and National Constitution and what happens in practice.

The final point relates to change and continuity in Malawi's industrial relations. The book has shown that in the process of state transformation and legal reforms, there are some aspects of the 'old' regime that are retained to the advantage of the new order. For example, the independent state of Malawi retained most of the colonial industrial relations provisions in the Trade Union Act 1958, Trade Disputes (Arbitration and Settlement) Act 1952 and the Employment Act 1964. Although nationalist elite saw these provisions as repressive during their struggle for Independence, they nonetheless retained them. The need for political stability and economic development necessitated a strong state through a strong legal apparatus and a political party. On the other hand, the reforms in the legal framework for industrial relations and other facets of state machinery have not wiped out completely all aspects of the one-party state machinery. The role of the Ministry of Labour to determine registration, supervise union accounts, and some restrictions and procedural requirements in strikes in essential services, dispute procedures, which in principle amounts to 'control' of labour rights, still persist. The unilateral determination of terms and conditions of employment and wages in the mainstream public service through the DHRMD and the OPC is another case in point. The Malawi Public Service Regulations which have not been revamped to reflect the current industrial relations framework is still the basis of terms and conditions of employment in the public service. At the political level, although the UDF did not intervene in industrial relations, at least directly as a political party, the concerns of intimidation and harassment by the Young Democrats resembled the MCP Young Pioneers (MYP) whom the state used to suppress human rights and labour rights at workplaces. While open control of the labour movement through political intimidation and administratively through the Ministry of Labour during the one-party period ended with the democratisation process, the same has resurfaced through 'divide-and rule' and 'hide-and-seek' tactics that the state employed during the multiparty period.

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### Review questions

1. How far would you agree that the state has influenced industrial relations and strike activity in Malawi since independence?
2. To what extent would you agree to an institutional explanation for strike activity in Malawi during the one-party and multiparty periods?
3. Write notes on the following:
  - (a) Economic explanation and strike activity in Malawi
  - (b) The role of law in shaping people's behaviour
  - (c) Political explanation to strike activity in Malawi.
  - (d) The role of political elites in shaping the state and industrial relations
4. What do you see as the major continuities and change in Malawi's industrial relations?

5. To what extent is Malawi's industrial relations being influenced by foreign or international forces?
6. How can the state reconcile the dilemma for economic development and human rights/trade union rights?
7. Design and hold a structured interview with Employers, Trade Union Leaders, experts in industrial relations and Ministry of Labour officials to find out their views on the future of industrial relations in Malawi. How can trade unions be made more effective in representing the interests of its members?

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