**In the National Assembly Tuesday 7th May 2018**

**TRIPARTITE NEGOTIATING FORUM BILL**

**REPORT OF THE PORTFOLIO COMMITTEE OF PUBLIC SERVICE,
LABOUR AND SOCIAL WELFARE**

*Presented by Hon. E. Ncube, MP, Chairperson of the Committee*

**1.0 Introduction**

Social dialogue is a key development issue pronounced in International Labour Organisation (ILO) Convention Number 144 of 1976 and practised the world over. Zimbabwe ratified the Convention in 1989; however implementation of social dialogue can be traced back to the 1990s when the Tripartite Negotiating Forum (TNF) was instituted. The Government has further taken a step towards formalising social dialogue by initiating the Tripartite Negotiating Forum Bill [H.B. 5, 2018].The Bill seeks to establish a TNF whose mandate is to ensure consultation, cooperation and negotiation on social and economic issues by Government, Organised Business and Organised Labour. It is against this background that the Portfolio Committee on Public Service, Labour and Social Welfare considered the TNF Bill and compiled this report.

**2.0 Methodology**

In accordance with Section 141 of the Constitution, the Portfolio Committee on Public Service, Labour and Social Welfare conducted public hearings on the TNF Bill from 25 February to 1 March 2019. The Committee conducted one public hearing in each province of the country as shown on the table below:

***Table 1.***

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| **Province** | **Town** | **Public Hearing Venue** |
| Bulawayo | Bulawayo | Small City Hall |
| Harare | Harare | Ambassador Hotel |
| Manicaland | Mutare | Queens Hall |
| Mashonaland Central  | Bindura | Hala Hotel |
| Mashonaland East  | Marondera | Hope Fay Hotel and Conference Centre |
| Mashonaland West  | Chinhoyi | Cooksie Hall |
| Matebeleland North | Victoria Falls | Chinotimba Hall |
| Matebeleland South  | Gwanda | Gwanda Hotel |
| Masvingo | Masvingo Town | Civic Centre Hall |
| Midlands | Gweru | Civic Centre Hall |

The public hearings were attended by various stakeholders including; the Zimbabwe Congress of Trade Unions (ZCTU), farmers’ unions, Chinhoyi Municipality employees, representatives from the Ministry of Women Affairs, Community, Small and Medium Enterprises Development and Ministry of Public Service, Labour and Social Welfare, and members of the public in general.

In addition, the Committee attended a seminar themed *Unpacking and Engaging the Legislature on the TNF Bill* at the Rainbow Towers Hotel, in Harare on 6 May 2019. The event was organised by Greenfingers Consultants in conjunction with the Employers’ Confederation of Zimbabwe (EMCOZ). Apart from the organisers, other stakeholders, including the Zimbabwe Congress of Trade Unions (ZCTU) and International Labour Organisation representatives were also in attendance.

Furthermore, the Committee analysed the provisions of the Bill and written submissions from stakeholders.

**3.0 Summary of Issues Raised During Public Hearings**

**3.1** There was general consensus amongst stakeholders who attended all public hearings that regularising the TNF was a positive development which was long overdue and should be expedited as a matter of urgency. Stakeholders noted that the platform would deal with socio-economic issues and minimise strikes, such as the January 2019 Job Stay Away which cost the country productive time and had other unfavourable consequences including violence.

**3.2** Stakeholders in Mutare, Bindura and Gwanda called for representation of the informal sector on the TNF in view of the vast contributions of the sector to the country’s Gross Domestic Product (GDP). Mr. Vandirai Musoro in Mutare argued that it would be a shame to leave out the informal sector considering that it was currently the mainstay of Zimbabwe’s economy as it employed about 80% of the working class population against 20 % in the formal sector.

**3.3** The dominance of Government on the TNF with 14 representatives against 7 each for business and labour was raised as an issue of contention. Stakeholders such as the ZCTU noted that the Government was also an employer which will bring representation for this group to 21 if the number of its representatives is combined with that of business. This state of affairs places labour at a disadvantage as it only has 7 representatives, particularly when it comes to voting on pertinent issues by TNF members. In contrast, Mr. Godfrey Jambo from Marondera was of the view that Government should have more representatives and proposed that the composition of the TNF be constituted as follows: Government-11, Organised Business -10, and Organised Labour - 10. Alternatively, stakeholders who attended the public hearing in Masvingo proposed that each one of the social partners should have 7 representatives each.

**3.4** In addition, stakeholders in Mutare, Gweru, Gwanda and Bulawayo were opposed to the chairing of the TNF by a Government representative but preferred rotation of the leadership role amongst the three social partners. Conversely, stakeholders who attended the public hearing conducted in Masvingo advanced that the TNF should be chaired by a retired Supreme Court Judge or an individual appointed by Parliament as opposed to a Government Representative.

**3.5** Furthermore, stakeholders in Marondera, Bindura and Gweru noted the need to empower the TNF by making its decisions final rather than a situation where its resolutions are referred to Cabinet as provided by Clause 10 (2).

**3.6** Stakeholder consultation by members of the TNF was also identified as a key issue for the effective operation of the TNF.

**3.7** Representatives from the Ministry of Women Affairs, Community and Enterprises Development emphasised the need for gender balance in the membership of the TNF. This issue was raised in Masvingo and Bindura.

**3.8** Some of the participants at the Masvingo and Gwanda public hearings proposed the granting of Civil Society Organisations interested in welfare issues an observer status on the TNF.

**3.9** The ZCTU proposed an addition of (f) under Clause 3 which reads as “consult and negotiate Zimbabwe labour laws in line with the Constitution and other international best practices.”

**4.0 Key issues raised at the Seminar on *Unpacking and Engaging the Legislature on the TNF Bill***

**4.1** Although the concept of tripartism is anchored in labour issues, the Bill does not explicitly provide for consideration of these matters by the TNF.

**4.2** The Bill should provide for an independent party to arbitrate in case of “deadlock” situations between the three social partners. This could be a retired judge or former president of another country for instance.

**4.3** There is need for definition of the “stakeholders” to be consulted on Clause 3 (3) (c) and “group autonomy” in Clause 21 (g) in order to avoid ambiguity.

**4.4** While Clause 10 stipulates that TNF resolutions are recommendations to Cabinet, Clause 3 (3) (d) places the function of following up and monitoring agreements on the TNF, hence the need for definition of these “agreements.”

**4.5** In terms of Clause 4 (a) both citizens of Zimbabwe or foreigners who are permanent residents in the Zimbabwe are eligible for appointment to the TNF

**4.6** The Bill does not specify the conditions or reasons for which each constituency can remove its member from the Main TNF (Clause 5).

**4.7** A quorum of 50 percent of members of the TNF can result in underrepresentation of some social partners at some TNF meetings, for example a meeting can be convened by 14 Government representatives and one member each from organised labour and organised business (Clause 9)

**4.8** Clause 14 (6) (b) exposes the Executive Director of the TNF to arbitrary dismissal by the Management Committee as it provides for revoking of any assignment of functions by the Management Committee at any time.

**4.9** Clause 16 limits sources of funding for the TNF to National Budget allocations and donations which are inadequate in view of the financial constraints faced by the country and withdrawal of funding by development partners.

**4.10** On the First Schedule, under *Remuneration and Allowances of Members of the Management Committee*, Clause 3 (a) is not clear on whether the Management Committee will be remunerated or not.

**4.11** On the First Schedule, under *Minutes of Proceedings of the TNF*, Clause 4 (2), the phrase “…which purport to be…” insinuates that persons presiding at meetings can falsify minutes.

**5.0 Committee Observations and Recommendations**

**5.1** The concept of tripartism is founded in the ILO Conventions and labour issues, hence the need to include these matters in the Memorandum of the Bill.

**5.2** The Committee noted that labour issues were most likely to constitute a bulk of the issues to be considered by the TNF and recommends the addition of Clause 3(3) (f) which reads:

*“consult and negotiate labour laws in line with provisions of the Constitution and other international best practices.”*

**5.3** Considering the key role played by the informal sector and civil society organisations, among other key stakeholders in Zimbabwe’s socio-economic development, they should be accorded observer status under Clause 3 (5) of the Bill.

**5.4** There is need to extent Clause 5 to include the specific conditions under which each constituency can remove its member from the Main TNF. Among other key issues, the term of office of membership to the TNF should be limited to 3 years after which all social partners should appoint new representatives in order to guard against corruption and other malpractices.

**5.5** In order to prevent the abuse of power by the Management Committee in relation to dismissal of the Executive Director of the TNF, Clause 14 (6) (b) should be amended to read as:

“*may be revoked by the management Committee on justifiable grounds at any time”*

**5.6** For the purpose of clarity on whether the Management Committee should be paid for their services, the Committee recommends the deletion of *“if any”* on Clause 3 (a) under the First Schedule which deals with Remuneration and Allowances of Members of the Management

**5.7** In accordance with Section 3 of the Constitution, the TNF should be gender balanced.

**6.0 Conclusion**

The Committee supports the expeditious establishment of a TNF backed by statute and believes that it will resolve the multiple socio-economic challenges affecting our country today. Once the Bill is passed by Parliament and assented to by the President, the Ministry of Public Service, Labour and Social Welfare should facilitate the setting up and operationalisation of the TNF without delay. In addition, all the three social partners are encouraged to adopt an earnest approach when participating on the TNF.

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