



**TRADE
UNION
COUNTRY
REPORT**

BOTSWANA 2018

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TRADE UNION COUNTRY REPORT

BOTSWANA 2018

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GO HOME SHE IS AN
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Abbreviations and Acronyms

Acting Joint Arrangement	AJA
Botswana-Core Welfare Indicators Survey	BCWIS
Botswana Congress Party	BCP
Botswana Democratic Party	BDP
Botswana Federation of Private Parastatals and Public Service Union	BOFEPUSU
Botswana Federation of Trade Union	BFTU
Botswana Local Authorities, Land Boards and Health Workers Union	BLLAHWU
Botswana Movement for Democracy	BMD
Botswana National Front	BNF
Botswana People's Party	BPP
Botswana Public Employees Union	BOPEU
Botswana Sectors of Educators Trade Union	BOSETU
Botswana Teachers Union	BTU
Committee of Freedom of Association	CFA
Community Home Based Care	CHBC
Department of Social Services	DSS
Directorate of Public Service Management	DPSM
Friedrich Ebert Foundation	FES
Human Resource Development Council	HRDC
International Labour Organisation	ILO
Labour Market Observatory	LMO
Ministry of Basic Education	MOBE
Ministry of Lands, Housing	MLHA
Ministry of Youth, Sports and Culture	MYSEC
National Amalgamated Local and Central Government and Parastatals Workers Union	NALCGPWU
Public Service Act	PSA
Public Service Bargaining Council	PSBC
Professional Educators of Botswana	PEUBO
Savings and Credit Cooperative Society	SACCOS
Southern African Trade Union Confederation	SATUCC
Tertiary Alliance Workers Union	TAWU
Trade Dispute Act	TDA
Umbrella for Democratic Change	UDC
Vulnerable Group Feeding Programme	VGFP
World Trade Organisation	WTO

Executive Summary

It is imperative for trade unions to be at the forefront on issues affecting the economy of their country. The membership, particularly the leadership should both comprehend and articulate the macro-economic issues. Trade unions must prioritise education and training as a means of counteracting policies that advance matters of capital over workers' agendas. Botswana Public Employees Trade Union (BOPEU) has established the Institute of Labour and Employment Studies (ILES), to give workers the necessary knowledge and skills.

Due to a lack of the requisite skills, trade unions are unable to properly monitor employment and inflation trends and the general state of economy. Training of members on these critical aspects of the economy will definitely elevate the status of the trade unions. On a positive note, however, some trade unions are producing position papers on specific issues of national interest, National Amalgamated Local and Central government and Parastatals Workers Union (NALCGPWU) and Botswana Local Authorities, Land Boards and Health Workers Union (BLLAHWU) have gone the extra-mile in advancing their objectives of pushing national agenda programmes by hosting policy debates and publishing their position papers. The Botswana Federation of Trade Unions (BFTU) has produced numerous position papers on privatisation, education and globalisation. The Botswana Federation of Public, Private and Parastatal Sectors Union (BOFEPUSU) has made public pronouncements on national issues that covered elections, corruption, education and pension fund. However, in general trade unions have failed dismally to critically ponder issues of land, as more Botswana, remain landless as the rich accumulate acres of land.

The government needs to be applauded for its efforts on the establishment of various social protection programmes that are meant to cushion the poor and society's most vulnerable against economic hardships. Over time, the government reviews these social security nets for the betterment of its citizenry. However, there is a need to consult other stakeholders such as trade unions, faith leaders and the youth to assist in promotion of the programmes.

The relationship of trade unions and the government is acrimonious, hence the need to work on healing the rift. That unhealthy relationship resulted in the collapse of the Public Service Bargaining Council, the amendment of labour statutes, countless and protracted labour court cases between the government and trade unions. Additionally, bitter rivalry and hatred existed between the two union federations in the country: BFTU and BOFEPUSU. It is important for trade unions to uphold the core value of labour organisations, which is 'solidarity' and recognise that the enemy of the worker, besides regressive policies, is capital, and not a fellow comrade.





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Introduction

Country

Botswana attained political independence from Britain on 30 September 1966. It is a middle-class economy with a population of approximately two million people. Botswana is one of the few Africa countries that has remained intact since independence, despite the challenges it faced, whilst simultaneously being able to realise development, and reduce poverty (by African Standards) (Sebudubudu 2010). Structures of traditional systems and governance were crafted to promote democracy and, consequently, development.

Economy

Botswana has been one of the world's fastest growing economies, averaging five per cent per annum over the past decade. Its reliance on mineral exploration commodities renders it vulnerable to international market fluctuations. According to the World Bank, Botswana's economic activity was expected to intensify from 4.5 per cent in 2017 to 4.8 per cent by 2019. Economic growth has been driven by the mining activity, construction, services sector, and intensified public investments. It is also concerning that Botswana's economy is still mineral-reliant with little being achieved in terms of economic diversification.

Political

Botswana is a relatively peaceful country that subscribes to democratic tenants such as free and fair elections, smooth presidential automatic succession, anti-corruption institution and socio-economic benefits targeting the underprivileged such as the poor, the youth and women. The ruling Botswana Democratic Party (BDP) has been in power since the country attained independence in 1966. The only substantial political challenge came in 2014, after the BDP won the general elections with a below 50% majority vote. Currently, a conglomeration of opposition parties have formed a political front under the Umbrella for Democratic Change (UDC) to oust the ruling BDP from political power. Unfortunately, the assembly of opposition political parties is bedevilled by conflicts emanating from mistrust and ideological differences.

Trade Unions

Trade unionism in Botswana is relatively lukewarm, though there had been snippets of labour unrests, as evidenced by the epic BOFEPUSU national strike in 2011 that lasted for eight weeks, the Botswana Unified Revenue Services (BURS) and Choppies strikes. There are two federations, the first being the BFTU and its splinter-group which is the BOFEPUSU. Most workers are organised in the public service segment, whereas the private sector is mostly unorganised. Botswana trade unions are predominantly focused on industry based issues, and tend not to prioritise matters relevant to the workers lives such as education, health and social protection.

Public service trade unions are businesses or economic types that mainly focus on bread and butter issues. Federations also meddle in party politics, as evidenced by BOFEPUSU backing the UDC in the 2014 National General Elections.

Botswana has been one of the world's fastest growing economies, averaging five per cent per annum over the past decade.

**Fight for
worker's rights**
**Kill the
Spy Bill!**

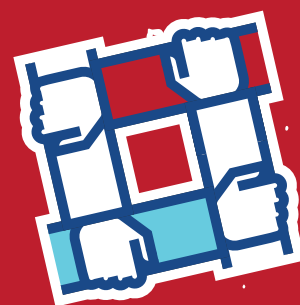
**International Socialists
Botswana**
**Privatisation
increases
poverty!**
Stop it!

**International Socialists
Botswana**
**Fight for
worker's rights**
**Kill the
Spy Bill!**



1

Socio-Economic Environment of the Labour Market in Botswana



1. Socio-Economic Environment of the Labour Market in Botswana

1.0 Economic Background

The national budget proposals for 2018/19 were adopted by the National Assembly on 5 February 2018. The new budget puts total expenditure and net lending at BWP 67.87 billion (33.4 per cent) of gross domestic product (GDP), an increase of BWP 8.3 billion (1.3 per cent) compared to the previous fiscal year. The (capital) budget is BWP 19.31 billion, up by BWP 2.4 billion (16.6 per cent) over the previous fiscal year. A budget deficit is expected to be BWP 3.59 billion (1.8 per cent of GDP). Fiscal spending will continue to increase, with priority for areas identified in the National Development Plan 11 (NDP11) that focuses on three key areas: (i) poverty eradication, (ii) inclusive growth, and (iii) job creation.

1.1 Social Context of Botswana

Despite the country's positive domestic economic outlook, Botswana is still battling the triple challenges of poverty, unemployment and inequality. Based on the 2015/16 Multi-Topic Household Survey, Botswana is expected to make slow progress on poverty reduction over the medium-term, with poverty falling to approximately 16 per cent. According to the World Bank, efforts to accelerate poverty reduction will require bold decisions that encourage greater private sector job creation, higher value-added agricultural production and services, credit expansion, and lower household debt. Botswana's investment in the social sector has been substantial. However, the impact produced is not satisfactory. Investment in education has been impressive and it has been amongst the highest in the world. The total expenditure on education has been on average nine per cent of GDP. The government offers, to a greater extent, universal free primary education, but has not created an adequate skilled workforce. The quality of the education provided has been questioned of late.¹ Unemployment remains high at about 17.7 per cent over the past 10 years and it has a substantial impact on the youth.

1.2 Total Labour Force – Employment Figures in Botswana

The Botswana 2011 Housing and Population Census reported that the total labour force stood at 798,117, of which the majority 439,707 were male and 358,410

were female. Of the total labour force 159,469 were unemployed, representing a 19.9 per cent unemployment rate. The unemployment rate for males was recorded at 17.7 per cent, whilst that for females was 22.6. The results show that even though there are more females (52 per cent) in the population aged 15 years and above, from which the labour force is drawn, males contribute more to the labour force compared to women (Statistics Botswana, 2011.0.498).

Botswana Labour Workforce figures, 2011

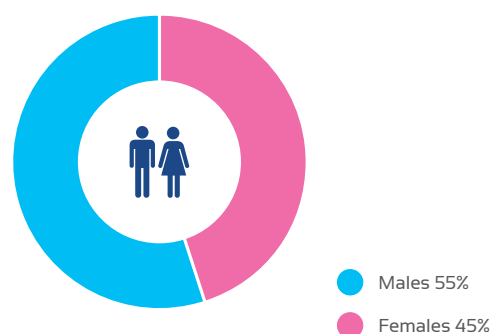


Figure 1: Total Labour Force figures, 2011 Housing and Population Census (Botswana Analytical Report, 2011)

According to the Statistics Botswana Population and Housing Census 2011 Analytical Report, Botswana men generally have higher levels of education than women, which results in a relatively lower unemployment rates for males. However, even in cases where females were better educated than males, they seem to have encountered barriers of entry into the labour force. To date, females are less represented in the formal sector and are over represented in the informal sector (Ibid., 2011. p. 448).

The Botswana AIDS Impact Survey, conducted in 2013 by Statistics Botswana in collaboration with the National AIDS Coordinating Agency and the Ministry of Health and Wellness, also provided important statistics on the national labour force. According to the report, the total labour force showed an increase from the 2011 Housing and Population Census figures with a total of 900,338 (Statistical Report, 2013). The statistics revealed the same trend of higher male representation in the labour force (464,879) compared to female representation (435,459).

¹<http://www.worldbank.org/en/news/feature/2014/12/02/improving-the-quality-of-basic-education-and-skills-development-in-botswana>

Gender	Unemployed	Employed	Labour Force	Unemployment Rate (per cent)
Male	82,835	382,044	464,879	18.8
Female	97,207	338,252	435,459	22.3
Total	180,042	720,296	900,338	20.0

Table 1: Total Labour Force, 2013 Botswana AIDS Impact Survey

According to the World Bank, the latest Botswana labour force statistics indicate the total labour force to be 1130048, as at November 2017. The World Bank collection of development indicators is compiled from official sources (International Labour Organization, ILOSTAT database and World Bank population estimates. Labour data retrieved in November 2017).

1.3 Labour Force in the Formal Sector

In its 2017 first quarter Formal Sector Employment Survey, Statistics Botswana's analysis of formal employment by sector in Botswana indicates that as of March 2017, the private sector had the largest share of the total labour force at 47.7 per cent, followed by central government with 25.7 per cent. Local government and parastatals organisations recorded 21.8 per cent and 4.8 per cent respectively (Statistics Botswana Formal Sector Employment Survey of March 2017, p. 6).

Botswana Labour Workforce Figures, 2011

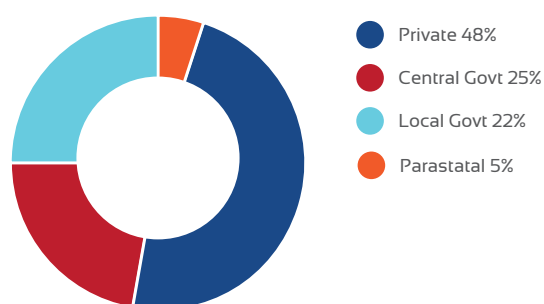


Figure 2: Formal Employment by Sector in Botswana, March 2017

1.4 The Organised versus Unorganised Labour Force in Botswana

In Botswana, workers are more organised and more are members of trade unions in the public sector than any other sector. The reason could be because the government is the

single largest employer. Workers in the public sector are therefore better placed to organise themselves and face a single employer when bargaining for their rights. Other sectors such as the private sector and the informal sector encounter various dynamics that make organising workers difficult. The informal sector is largely the unorganised sector of Botswana's labour force. One of the contributing factors which make the private and informal sector less organised is the mobility associated with the private sector. Whilst most government employees are hired on a permanent and pensionable basis, most employees in the private and informal sector are hired on short-term contracts. The precariousness of their employment makes it difficult to organise as they are vulnerable. Workers are sceptical about joining trade unions due to likelihood of victimisation and loss of their jobs. Most workers, in the private and informal sectors, are not confident that the Ministry of Labour will protect their jobs once they confront their employers. Therefore, the retention of employees and job security in the public service is much better than the private and informal sectors.

1.5 Trade Federations and Affiliates

1.5.1 Botswana Federation of Trade Union (BFTU) Affiliates:

1. Air Botswana Employees Union (ABEU)
2. Botswana Housing Corporation Workers Union (BHCWU)
3. Botswana Diamond Workers Union (BDWU)
4. Botswana Government Workers Union (BOGOWU)
5. Botswana Meat Industry Workers Union (BMIWU)
6. Botswana National Productivity Centre Support Staff Union (BNPCSSU)
7. Botswana Postal Services Workers Union (BPSWU)
8. Botswana Private Medical and Health Services Workers Union (BPM&HSWU)
9. Botswana Railways and Allied Workers Union (BRAWU)
10. Botswana Savings Bank Employees Union (BSBEU)
11. Botswana Telecommunications Employees Union (BOTEU)

12. Botswana Vaccine Institute Staff Union (BVISU)
13. Botswana Wholesalers Furniture and Retail Workers Union (BWF&RWU)
14. Botswana Power Corporation Workers Union (BPCWU)
15. Central Bank Union (CBU)
16. National Development Bank Employees Union (NDBEU)
17. Trainers and Allied Workers Union (TAWU)
18. University of Botswana Staff Union (UBSU)
19. Citizen Entrepreneurial Development Agency Employees Union (CEDAEU)
20. Botswana Textile Manufacturing and Packaging Workers Union (BOTEMAPAWU)
21. Botswana Mine Workers Union (BMWU)
22. Botswana Bank Employees Union (BOBEU)
23. Footballers Union of Botswana (FUB)
24. Botswana Public Employees Union (BOPEU)

1.5.2 BOFEPUSU Affiliates

1. Botswana Teachers Union (BTU)
2. Botswana Sectors of Educators Trade Union (BOSETU)
3. National Amalgamated Local and Central Government and Parastatals Workers Union (Manual Workers Union)
4. Botswana Land Board and Local Authorities and Health Workers Union (BLLAHWU)
5. Botswana Media and Allied Workers Union (BOMAWU)
6. University of Botswana Academic Staff Union (UBASU)

1.6 Membership of Unions in the Public Sector

The available data, as at 2016, submitted by the employer to the PSBC shows the union membership in the public sector as follows:

Name of Trade Union	Membership Strength at 2016
BLLAHWU	9, 860
BOPEU	26, 735
BOSETU	15, 243
BTU	19, 091
MANUAL WORKERS	29, 091
TAWU	700
BONU	5,943
Grand total	106, 668

Table 2: Trade Union Memberships

1.7 Labour Market Structure

In terms of the characteristics of the labour market, Botswana is similar to other Southern African labour markets as it consists of segments such as rural and urban, formal and informal and public and private (Ncube, 2008). According to Botswana's National Human Resource Development Strategy of 2009, the structure of the labour force in Botswana has changed considerably from an agricultural sector-led to a formal sector-led labour market. According to the 2015/16 Multi-topic Household Survey by Statistics Botswana, the private sector was the largest employer with 44.6 per cent of employees, followed by public administration and then by private households and subsistence farming with 22.1, 12.2 and 9.9 per cent, respectively.

Overall, unemployment rates were estimated at 17.7 per cent for the population aged 15 years and above, and 17.6 per cent for the population aged 18 years and above. For the 15 years and over labour force category, the female unemployment rate was estimated at 19.1 per cent, compared to 16.3 per cent for males. This rate was slightly higher than those for the 18 years and over labour force, which were recorded at 19.1 per cent for males and 16.1 per cent for females. The youth (15-35 years) unemployment rate was estimated at 25.2 per cent. Unemployment for female youth was 26.9 per cent, compared to 23.6 per cent for male youth (Statistics Botswana, 2016). A total of 404,387 employees were recorded, of which 203,146 (50.2 per cent) were males whilst 201,242 (49.8 per cent) were females. The Statistics Botswana report further states that a total of 12,654 (3.1 per cent) employees were non-citizens. Out of this total, private and parastatals sectors recorded 11,366 employees. The manufacturing industry was the major employer of non-citizens (20.0 per cent), followed by the construction industry (15.4 per cent) and the education industry (14.9 per cent).

In the labour market, employers compete to hire the best, and the workers compete for the most satisfying job. A labour market in an economy based on the demand and supply of labour. The Labour Market Observatory (LMO) (a network of people who observe what is going on in the labour market) monitors the Labour Market Information System (LMIS) – a system that collects statistical and non-statistical information concerning labour market actors and their environment, and information concerning labour market institutions, policies and regulations that serve the needs of users. The information was collected using accepted methodologies and practice.

The history of the Botswana LMO dates back to 2003 when four organisations, namely, the Ministry of Finance and Development Planning, through the then Central

Statistics Office and now Statistics Botswana, the then Division of Economic Affairs, Ministry of Labour and Home Affairs and the then Botswana Training Authority and now Botswana Qualifications Authority collaborated and signed a memorandum to establish the LMO.

In April 2007, the European Union provided financial support to the committee to commission a consultancy and a benchmarking exercise on the feasibility of establishing the Botswana LMO. In March 2010, another consultancy on the Establishment of the Botswana LMO was commissioned and the LMO was officially launched in December of the same year.

The goal of the LMO is to provide relevant, quality and timely labour market information for users to make informed decisions regarding the labour market situation in Botswana. The overall objectives are to generate and update labour market information, to increase awareness of labour market information; and to increase the accessibility of labour market information. Since inception, the LMO committee has been largely dormant despite the challenges of high unemployment, especially amongst the youth. The information provided by the Botswana LMO is necessary for Botswana to remain competitive in an economy and labour market that is continuously changing in terms of demographics, occupation skills required, technological advances and future training demands. Ideally, the Botswana LMO should contribute to the efforts of addressing unemployment by facilitating access to timely, accurate and relevant information on the labour market by employers, potential workers, businesses, government, non-governmental organisations and other stakeholders, amongst others. Trade unions also need to fight for representation on the LMO structure to have an influential stake in the affairs of workers and state of work in the country.

1.8 Challenges Faced by the Botswana Labour Market Structure

The labour market is characterised by a lack of necessary skills to meet the job requirements of employers and this has been the major reason that has led to the escalating graduate unemployment. It ultimately led to a mismatch between skills produced by tertiary institutions and those required by the industry. Also, it is difficult to fill existing vacancies as there is a scarcity of relevant skilled manpower in the labour market. To achieve a reliable, comprehensive, cost effective and relevant labour market, it is necessary to have information for effective human resource planning and implementation in all sectors of the economy. Even though there is a need for labour market information, it has not yet yielded enough results to address the challenges facing Botswana; this is despite

the existence of the Botswana LMO which was established to utilise the LMIS to influence policy on labour issues. Further, underemployment poses a major challenge to Botswana's labour market Siphambe, 2003).

Another challenge that Botswana is facing is the failure of the leading source of the country's GDP, the diamond industry, which is by nature capital intensive, to absorb more of the labour force. According to the Botswana Human Development 2015 report, the diamond industry employs less than five per cent of the total number of people employed. The report further states that a modest 3,000 jobs have been created from current efforts to further the processing of diamonds in the country in terms of cutting and polishing. This, however, is still not adequate to deal with the current employment challenges especially amongst the youth. Following the recent global recession, Botswana experienced job losses and the mining sector was severely affected. In addition to the mining sector, many workers were retrenched in state-owned enterprises. Botswana Water Utilities Corporation, Botswana Meat Commission, Botswana Power Corporation, Botswana Telecommunication Corporation and Air Botswana also retrenched hundreds of their employees during privatisation exercises.

In an attempt to address these challenges, the government has encouraged training institutions to design programmes relevant to the labour market by forging partnerships with the industry in programme design.

1.9 Youth Unemployment

In his address to Parliament during the 2015/16 budget speech, Finance Minister Kenneth Matambo noted that the current unemployment rate of 19,8 per cent represented an underutilisation of one of the country's most important resources – human capital. Unemployment is generally a challenge, especially as its effects are felt by the youth, according to the Revised National Youth Policy the ages classified as youth are from 18-35. Motlaleng and Narayana (2014), state that the youth unemployment rate is between 35 and 41.1 per cent. This is a challenge for a country like Botswana which has had slow economic growth over the years and the youth make up more than half of the labour market. Graduate youth unemployment in Botswana is relatively high compared to other developing countries with similar income levels; accounting for nearly two thirds of the overall unemployed people (Pheko and Molefhe, 2016). According to Mogomotsi, Madigele and Chamberlain (2017), statistics reflect that from 2008 to 2017 a total of 21,284 graduates were registered for government programmes designed for graduate youth yet only 30.29 per cent of the applicants were absorbed by the public service and the parastatals sector (Baatweng, 2015).



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1.10 Relevance of Education System in Botswana

ISCED Broad Group	2009	2010	2011	2012	2013	2014	2015
Agriculture	262	217	185	167	-	167	264
Education	793	1,583	1,392	1,689	2,049	2,688	3,155
Engineering, Manufacturing and Construction	411	419	632	497	390	995	1,845
Health and Welfare	293	750	956	683	978	1,721	1,339
Humanities and Arts	902	772	837	465	527	1,778	1,085
Science	687	495	697	1,125	845	1,733	1,392
Services	746	573	313	238	124	860	707
Social Sciences, Business and Law	3,212	3,645	2,683	3,119	1,511	5,423	5,133
Unknown					7	71	
Grand Total	7,306	8,454	7,695	7,383	6,431	15,594	14,920

Table 3: Tertiary Education Graduates by Fields of Education – 2009 - 2015

Data Source: Tertiary Education Statistics 2016 (HRDC, 2018)

Motlaleng and Narayana (2014) have noted that unlike in the past, there is an inverse relationship between the level of education and unemployment. Slightly over a decade ago, unemployment in Botswana was largely structural in nature (Siphambe, 2003). Those who possessed tertiary education qualifications were quite assured that they would, once they graduated, be absorbed by the formal sector (ibid., 2003). However, currently, Botswana faces the challenge of growing numbers of unemployed university graduates. The highest numbers of graduates are in social sciences, business and law yet, there are few vacancies to absorb them once they join the labour market. The Human Resource Development Council (HRDC) has advised that government should prioritise science and technology related courses to fix the mismatch of skills in the labour market. Funding of courses in tertiary education now provides more incentives for student to pursue science related courses by offering grants as compared to loans. It is evident from the available statistics that Botswana's tertiary education system is fast losing relevance on account of its failure to produce graduates who can be absorbed by the labour market within a reasonable time after graduation.

1.11 Responding to the Situation and the Role of Stakeholders

Trade unions must, as a matter of urgency, engage in discussions with key players in the labour market in an attempt to play a decisive role in tackling the challenges of the labour market. Should these challenges persist, Trade union membership density will remain low. Unions must expand their services towards member education in

specific areas of training which are relevant and necessary to the labour market. Educational bursary funds, funded by trade unions and other stakeholders can be set up to train youth and in-service workers in relevant areas. Further, the government sponsorship quota system must be streamlined to meet the needs of the labour market. Trade unions can respond by lobbying government to measure the outcome of its education system by quality output as opposed to quantitative output. For a long time, tertiary institutions, particularly those that are public-funded, have been producing graduates not immediately required by the market and as a result, the graduates struggle to secure formal employment. The increase in private tertiary institutions, which are largely profit driven, must be addressed to ensure quality assurance and standards of their learning programmes. There are no fast and easy answers to these challenges (Mmegi Editor, 2017). It requires long-term thinking, planning, implementation, evaluation and monitoring of the entire labour market. Trade unions must actively engage in redefining Botswana's labour market.

1.12 Human Resource Development Council

The HRDC was established by an Act of Parliament in 2013. It pursues an overall mission to advise, plan, fund, and coordinate the development of Botswana's human resources to achieve a knowledge-based economy by engaging and integrating stakeholders.

To achieve its objectives, HRDC has adopted a sectoral planning approach in which the employers define current and future skills needed in the labour market. This

approach will address the issue of mismatch of supply of graduates and demand from the labour market. However, the long-term goal of HRDC is to produce globally competitive human resources.

1.13 Recommendations to Expand the Labour Market

One of the best ways to counter skills mismatch is to integrate the youth in the job market. There should be dynamic vocational training models to equip the youth with the practical skills needed by the industries. The stakeholders in the labour market should pursue unemployment policies and programmes to broaden the unemployed youth's job-search horizons to include occupations they may not have previously considered. There is a need to invest in specialised training programmes for the youth to equip them with necessary skills so they can pursue entrepreneurship and self-employment. Perhaps the time has arrived for the country to reduce the retirement age. Reducing the age of retirement would allow the youth and the elderly to share the limited job employment opportunities that are available in the labour market. The 'lump of labour fallacy' theoretical perspective argues that older workers leaving the labour market make room for younger ones who can easily replace them. It assumes perfect substitutability between young and elderly workers (Mogomotsi, Madigele, and Chamberlain, 2017).

To ensure skills transfer, existing programmes that were initiated to transfer skills to the youth need to be fostered. The right mechanisms should be put in place to ensure that the National Internship Programme and Tirelo Sechaba are effective in transferring of skills to the youth so that they can properly substitute the elderly. Botswana must also transition and position the country to be a knowledge-based economy which can produce entrepreneurs. Further, the government must consider exporting its labour to countries and regions where they are needed. This can be done through assisting citizen-owned companies to set up in other countries and regions of the world. It is imperative for the country to redefine bilateral agreements on exportation of human capital and setting up of business enterprises in foreign countries, to further bolster the country's balance of payment. In the same vein, trade unions need to be extra-vigilant in ensuring that vulnerable workers who are unemployed and interns are not susceptible to workplace abuse.

2

Social Protection in Botswana



2. Social Protection in Botswana

2.0 Introduction

During the last two decades, developing countries have been exhibiting a propensity to deliver social protection with a dramatic urgency. Especially in African, social protection programmes that can effectively respond to shocks were either established or expanded. The explosion of social protection systems is based on the experience with droughts and the 2008 food, fuel and economic crisis. Beyond these, the recent shift in focus to investment in social protection reflects changes in the development perspective and practice. As a result of these changes, developing countries' policymakers now regard social protection as a key element of poverty reduction. A visible manifestation of their dedication to the new development perspective is that social protection is increasingly included in long-term visions and development strategies and it is becoming a prominent component of papers on poverty reduction strategies. Further, the sustained sense of urgency to social protection amongst policymakers in developing countries has been enhanced by the growing interest amongst development partners and regional organisations that support social protection, notably the World Bank and the International Labour Organization (ILO). These have been influencing the terms of the dialogue and debate as well as providing resources including technical support to developing countries.

Current social protection systems encompass a surfeit of policies and programmes that are financed largely out of domestic resources. The rise of social protection is evident in transferring small amounts of money to the needy, by prioritising the old age pensions, child care grants and disability payments. Keynes engineered the idea of Social States, to cushion the poor from the severity of the market. The Keynesian model allowed States take notice of citizens by transferring grants for sustenance. By so doing, countries stimulate the economy because the poor do not invest the money, rather they spent it. Keynesian argued that the benefits enable consumption and thereby stimulating economy. It is better to give the money directly to the poor so that they can find effective ways to escape from poverty, according to Ferguson (2015).

It is, thus, worthwhile to examine the status of Botswana's social protection system.

2.1 Meaning, Rationale and Contribution of Social Protection

Social protection has been defined in various ways and it may take various forms. The study adopts the definition used by Botswana Institute for Development Policy Analysis (BIDPA) and World Bank (2013:515). It refers to "the set of public interventions aimed at supporting the poorer and more vulnerable members of society, as well as helping individuals, families, and communities manage risk". The definition implies that the agenda of social protection involves mechanisms that deliver the resilience, equity and opportunity functions with the aim of reducing poverty and inducing inclusiveness. The standard argument is that countries that have social protection systems are able to respond more effectively and efficiently to chronic poverty and crisis and promote inclusive growth. According to the World Bank (2012), social protection system comprises public policies and programmes and private and informal social protection mechanisms that provide the resilience, equity and opportunity functions of social protection to reduce poverty and contribute to inclusive economic growth. The definition also underscores that social protection encompasses: safety nets or social assistance; social insurance or pension; and, active labour market programmes.

Another strand of thought espoused in the human rights framework is that social protection is a human right. Most notably, the Universal Declaration of Human Rights provides for social protection as the right to livelihood security. Essentially, this right is the guarantee of a minimum livelihood in circumstances which threaten an individual's survival, including unemployment, sickness, disability, old age and widowhood.

This has resulted in the pursuit of a number of ILO Declarations, the primary conventions of which are: C102 of 1952 on the social security (the Minimum Standards); C103 of Maternity Protection; C102 of equality of treatment in social security; C128 of invalidity, old age; etc. Beyond these, social protection derives from political economy. From the post-Keynesian and Marxian macroeconomics standpoint, social protection is an instrument by which governments perform their legitimisation function. The argument is that governments provide social protection to obviate social and labour unrest and political crisis that could be caused by a reserve army of the unemployed which is an inherent feature of capitalist economies. The most recent social and political unrest observed in countries such as Tunisia, Libya and Egypt are good examples. In the same vein, the World Bank (2012) noted that social protection has often been used by governments to shore up their legitimacy and boost their popularity.

A contrasting economic case for social protection is that of mainstream development economics that emphasises the centrality of economic development of social protection. Social protection manifests itself in economic development contributed to economic development by stimulating a broad-based economic growth and poverty reduction through stimulating aggregate demand for goods and services, productivity improvement and reduction in income inequality.

Advocates of social protection such as the World Bank (2012) and Todaro and Smith (2012) advance a number of mechanisms by which it can contribute to economic development (see Figure 1). Better health, more schooling and greater skills, and increased social protection investments lead to an increase in human

capital and an improvement in productivity. These factors are crucial drivers of economic growth. Another mechanism is the stimulation of the demand for goods and services for final consumption and investments in community infrastructure induces broad-based economic growth. Moreover, redistributing income from the high-income group to the low-income groups reduces income inequality and, thereby contributes to poverty reduction. Herr (2011) theorises that the wage bargaining system as a whole is of paramount importance to determine the wage structure. He laments that Keynes believed that the relative power of different fractions of the working class is of key importance for wage dispersion. Therefore, it is important for minimum wage structures to be democratic and create space for trade unions.



Figure 3: Ways in Which Social Protection Increases Productivity and Growth

Source: World Bank, 2012

2.2 Evolution of Social Protection in Botswana

Botswana's social protection system is regarded as relatively comprehensive when compared to other African countries. The system was gradually built by launching individual measures over several decades. The evolution of the system largely reflected the country's experience with shocks, particularly droughts and changes in development perspective and international trends in the practice of social protection.

Not only did Botswana commit to the delivery of social protection, but it also embarked on a gradual institutionalisation of social protection system immediately after attainment of independence in 1966. Prior to independence, there existed traditional informal social protection schemes, most notably the mafisa (the rich loaned cattle to the poor), go tshwara teu (the rich gave cattle to the poor as a token of appreciation for looking after their herds) and majako (the poor worked in the fields of the rich in exchange for part of the harvest). The experience of the most calamitous drought that ended in 1965/66 vividly made government aware that informal support networks were ill-suited vehicles for responding to negative shocks and other development challenges.

The first formal social protection programme was institutionalised, with substantial support of development partners particularly the World Food Programme, to ameliorate the impact of the six consecutive years of drought that had wreaked so much havoc. According to the Transitional Plan for Social and Economic Development for the three year period 1966/69, the six years of drought had reduced the cattle herd by one third and had left one fifth of the population dependent on international famine relief assistance. The institutionalised community development programme, mostly involved food-for-work and feeding programmes (Ntseane and Solo, 2004). Universal primary school feeding meals, cash-for-work programmes, support to people in destitution were adopted in the late 1970s and early 1980s, as were the Bushman Training and Settlement Programme, which has been renamed the Remote Area Development Programme, and the Social Welfare Unit (1973–81), Public Works Programme (1978) and National Destitute Policy (1980) were launched. In the 1990s, the universal old Age Pension and the World War II Veterans Allowance were introduced through a Presidential Directive to improve the quality of life of the elderly people and change their income security. Home-based Care Short-Term Action for Care of Orphans was also launched in the 1990s to cater for HIV/AIDS patients and orphans respectively. In 2008, the drought relief programme was converted to a permanent public works programme (Ipelegeng). Moreover, the government intensified provision of social services such as health, education, housing, water etc., to reduce the intensity, incidence and prevalence of various social risks. It is hardly surprising that Botswana built a state-funded social protection system; the country confronted and

still confronts a series of critical risk. Firstly, its location in the sub-tropical high pressure belt of the southern hemisphere in the interior of Southern Africa and away from oceanic influences renders it vulnerable to natural disasters like the particularly frequent droughts that are often protracted and devastating. As noted in the tenth National Development Plan, 'drought adversely affects the already fragile food and agricultural situation in the country and seriously impairs the rural economy and socio-cultural structures'. In the last twenty-five years, Government declared a major drought at least five times. Another source of vulnerability emanates from the fact that this Southern African economy is highly dependent on mining especially diamonds for its growth and foreign exchange earnings, which account for about one-third of its GDP. The diamonds revenue bonanza has resulted in rapidly expanding government revenues and, thereby enables government to finance social protection programmes on a sustained basis.

Evidence shows that Botswana's social plan has been an important driver of the reduction absolute poverty. The recently released Botswana Multi-Topic Household Survey 2015/16 by Botswana Statistics indicates that government transfers and aid contributed to reduction in the incidence of poverty by eight percentage points to 16.3 per cent.

2.3 Global and Regional Policy Context

The provision of Botswana's social protection is guided by numerous international frameworks and conventions aimed principally at social development and poverty reduction. Amongst others, social protection delivery is aligned with:

- a) UN Sustainable Development Agenda 2030 under which countries have pledged to end poverty by 2030;
- b) the consensus reached at the World Summit for Social Development of 1995 which recognises that social development emphasises social inclusion and social integration, not only support to the needy, but to encompass issues such as ageing, civil society, disability, employment, social protection and youth;
- c) Ratification of most of the ILO basic conventions including those on child rights and discrimination against women, with the notable exception of the ILO Convention 102 of Social Security (Minimum Standards) of 1952. Social protection is also one of the four pillars of ILO's Decent Work agenda.

Besides global policy frameworks, Botswana's conduct of social protection is guided by continental and regional initiatives. Two important regional initiatives: the 2007 Southern African Development Community (SADC) Code on Social Security, which declares that 'Everyone in SADC has the right to social security' and sets out the responsibilities of Member States for providing it, and

the 2008 African Union Social Policy Framework (AU-SPF), which elaborates on the rationale and provides guidelines for establishing a coherent national social policy in African countries.

2.4 National Policy Context for Social Development and Social Policy

Nationally, social policy is anchored to social harmony. Entrenched in the Tswana culture, social harmony is the basis of the four national development planning principles of democracy, development, self-reliance and unity that guide policymaking. Besides, it is grounded in social justice, which is one of the four national development objectives. These factors dictate that government capacitates Batswana so that they can fully and effectively participate in development and thereby share more widely in its benefits. Moreover, social justice recognises that there will always be some disadvantaged and vulnerable individuals and households who have to be provided through social safety nets. To this end, economic planning is aimed at framing and executing a developmental agenda which strikes the appropriate balance between social justice and other national development objectives of rapid economic growth, economic independence and sustained development. Achieving social justice is considered an essential element of a satisfactory pattern of development. Going forward, national development is guided by Vision 2036: Achieving Prosperity for All. This transformational agenda seeks to elevate Botswana from an upper middle-income to a high-income country by 2036 and reinforces Botswana's commitment to the delivery of social protection to its citizens. The Vision 2036's second pillar of human and social development recognises social inclusion and integration as the primary means of ending poverty and fostering shared prosperity. In this vein, Botswana pledges to continue to empower the marginalised population groups so as to positively contribute to national development and to have a voice in decisions that affect their lives. Beyond these, the country has committed to continue to provide opportunities for decent employment, comprehensive social protection, especially social safety nets to the most vulnerable groups. However, social protection is to be reformed with the main aims of targeting and reducing waste, and ensuring that it is more cost effective.

Social protection is mentioned under the thematic area of social upliftment as one of the four thematic areas of the eleventh National Development Plan (NDP). Under the thematic area of social upliftment, the country's overarching in NDP 11 is to achieve a dignified life for all citizens through the delivery of programmes and projects that ensure the upliftment of economically marginalised, and socially vulnerable. Consequently, social development

is the Key Result Area under this NDP 11 thematic area. NDP 11 defines social development as a process of enhancing the well-being of the nation and developing and sustaining strategies that endeavour to enhance social responsibility for it. The NDP 11 further notes that it encompasses all policies that seek to ensure the equitable access of citizens to services and opportunities that improve their welfare and well-being. The agenda is to provide equitable access to mainstream social services such as education and health, and special programmes to disadvantaged or excluded social groups.

Social development is also mentioned as one of the national priority areas. The 2017/2018 budget strategy paper also announced that government will endeavour to provide adequate budget provision during the 2017/18 fiscal year, as in previous years, to implement initiatives aimed at achieving the national priority area of social development. Despite that, Botswana presently lacks a single national social protection policy; it has a plethora of policies and strategies relating to social protection. Table 4 highlights the importance of social development in the national policy making process.

Vision 2016
National Strategy for Poverty Reduction (under revision)
Tenth National Development Plan
Revised National Policy on Rural Development
Strategic Framework for Community Development (in preparation)
National Population Policy
National Youth Policy
National Health Policy
National Strategic Framework for HIV/AIDS
National Policy on HIV/AIDS and Employment
Revised National Policy on Education
National Strategy for Promoting Good Social Values
National Policy on Sport and Recreation
National Policy Culture
Labour Legislation
National Policy on Non-Governmental Organisation
National Policy on Orphans and Vulnerable Children (not yet approved)
National Policy on Needy and Vulnerable Families
Revised Remote Area Development Programme
National Policy on Disaster Management
National Policy on the Rights of Persons with Disabilities

Table 4: Some National Policies and Strategies Related to Social Development in Botswana

2.5 Botswana's Social Protection Programmes

The numerous social protection programmes that are in operation in Botswana can usefully be classified into three broad categories, namely: (a) social assistance programmes; (b) active labour market programmes and, (c) social insurance or pensions. Most of these programmes are state-led and are implemented by public agencies, in some cases with the cooperation of development partners and civil society organisations; though the government finances virtually all programmes. Table 6 summarises the main social protection programmes. As Table 6 underlines, Botswana allocates a sizeable portion of its resources to social protection. In 2012/13, for example, total spending on social protection, at BWP 5.347 million, was 4.4 per cent of GDP.

(a) Social Assistance Programmes or Social Safety Nets

Botswana implements various social assistance programmes to support the most vulnerable groups in the society and enable them access to basic necessities such as food, clothing, shelter and medical care. As indicated in Table 6, social safety net spending was 1.7 per cent of GDP in 2012/13. The allocation is for a diverse mix of programmes that address the most vulnerable groups in the country. The social assistance programme mix includes: a social non-contributory old age pension; cash and in-kind assistance for families who take care of orphans and

for destitute (indigent) persons; nutrition programmes for infants and pregnant and lactating women; school feeding for primary and secondary school children; and, a public works programme (Ipelegeng). The distinctive features of the social assistance programmes and their strength and weaknesses are briefly underlined below:

(i) Programmes for Orphans and Vulnerable Children

The flagship programmes for children are those for orphans and vulnerable children. In the 1999-2011 Short-term Plan of Action (STPA) for the Care of Orphans, an orphan was defined as a 'child below 18 years who has lost one (single parent) or two (married couples) biological or adoptive parents ... Social Orphans ... as abandoned or dumped children whose parents cannot be traced' (GOB, 1999; p. 9). A vulnerable child is also defined in the STPA as a child under 18 years who lives in an abusive environment, in a poverty-stricken family without access to basic services, in a child-headed household, with a sick parent(s) or guardian, or outside family care, or is infected with HIV. In particular, the Orphans Care Programme (OCP) was introduced to respond to the needs of the orphans including, inter alia, for food, clothing, shelter, education, protection, and care, whose number had substantially increased due to the HIV/AIDS pandemic. The programme has been implemented by the Department of Child Services of the Division of Social Protection of the Ministry of Local Government for over 17 years now. Orphans and vulnerable children are assessed and registered by social workers in local authority Social



and Community Development Departments. Vulnerable children are referred by local leaders. In 2008, there were about 51,806 orphans in terms of the official definition whereas there were 137,805 orphans if the international definition was used.

The orphans and vulnerable children receive a food basket and other items including school uniform, clothing and a transportation allowance worth about BWP 625 per month (USD 82), equivalent to 92 per cent of the (2009/10 BCWIS) food poverty line and receive psycho-social support from Ministry of Local Government's social workers. The programme is open to all families who apply, beneficiaries are not subject to a means test. In 2012/13, government spent BWP 301 million assisting 40,030 orphans. Currently, the food basket is delivered to beneficiaries through a smartcard (called a coupon) that enables them to acquire the specified foodstuffs at participating shops.

The system uses a network that comprises point of sale (POS) devices in conjunction with a smartcard to load 'food value' onto the smart card, which then enables the beneficiary to spend directly at participating retailers. The smartcard uses fingerprint verification (biometrics) to authorise each transaction. It has given beneficiaries a choice of when and, to some extent, where they purchase their food.

According to the BIDPA-World Bank study, one primary concern raised about the OCP is the propensity for relatives to place siblings in different homes. The reason cited for this is to spread the orphan benefits to multiple households. The impact of this tendency on the children's health, nutrition and education outcomes is yet to be rigorously evaluated.

(ii) The Veterans Programme

In 1998, a pension for veterans of the two World Wars was introduced 'as a token of appreciation for their effort and sacrifice in contributing towards saving the world from racist domination'. Veterans and their survivors, i.e., spouses and children up to the age of 21, receive a monthly cash transfer. In 2012/13, the cash received was 57 per cent of the food poverty line. The beneficiaries are not subjected to a means tested. In 2012/13, BWP 11 million was spent on 2,079 beneficiaries. Disbursements in recent years appear to have been consistently 'in excess of entitlements based on claimant numbers'. The programme offers some protection to survivors in that, when the direct beneficiary dies, the transfer is given to the surviving wife or, if there is more than one, the transfer is divided amongst the surviving wives.

The payments are made through the post office using a cheque book-like leaflet. It is managed by the Ministry of Local Government's Division of Social Protection, Division of Destitute Programme & Old Age Pension and is implemented by the offices of the District Commissioner in various districts.

(iii) Old Age Pension

After the World Summit for Social Development in 1995, where governments reached a new consensus that social development emphasises social inclusion and social integration, which covers issues such as ageing, subsequently government introduced Old Age Pension in 1996. As no means test or affluence test is applied, it is universal monthly transfer to all elderly citizens over age 65 with a valid National Identity card who have registered with the DSS via Pension Officers at the District Commissioner's offices. It is administered by the Division of Social Protection, Division of Destitute Persons and Old Age Pension of the Ministry of Local Government. Payment is effected through a bank transfer or in cash, in the latter case at a post office or the Kgotla on presentation of a pension order book. Where self-collection is prevented by sickness or disability, a proxy can be appointed. Where payment is by bank transfer or through a proxy, the recipient must present themselves every three months to complete a life declaration certificate. A local Village Pension Committee is elected to advise paying officers of any problems in their village, whilst a district-level Age Assessment Committee deals with eligibility issues. Recipients are not excluded from other benefits, such as destitute or orphan care allowances, or vice versa.

There were 93,639 beneficiaries in 2012/13. Interestingly, this figure was higher than 92,172 for the population aged 65 years and over in 2012 derived from the UN's population projections. A challenge identified is that the programme take-up rate is high. Similarly, payments are through the post office. In 2012/13, the programme cost BWP 279 million.

(iv) Destitute Persons Programme

In response to the realisation that the traditional safety net was gradually eroding, the Destitute Persons Programme was introduced in 1980 to serve those who have absolutely no other sources of support, but also to cover other people in need. The programme is managed by the Ministry of Local Government's Division of Social Protection, Division of Destitute Persons and Old Age Pension. For operational purposes, qualifying adults are those that own 'not more than four livestock units or have an income of less than BWP 120 per month without dependents or less than BWP 150 per month with dependents'. The Destitute Persons Programme income thresholds have not been updated in

years and today represent only one third of the minimum wage in agriculture and less than 20 per cent of the food poverty line. This may be contributing to the low coverage of the programme and its high exclusion errors. Applicants are selected by social workers with input from the Village and Ward Development Committee and the local authorities. The Old Age Pension received by the elderly is not taken into consideration so they can also qualify for the Destitute Persons Programme. The programme income thresholds have not been updated in years and today represent only one third of the minimum wage in agriculture and less than 20 per cent of the food poverty line. This may be a contributory factor to the low coverage of the programme and its high exclusion errors. There were 28,001 permanent (19,516 women and 8,485 men) and 2,034 temporary (1,340 women and 694 men) destitute people registered with the programme in March 2013.

Beneficiaries receive a coupon (a smartcard similar to the one used for the Orphan Care Programme) to buy food and a cash allowance for non-food needs (BWP 90 since October 2012), access to social services, and various subsidies (for example, for housing). The food coupon and the cash are provided monthly. The food allowance is intended to provide recipients with 1,750 calories per day. The coupon has a value of between BWP 450 and BWP 650 depending on the locality, with the highest transfer being provided in remote areas where food prices tend to be higher. The amount of the food coupon depends on family size or the number of dependents under the age of 18. For families of five or more members, the amount of the food coupon is doubled. Due to lack of infrastructure to operate the smartcards, the Ministry of Local Government distributes food baskets in the remote areas. The cash allowance is paid through the post office using a cheque book-like leaflet. In 2012/13, the programme cost BWP 241 million including the food coupon, the cash allowance, and the support to needy students and needy children. The DPP is well-established, its systems and regulations are well known and, as beneficiary feedback attests, it has provided a lifeline to many of Botswana's poorest and most vulnerable citizens.

The DPP makes a distinction between permanent or temporary destitute persons. The former are those whose age or physical or mental conditions render them completely dependent and these, therefore, eligible for benefits for life but require an annual recertification by social workers. In contrast, temporary destitute are those who are incapacitated by ill health or natural disasters and are, thus, unable to support themselves in the short-term. The policy also directs that the programme should maximise the numbers who can graduate through engagement in crop and livestock production, home

gardening, handicrafts, etc., albeit it accepts that exit or graduation is not a viable option for some beneficiaries. The 2008 Policy Review underscored that the DPP was fraught with challenges. One challenge it highlighted was the burgeoning in the annual numbers of beneficiaries. This reflected a deepening and unnecessary dependence on state welfare and, thus, a weakening of people's capacity for self-reliance. Another challenge identified was that efforts to graduate beneficiaries from the programme were proving ineffective. As a redress, all current beneficiaries were assessed for their ability to work on the Ipelegeng Programme, such as, Labour-Intensive Public Works Programme, and all that were able-bodied were transferred to it.

(v) Ipelegeng Programme

Ipelegeng is a short-term employment support and relief programme that was developed by the government of Botswana. Under the programme essential development or capital projects that have been subjected to the conventional development process are undertaken. These projects mainly comprise of public works. The programme was first rolled out in the 1960s before independence. It was formerly known as Labour Intensive Public Works Programme (Ministry of Local Government, 2012). The initial Labour-Intensive Public Works Programme (LG007) encompassed two components: drought relief and the permanent component. Amid the drought season, the purpose of the drought relief programme was to provide short-term employment to citizens. It was however limited to rural areas.

On the other hand, the permanent component of LG007 was financed during the non-drought years. In contrast with the drought relief, the permanent component extended over to urban and rural districts. Over the years the programme has undergone numerous changes including alterations in names and the strategic goals and objectives. Additionally, given the poor weather conditions coupled with minimal employment opportunities, the government of Botswana has decided to run the program on a permanent basis. The programme spans over the rural and urban districts. Ipelegeng places vulnerable groups of society at the forefront. Under the programme central emphasis is accorded to initiatives that vulnerable members of the society can exploit in order to alleviate themselves from abject poverty. Given this, Ipelegeng can be touted as a poverty eradication initiative.

According to the Ministry of Local Government, the programme targets unskilled and semi-skilled persons for engagement on a short-term employment. In undertaking public works, which include: maintenance of drift fences; primary and secondary schools facilities; and vegetation

control (bush clearing) etc. The beneficiaries utilise simple and easy to use tools and machinery. At present, the Ipelegeng Programme targets 50,000 beneficiaries monthly and engaged on a rotational basis.

Over the years there have been differing opinions from different sections of society on the exact impact of the Ipelegeng Programme on labour, negative and positive. As at end of June 2016, the total number of beneficiaries that were engaged on the Ipelegeng Programme stood at 64,722, whereas the monthly wage rate was BWP 540. Female beneficiaries accounted for 70 per cent of the total beneficiaries engaged. (Statistics Botswana, 2016). Moreover, Formal Sector Employment Survey undertaken by Statistics Botswana listed the Ipelegeng Programme as a form of formal employment.

The significant share accounted for by females in total beneficiaries is consistent with the findings of a review of the Ipelegeng Programme undertaken by BIDPA in 2012. The findings of the said study indicated that most Ipelegeng Programme households were headed by females, thus, implying that in these setup, females were breadwinners. As such the Ipelegeng Programme provides direct wage employment and also enhances female participation in the labour force. Increased female participation in the labour force is usually associated with developments in child welfare and also elevates the status of society (BIDPA), 2012).

From the afore-mentioned review of the Ipelegeng Programme, it was also revealed that the youth's participation rates were staggeringly high. The results show that 35 per cent of the youth participated in the Ipelegeng Programme. This revelation points to the fact that youth are mostly affected by the high unemployment levels, hence, they are resorting to Ipelegeng Programme for income generation. Also arising from the BIDPA findings is that beneficiaries expend most of their monthly income on consumption. The two common goods that form the beneficiaries' consumption bundle are food and clothing. By consuming all or most of their monthly income, this implies that beneficiaries commit little or nothing to savings/investments. Considering that the beneficiaries are engaged on a rotational basis lack of savings by beneficiaries may place them in a position where they may struggle to smooth out or keep constant their consumption pattern in the event they are not retained.

Considering that Ipelegeng Programme beneficiaries work for only six hours per day for a monthly wage rate of BWP 540, the programme has emerged as an attractive option for other employees who are engaged in other sectors, in particular the agricultural, domestic work, and the livestock (herdsmen) sectors which offer lower

wages. As a result there has been an exponential influx of labour from these sectors transferring to the Ipelegeng Programme. Consequently, we have seen foreigners, in particular Zimbabweans, crossing the border to fill in the gaps in these sectors left by locals who vacated to the Ipelegeng Programme.

Ipelegeng Programme has also come in handy in reducing unemployment in rural and remote areas. In Botswana, rural and remote areas are characterised by extremely low economic activities as firms are sceptical of investing in such areas on account of low market and incomes which implicitly implies low demand for goods and services. However, the advent of the Ipelegeng Programme has given participants in rural areas economic purchasing power. Beneficiaries have income to consume. Small businesses (vendors) have also been set up. Moreover, the influx of rural-urban migration has to a lesser or greater extent declined. Most rural and remote area dwellers are now engaged in Ipelegeng, thus, they opt not to migrate to urban areas in search of economic opportunities.

Efficiency and effectiveness of the Ipelegeng Programme have also been brought to the fore in recent years. Proper coordination and functioning of any Public Work Programme rests heavily on efficiency. Therefore, arising from the revision of the Ipelegeng Programme undertaken by BIDPA, several recommendations were obtained from different stakeholders all aimed at improving the efficacy of the Programme. Some of the recommendations border on different aspects such as safety and governance. Some of the key recommendations are listed below;

- Participants indicated that the programme had inculcated them with pertinent skills that could enable them to seek better and more rewarding employment opportunities. It is in the wake of this assertion that a structured training component should be introduced within the Ipelegeng Programme, as this will go a long way in adding value to the Programme and honing the skills of the participants.
- The Ipelegeng Programme ought to be reconfigured in order to incorporate flexible working hours that would enable participants to work at their own time and pace. This new setting would ensure that remuneration is predicated on work done and not the time spent at work. To a larger extent this will reduce shirking.
- On the governance front, the top down-approach which explains the relationship between the Ministry of Local Government and local authorities should be purged. The Ministry acts as an overall national coordinator of the programme whereas the local authorities are charged with the responsibility of implementing the programme. Local authorities have complained that they cannot instantaneously introduce

some amendments that they deem could improve the efficiency of the programme because they have to first seek approval from the Ministry of Local Government, and this could turn into a protracted process. Thus, a bottom-up approach that encompasses all relevant stakeholders should be adopted.

- Another sticky issue arising from the Ipelegeng Programme is that of the safety of beneficiaries when undertaking their daily tasks. Taking into account some of the risks involved in the tasks undertaken by participants it is important that safe protective clothing is availed.

(b) Active Labour Market Programmes

Botswana also finances a number of active labour market programmes. In Table 1, total spending for active labour market programmes was 0.17 per cent of GDP in 2012/13. The main active labour market programmes being implemented are, inter alia, severance payments, national internship programme, the Youth Development Fund and the Youth Empowerment Scheme.

(i) Severance Payments

The Employment Act requires workers not covered by retirement pension arrangements to receive protection under its gratuity/severance scheme. The arrangement provides benefits at every five year periods of an employee's term of employment. On termination of employment a worker is eligible for a pro-rata cash benefit.

As Botswana has no unemployment insurance, formal sector enterprises are required by law to offer severance pay to workers who are dismissed. Employees with 60 months of continuous employment are entitled to a severance benefit from their employer amounting to one day of basic pay per month worked. Under the 2010 amendment to the Employment Act, in case of termination of the employment contract before five years, the employee is entitled to a severance benefit that is proportional to his or her length of service. Because they are not fully funded and are inefficient as they reduce labour mobility, severance payments are generally a poor protection against unemployment.

(ii) National Internship Programme

As an effort to fight unemployment amongst young graduates, the National Internship Programme was introduced in 2008 by a Presidential Directive and is managed by the Ministry of Labour and Home Affairs' Department of the National Internship Programme. It targets unemployed graduates who have completed their Bachelor's Degree and Diplomas. The graduates are placed in workplaces to enable them to gain work skills and enhance their employability.

The internship is for a period of up to 24 months of service and the interns are expected to have gained the necessary skills to increase their marketability and employability. Interns receive 'guidance to proper behaviour, expected standards, [and] pertaining policies' and submit monthly a form to the Department so that "their progress can be evaluated'. They are currently paid an allowance of around BWP 2,000 on a monthly basis. A trace study to find out how graduates benefitted from their participation in the programme and to explore ways of improving it is currently being conducted.

(iii) Youth Development Fund

This was instituted in 2009 and its goals include: (i) to promote the active participation of young people in the socio-economic development of the country; (ii) to reduce rural-urban migration by making it attractive to start growth-oriented citizen-owned youth enterprises; (iii) to encourage out of school, marginalised, and unemployed youths to venture into viable income-generating projects; and (iv) to create sustainable employment opportunities for young people through the development of sustainable projects. It is implemented by the Department of Youth within the Ministry of Youth, Sports and Culture. The target group is youths between the ages of 18 and 35 who are out of school or unemployed and who have no particular academic background. The youths prepare simplified business plans that are appraised by local district youth officers.

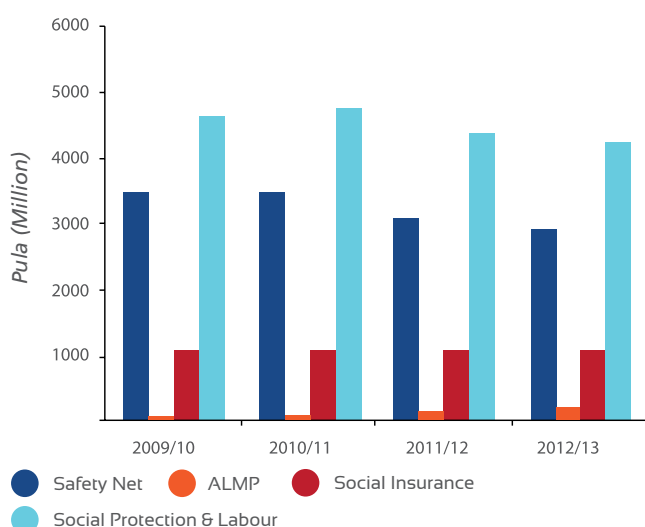
Apart from taking into consideration whether the location of the proposed business is suitable and the profile of the applicant, the appraisal takes into account the commercial prospects of the venture. Efforts to increase the effectiveness of the programme include: (i) hiring private consulting firms to provide short courses on business skill management to the beneficiaries; (ii) developing a business mentoring system particularly with expatriates; (iii) helping beneficiaries to market their products, for instance, at trade fairs; and, (iv) promoting associations of entrepreneurs.

(iv) Youth Empowerment Scheme (YES)

Under the management of the Ministry of Youth, Sport, and Culture under the Department of Youth, YES is an umbrella programme that coordinates various youth related interventions. It was introduced in 2012 in order to address the youth unemployment challenge, to stimulate the spirit of volunteerism and community participation amongst young people, to enable youths to develop a good work ethic and to gain entrepreneurship and employment readiness experience, to empower youths with skills that will enable them to make a positive contribution to the development of their communities, and to reduce youth development and to eradicate poverty amongst

young people. Beneficiaries are the unemployed and out of school youths aged 18-35 years with secondary or university qualifications. In 2012/13, the scheme invested BWP 24 million in eight interventions/programmes that include: life skills and capacity building; sport and cultural development; basic computer literacy training; retooling; and, attachment to mega projects programmes.

Figure 4: Social Protection and Labour Spending 2009/10 -2012/13 (constant BWP million)



Source: BIDPA & World Bank (2013)

2.6 Performance of Botswana's Social Safety et

Owing to resource constraints including the time and space limitation, analysis of the performance of the world largest diamond producer's SP system is carried out by recourse to existing literature. It relies on and draws heavily from the BIDPA-WB's (2013) study and, to a lesser extent on NDP 11. The former comprehensively assessed the performance of Botswana's SP system focusing specifically on: spending; coverage, gaps, and overlaps; generosity of benefits; targeting mechanisms; cost-effectiveness; incentive compatibility and sustainability; monitoring and evaluation; and institutional arrangements. A summary of key findings of the BIDPA-World Bank (2013) study is as follows:

(i) Spending – Botswana spends sizeable resources to SP. For instance, total spending on SP, at BWP 5.5 billion, was 4.4 per cent of GDP in 2012/13. However, this was lower than the average for the other upper-middle-income countries of 5.3 per cent of GDP, but higher than the average for other African countries of 2.6 per cent. Of the BWP 5.5 billion in 2012/13, 65 per cent was spending on social safety net including sponsorships and scholarships, 25.5 per cent was on contributions to social insurance (Botswana Public Officers Pension Fund (BPOPF)) and

payment of defined benefit scheme and 3.9 per cent was on LMP. Figure 2 elucidates that social protection spending displayed a downward trend between 2010/11, with a relatively large cut registered by the sponsorships or Scholarship programme and the CHBC Programme. The decrease in Destitute Persons Programme since 2010/2011 reflects the policy decision to transfer the able-bodied poor to the Ipegeleng programme;

Programme coverage, overlaps, and gaps –Figure 1underscores that take-up rates of Botswana's universal programmes are good. Of the universal programmes, the coverage of four, namely, primary and secondary school feeding, Old Age Pension, and the veterans' programmes, is generally high. At only 30 per cent of the target group, the take-up rate of the OCP is quite low. In light of the restrictive definition of orphans used by the Ministry of Local Government, this low take-up rate is scarcely surprising. Conversely, the coverage of the means test programmes, most notably the needy students, Ipegeleng, destitute persons is quite low. Notable exceptions are the sponsorships/Scholarships programme, which seems to cover a large proportion of students in higher education (the coverage is much higher than the total number of students in tertiary education which is 16,500 according to the United Nations Educational, Scientific and Cultural Organization 2006), the National Internship programme, which covers 3,750 youths, and the apprentice programme, there is no information on the size of the target group. The VGFP is targeted to specific groups (children under 5-years-old and pregnant and lactating women) and its coverage is high as it covers 383,400 people with food supplements. This programme together with the Primary and Secondary School Feeding Programmes cover 40 per cent of the population. Two programmes that target the poor and are subject to means tests, namely the Destitute Persons and Needy Students programmes seemingly have quite low coverage and significant exclusion errors. Whereas the needy students programme covers about 50 per cent of the absolutely poor children of primary school age, which may to some extent explain why a significant number of children are still out of school, the DPP covers about 25 per cent of the estimated absolutely poor people (21 years and over). Lastly, Ipegeleng also has limited coverage. Actually, excess demand for the programme has meant that a lottery is used in most constituencies as a selection criterion of the beneficiaries;

(ii) Substantial programme overlaps exist and these are a direct result of how the target group and eligibility criteria are defined as well as the fragmented approach to social protection. The study suggested an approach that focused on the family instead of individuals could eliminate unjustified overlaps of programmes and would be more effective;

(iii) There were a large number of institutions implementing a large number of active labour market programmes with unclear lines of responsibility. The institutions administering active labour market programmes included the MOBE, the ML & HA, MYS&C and autonomous bodies such as the Botswana Training Authority, and the Tertiary Education Council (TEC). These institutions manage several programmes including: out-of-school youth programmes, training programmes, youth employment and skill development programmes, the LMO and Labour Exchange, the Scholarships/Sponsorship Programme, the Internship Programme, and the management of the 0.2 per cent turnover tax to finance vocational training;

(iv) Social insurance is also fragmented. Of those in the formal labour force in 2012 (about 379,000), 41 per cent were active members of a pension scheme. This includes 98,226 members of the BPOPF, which covers central and local government employees, and 47,970 formal sector employees who are enrolled in the 97 existing stand-alone private pension funds (including five umbrella funds that pool together another 168 small funds). The formal pension system only covers about 13 per cent of the labour force. Out of 41 countries in Sub-Saharan Africa, Botswana is one of the five countries that do not have a mandatory public pension plan Pillar 1. ²Botswana does not have a mandatory privately managed scheme (Pillar 2) either.

In assessing the generosity of the social protection programs, we should be concerned with four issues:

(i) whether the existing social protection programs are sufficiently generous to have their expected impact;

(ii) whether they are too generous and therefore serve as a disincentive for the beneficiaries to work and save and create a culture of “dependency”;

(iii) whether they are too generous to be financially sustainable; and

(iv) whether assistance programs undermine traditional social protection arrangements which in Botswana are already being disrupted by migration, rapid urbanization, and the HIV epidemic. If the programs are not generous, then the other issues should be less relevant. To address the first issue, we compared the benefits paid by the major social assistance programs with international benchmarks. Our focus is on the OAP, Ipelegeng, and DPP for which there is comparative international information.

2 - The pillars are part of the World Bank's pension reform conceptual framework. Zero Pillar = non-contributory basic benefits financed by the state, fiscal conditions permitting. First Pillar = mandatory with contributions linked to earnings and the objective of replacing some portion of lifetime pre-retirement income. Second Pillar = mandatory defined contribution plan with independent investment management. Third Pillar = voluntary taking many forms (such as individual savings; employer sponsored, defined benefit, or defined contribution). Fourth Pillar = informal support (such as family), other formal social programs (such as health care or housing), and other individual assets (such as home ownership and reverse mortgages) (Holzmann et al, 2008).

To sum up, Botswana has a comprehensive social safety net that covers most of the risks that have been identified, but there are substantial programme overlaps that are a consequence of the fragmented approach to social protection. On the other hand, the analysis points to three major gaps. One is a programme that focuses on poor families to provide immediate relief and overcome long-term poverty through investment in human capital. Second, there is a need for a better targeted labour-intensive public works that allows poor unemployed to work for longer periods. Finally, there is need to increase the coverage of the old age social insurance as the existing pension system covers only a fraction of the labour force and to replace the inefficient and often unreliable severance payment by an unemployment insurance.

An interesting question to ask is whether the country's social protection system is generous. Programme generosity is defined as the programme transfer divided by the average consumption expenditures (excluding durables, housing, and health care) of the poorest households. As noted earlier on, the DPP is one of Botswana's major social assistance programmes and may be considered a 'last resort programme'. Last-resort programmes are defined as needs-based programmes that are designed to help those who are not assisted or not assisted enough to keep them out of poverty by social insurance (pensions, unemployment insurance) or universal programmes (such as child allowances or education) that are typically means-tested (Grosh et al., 2008).

The DPP pays an equivalent of BWP 640 per month including both the value of food and the cash allowance. Therefore, the DPP generosity is 77 per cent of the poorest household food consumption. By way of comparison, a World Bank study carried out by Grosh et al. (2008) estimated the global median estimate of the generosity of last resort programmes in developing countries at 23 per cent. Furthermore, the DPP benefit is equivalent to 143 per cent of the agricultural minimum wage (BWP 445 per month) and to 94 per cent of Statistics Botswana's BCWIS's food poverty datum line for 2009/10 of BWP 680 per month. In light of its attractiveness, the reports indicating that people are unwilling to graduate from the DPP are most unsurprising. Actually, there is no record of people graduating from the programme, with the exception of those able-bodied recipients who were transferred to the Ipelegeng Programme in 2009. The addition of two new items into the DPP in 2013 to all beneficiaries of receiving a blanket, and the elderly living alone will also receive a radio. Similarly, a P250 monthly cash transfer to all Botswana aged 65 years and above, the state-financed and universal OAP corresponded to a generosity of 30

per cent of the poorest household food consumption as compared to the median generosity for such pensions in a sample of developing countries was 27 per cent of the adjusted consumption of the poorest quintile, lower than in Botswana. Also, the benefit was equivalent to 37 per cent of the food poverty line.

Turning to active labour market programmes, Table 5 underpins that the standard practice in developing countries in most public works programmes is to set the wage or compensation rate for public work programmes either below the minimum wage or prevailing market wage for unskilled labour so that there is an element of self-selection. In Botswana, the Ipelegeng pays compensation of BWP 480 plus a meal that is equivalent to an additional BWP 100 per month. Therefore, the total compensation is BWP 580 per month (for six hours of work per day during five days of each week). This is 30 per cent higher than the minimum wage for agricultural workers and equivalent to 85 per cent of the absolute (food) poverty line of a family of four. When adjusted for time worked, the hourly remuneration under the Ipelegeng (included the meal) is 90 per cent and five per cent higher than the minimum hourly wage for agricultural and manufacturing workers respectively.

Intensive Public Works Programs	Wage setting
Bangladesh's Food-for-Work Program	Programmes wage < market wage
Bolivia Emergency Employment Program	Programmes wage < market wage (about 2/3)
Ethiopia Productive Safety Net Program	Programme wage < market wage (cash or food)
India Maharashtra Employment Guarantee Scheme	Programme wage=minimum wage> market wage Malawi Public Works; Programme wage < minimum wage
South Africa Expanded Public Works	Programme wages minimum wage
Yemen Public Works	Programme wage < minimum wage

Table 5: Public Works Programmes in Developing Countries
source: Grosh et al (2008), pages 487-492

The BIDPA-World Bank study concluded that Botswana's major social assistance programmes are quite generous. The benefits granted by the Destitute Persons Programme and the Old Age Pension are high compared with the median of similar programmes in several developing countries. Ipelegeng provides compensation for a six hour working day that is 30 per cent above the minimum wage for agricultural workers or 90 per cent higher when adjusted for the number of hours worked.

Regarding targeting efficiency of the social assistance programmes or the extent to which the poor benefit from the programmes, the conclusion of the BIDPA-World Bank study's evaluation was the targeting of the one major social assistance programmes that is "mean-stented" (the Destitute Persons Programme) is relatively accurate, though there is always room to improve.

2.7 Cost-Effectiveness of Social Programmes

Most programmes do not have any comprehensive policies or operational guidelines, and in other cases the guidelines are out of date. This makes the implementation of the programmes subject to the interpretation of the different front-line workers and therefore discretionary. However, it makes it impossible to hold these workers (and their supervisors) accountable for results.

The review of the operating costs of the few programme for which information is available indicated that in general they appear to be on the high side, with an exception of the Ipelegeng Programme, which appears to be within international benchmarks.

2.8 Incentive Compatibility and Sustainability of Social Programmes

A particularly crucial issue of concern for policymakers in Botswana is the potential work disincentives and dependency effects of the income support programmes. Some government policies may be providing the wrong incentives to work, save, and be self-sufficient and may be promoting dependency. This seems to be the case not because of a single programme, but as a result of the cumulative approach to social policy which provides food assistance 'from cradle to grave', non-repayable 'loans', generous sponsorships and scholarships, generous compensation in youth programmes, and generous transfers to adults and the elderly.

From the standpoint of the social assistance, four programmes stand out as being either poorly targeted at the needy or being too generous: the School Feeding Programmes, the Destitute Persons Programme, the Old

Age Pension, and, increasingly, the Ipelegeng.

From an economic theoretical vantage point, a social assistance programme could, indeed, reduce the labour supply of beneficiaries if the following conditions were to apply: (i) the beneficiary household includes members of working age who are unemployed; (ii) the benefit provided by the programme is large enough to enable the beneficiary (and his family or household) to 'live off the benefit'; and (iii) the benefits are reduced when the beneficiary's earnings go up (see Box 3). The evidence that some programmes in Botswana may create dependency is rather anecdotal and more research to analyse the work and savings behaviour of recipients is needed.

Turning to Ipelegeng, the recent increase in the compensation and the provision of a free meal makes the programme more attractive than working in agriculture. Ipelegeng compensation is now 30 per cent above the minimum salary in agriculture or 90 per cent if the number of working hours is taken into consideration. This is not to say that the Ipelegeng is not a useful programme. On the contrary, the Ipelegeng Programme has a series of interesting characteristics. It is a major safety net for the poor unemployed, and it has a high rate of participation by women (over 70 per cent), even though in general women have lower labour force participation than men. Ipelegeng officials also indicate that most women who work in the programme come from large families and are poor. However, the programme also faces some important challenges. For example, there are reports that the projects being financed are of low quality.

There are concerns that some programmes may be providing the wrong incentives to work and may be promoting dependency, this area would require additional work to measure work and savings behaviour.

2.9 Social Insurance or Pension Fund

The Public Officers Pension Fund was introduced in 1987. It is the government's occupational scheme covering permanent and pensionable civil servants, but excludes non-permanent officers including officials in management positions. Regarding financing, the employer contributes an equivalent of 15 per cent of member's pensionable salary and the members contribute 5 per cent.

Table 1 shows that social insurance spending accounted for 1.2 per cent of GDP and consisted of contributory pensions mainly for the public sector employees.

2.10 Types, Management, Distribution and Investments of Funds

Pension Funds in Botswana are regulated by the Non-Bank Financial Regulatory Authority (NBFIRA). NBFIRA is regulatory authority established by an Act of Parliament to provide regulatory oversight, monitoring and evaluation of all non-banking financial establishments. In relation to pension funds, the authority employs various legislative acts in place that helps it to oversee the establishment, licensing and operation of retirement or pension funds in Botswana. The main legal instruments that guide and protect the pension funds are the Non-Bank Financial Regulatory Act (2016) and the Retirement Funds Act (2014) which repealed the Pension and Provident Funds Act. Additionally, the income tax also acts as a supporting legislation.

The BPOPF is the biggest pension fund in Botswana. It came into being in 2001 in the wake of the government of Botswana changing the pension fund arrangement from a defined benefit pension scheme to a defined contribution pension scheme. The BPOPF constitutes the government pension fund owing to the fact that the members of the fund are solely public servants. Notwithstanding, public servants are not compelled to join the fund. They can duly exercise their right to not be party to the fund.

BPOPF has devised a clear step-by-step guide on how the funds are disbursed to members upon retirement, resignation or death. For the public servants, the early retirement age is 45 years and the normal or compulsory retirement age is 60 years.

According to the guide, upon retirement the member has to officially notify the employer. The employer will then proceed and affix all pertinent and relevant documentation relating to the member and forward the same to the fund. Following from this process, the member will be paid one third of his or her pension benefit which is exempted from tax and the remaining two thirds will be committed to an annuity from an approved insurance of his or her own choice.

An employee or member who voluntarily resigns v before the compulsory age of 60 years will also be subjected to the same process, even though there is a slight difference with respect to tax. Under this context, the employee can get 25 per cent of their pension fund, which is optional and not immune to tax. The remaining 75 per cent will be deferred or the member may decide to transfer it to a different though approved fund. In the event that a member dies, the entire pension benefit will be paid out to his or her nominated beneficiaries.

Turning to private pension funds, they are als

o subjected to the same above-mentioned legal instruments. Alternatively, private pension funds are referred to as occupational or employer private pension funds. According to NBFIRA, there are 103 legally registered private pension funds in Botswana, out of which 97 are classified as Pension and Provident Funds. Out of the remaining six, there are four that fall under the Umbrella Fund and the last are classified as the Umbrella Provident Fund and the Sub-Fund. The payment of the funds to members or beneficiaries of private pension funds is multifaceted. There are quite a number of different private employers that offer pension benefits to their employees. All these employers have different processes in place in relation to retirement, resignation and death of an employee. As a result, it is difficult and strenuous to map out how pension benefits are paid out to beneficiaries in the private pension funds.

With respect to investment of pension funds, the monies are invested both onshore and offshore. There are regulations that stipulate the threshold of funds to be invested locally and abroad. Currently, the ratio of funds to be invested offshore to onshore is 70:30. This simply means that 70 per cent of the funds are placed in offshore assets whilst the remaining 30 per cent is committed to domestic assets.

In most cases, occupational private pension funds are offered by medium- to large-sized employers. Contributions to the pension funds are financed by both the employer and the employee. These contributions are predicated on well-established plan rules and regulations that set the threshold of both the employer and employee contributions towards the pension fund. In general, the contribution rate under an average plan ranges between 10 per cent and 15 per cent. Usually, five per cent is deducted from an employee's monthly salary, whereas the employer commits between five per cent and ten per cent towards the pension contribution. Figures from NBFIRA indicate that during the 2011/12 financial year, the aggregate contributions from both employers and employees was BWP 648.5 million, and BWP 75.1 million was disbursed out to members as pension benefits.

2.11 Trade Unions' Role in Pension Funds

Trade unions play an important role in the management and administration of their members' pension funds. In September 2017, the Parliament of Botswana enacted an amended bill that required each public sector trade union to have a representative sit on the BPOPF Board of Trustees. As members of the Board of Trustees, union representatives have a fiduciary duty to ensure that their members' pension funds are entrusted with legally approved portfolio fund managers. Additionally, union

representatives are also charged with the responsibility of safeguarding the financial well-being of their members by ensuring that the appointed portfolio fund managers attain the specified investment goals and objectives of members. These goals and objectives heavily hinge on concurrently maximising investment returns and at the same time managing or containing the risk of the actual returns on investment of pension funds deviating from the expected rates of return.

Given the magnitude of their fiduciary duties, union representatives who are members of the Board of Trustees also sit in the sub-committees of the Board such as the Risk and Investment Committees. Thus, they have a relatively significant leverage on how their members' pension funds are invested such as the choice of asset classes (equities, fixed income securities, private equities)

2.12 The Role of Trade Unions in Social Protection

Trade unions are the workers' mouth piece and their primary objective is to promote and defend workers' rights. They should play an influential role in ensuring that each worker is covered by some kind of a social security scheme. To this end, trade unions should identify the gaps and needs in the prevailing social protection system and provide options that could increase the coverage of the workers. Amongst others, trade unions in Botswana should increase their participation and quality of engagement with government, employers' organisations and ILO in the Botswana Decent Work country Programme.

2.13 Recommendation

This study's last objective is to suggest recommendations to address the current social protection situation. Table 2 below summarises the BIDPA-WB study assessment

of the strength and weaknesses of the main social protection programmes and makes recommendations. The study endorses those recommendations. To improve the efficiency and effectiveness of the social protection in Botswana, it highlights the following recommendations:

Establishment of a National Social Protection Commission which will facilitate a social protection policy that is integrated, all-encompassing and participatory;
A thorough evaluation and assessment of the current social protection system is advocated to ascertain the exact impact of the system on labour;
A pre-emptive and all-inclusive approach should be adopted in relation to social protection strategies, so as to mitigate risk and susceptibility;

- A cost effective national employment pension scheme should be set up in place of the risky severance or gratuity arrangement;
- Pertinent issues relating to social protection should be incorporated into collective labour agreements;
- The present social protection system ought to encompass the informal sector, specifically the domestic and agricultural workers;
- The schemes need to be well-designed to empower, educate and re-integrate beneficiaries through the provision of lifelong skills, and enable the poor to graduate from poverty;
- There is need to demand the ratification of all conventions that relate to social protection with a special emphasis on ILO Convention 102 of 1952; and
- The introduction of a statutory national retirement provision for the private sector, offering periodic payments during old age would help address the inefficiencies of the provisions for severance/gratuity as laid in the Employment Act in respect to retirement provision.



Table 6: Spending and Coverage of the Social Protection and Labor Programmes, 2012/13

	Spending	Share of GDP	No. of beneficiaries	Share of Population
1. Pensions and Other Insurance	1,435	1.2		
Public Officers Pension Fund	1,087	0.9	6,600	0.3
Non-contributory Public Plan	348	0.3	n.a.	
2. Active Labor Market Programmes	214	0.2	4,928	0.2
National Internship Programme	73	0.1	2,891	0.1
Apprentice Programmes (MTCT)	20	0.0	949	0.0
Youth Development Fund	97	0.1	1,088	0.1
Youth Empowerment Scheme	24	0.0	n.a.	
3. Social Safety Net	3,698	1.7		
Cash and Near Cash	833	0.7		
Orphan Care	.301	0.2	40,030	1.9
Destitute Persons	241	0.2	30,518	1.5
Old Age Pension	279	0.2	93,639	4.5
In-kind Food Transfers	651	0.5		
Vulnerable Group Feeding Programme	166	0.1	383,392	18.3
Primary School Feeding Programme	275	0.2	268,761	12.8
Secondary School Feeding Programme	210	0.2	161,929	7.7
Public Works I Ipelegeng	409	0.3	55,000	2.6
Poverty Eradication Initiative (APP)	104	0.1	3,586	0.2
Other Transfers '1	38	0.0	3,424	0.2
4. Sponsorships/Scholarships	1,674	1.4	28,507	1.4
Total Social Protection and Labor	5,347	4.4		
Memorandum items				
GDP (P millions)	122,500			
Population			2,099,601	

Source: Programmes managers, MFDP's Budget Books, and CSO {2012}

Notes: Other transfers include: Community Home-based Core, MLG transfers to NGOs, Remote Area Development Programmes, and Word War Veterans

Table 7: Summary of Report's Diagnostics and Recommendations

Social Protection and Labour Programmes	Function (Primary, Secondary)	Strengths/issues	Recommendations
Pensions (Contributory)	Resilience	Insure against drop in income during old age BUT: Low coverage, excessive fragmentation of private voluntary schemes	Increase social security coverage, eliminate fragmentation of private schemes.
Active Labor Market Programmes*	Opportunity	Enhance youth employability and workers skills, BUT: Low coverage not linked to SSN, duplications, generous benefits of internship programmes, no impact assessment.	Promote linkage between A LM programs and SSN beneficiaries, recalibrate benefits of internship programme, combine skills training with internship in private sector in youth employment programs.
Social Safety Net			
Cash {Old Age Pension)	Equity	Protection of elderly poor, benefit adequate to ensure minimum food security	Maintain the program within current parameters
Near Cash (Orphans, Destitute, Needy Children)	Equity	Protects against destitution, BUT: limited coverage, does not consider family needs, coupon limits choices, lacks horizontal equity, overgenerous benefit, does not build human capital of children.	Replace with FSG program (option 1); or complement the safety net with FSG program (option 2); over medium term, link FSG with human capital investments in health and education; protect the disabled
In-kind Food Transfers (Feeding programmes**)	Equity	Protects poor individuals from irreversible losses of human capital (nutrition, health) BUT: Not focused on the first 1000 days, limited impact on under nutrition, relatively high cost per student in school feeding.	Focus on first 1,000 days and use effective nutrition interventions, cost- recovery in school feeding for those who can afford to pay.
Public Works/ Ipelegeng	Equity/ Resilience	Insure against drop in income, BUT: Benefit level too high relative to minimum wage, poor targeting.	Recalibrate benefit level, extend duration & number of beneficiaries, distribute places at regional level using poverty criteria.
Poverty Eradication Initiative (APP)	Opportunity/ Equity	Promote access to productive work BUT: limited coverage, difficult to monitor.	Target beneficiaries of FSG, simplify interventions, and assess impact before scaling up.
Sponsorships/ Scholarships	Opportunity/ Equity	Promote human capital accumulation, BUT: likely regressive, fiscally unsustainable.	Consider introducing co-payment for students from upper middle and high income households.

3

Development of Labour Legislation In Botswana



3. Development of Labour Legislation In Botswana

3.0 Historical Overview

The 1966 Constitution of Botswana had a Bill of Rights which only recognised civil and political rights. Sections 13(1) and (2) provided for the freedom of association, albeit with a claw back clause which limited the right. The Bill of Rights did not, as is the case presently, recognise second generation human rights which include the right to decent work and other labour-related rights. However, pre-independence pieces of legislation such as the Trade Union and Trade Disputes Proclamation of 1942 and the Employment Law No. 15 of 1963 were enacted (FES, 2008). These pieces of legislation did not provide a comprehensive framework for dealing with labour disputes.

In the pre-independence era, few pieces of labour legislation were passed by Parliament in an attempt to have in place a comprehensive labour legislation framework. Some of the legislative pieces to be enacted and passed by parliament included the Trade Unions Act No. 24 of 1969 and Trade Disputes Act No. 28 of 1969 (Cooper 1985). One of the most significant features of the Trade Disputes Act No. 28 of 1969 was the establishment of the Industrial Arbitration Tribunal and Board of Inquiry and provided for the settlement of trade disputes and the regulation of strike action and lockouts (FES, 2008).

Another significant legislative framework in the post-independence era was the Regulation of Wages and Conditions of Employment Act of 1968. The Act introduced a bargaining structure known as the Wages Council which dealt with issues of remuneration and conditions of employment for workers. It was a progressive attempt towards the realisation of a comprehensive labour law framework for the country. In the period between 1982 and 2004, the Employment Act, Trade Disputes Act and the Trade Union and Employers Organisations Act were enacted and passed into law.

Prior to 1997, Botswana's labour law framework restricted public servants from unionising. As a result of the legislative framework, public servants 'associated' and organised themselves under the auspices of associations. Hunyepa succinctly describes this era, Public sector organisations in Botswana operated as staff-associations since the colonial government and post-independence era. The organisations relied on the goodwill of the (colonial) government in improving the working and living conditions of workers of Botswana. (2008, p. 3).

3.1 The Labour Law Transformation Era

In 1997, the government of Botswana, led by former President Sir Ketumile Masire ratified twelve (12) ILO Conventions. These included the core Conventions No. 87 and No. 97. It was only in 2004 that Botswana's parliament ratified and domesticated the conventions and incorporated them into the domestic labour law framework. It was then that employees in the public sector were allowed to unionise. The following labour laws were amended, enacted and passed by Parliament: Employment Act, Trade Disputes Act and the Trade Union and Employers Organisations Act. This era marked a significant epoch in the development of labour law legislation in Botswana (Motsatsing, 2013).

3.2 High Court Versus Industrial Court (Why the High Court is Preferred by the Trade Unions for Civil Disputes)

The High Court was established in terms of section 95(1) of the Constitution of Botswana, whereas the Industrial Court was established in terms of section 15(1) of the Trade Disputes Act, 2006). In terms of section 15(2), the Industrial Court was established to settle trade disputes and to further secure and maintain good industrial relations in Botswana. The Industrial Court was established as a court of law and equity. In contrast, the High Court was established as a court of law only with unlimited jurisdiction in terms of section 95 of the Constitution. Both the High Court and the Industrial Court are superior courts of record with concurrent jurisdiction on labour matters (Dingake, 2008, p. 125). Section 18(1) of the Trade Disputes Act details the jurisdiction of the Industrial Court.

Although there is no literature showing why trade unions opt to approach the High Court as opposed to the Industrial Court for resolution of labour disputes, it appears that the main reason is the backlog of cases at the Industrial Court. In 2011, the then Minister of Labour, Peter Siele, admitted before parliament that the Industrial Court experienced an influx of registered cases which resulted in a backlog of cases. The situation was worsened by the limited number of judicial officers who presided over cases. According to Minister Siele, in 2010/11 there was a backlog of 2,422 cases before the Industrial Court.³

3 - See <http://www.mmegi.bw/index.php?sid=1&aid=1011&dir=2010/March/Thursday18> (Accessed on 10 May 2018)

There was an influx of cases registered mainly in cities such as Gaborone and Francistown. Given the limited number of judicial officers, the turnaround time for disposing and finalising cases before the Industrial Court was and remains a challenge. In 2008, there were 1,768 registered cases at the Industrial Court countrywide and the figure increased to 2,422 cases the following year. The 2,422 cases registered at the Industrial Court in Botswana were distributed as follows:

Place of Court	Number of Registered Cases Before the Industrial Court
Gaborone	1,834
Francistown	388
Maun	120
Selibe Phikwe	80

Table 8: Number of Court Cases

One of the factors which might make the High Court more attractive to trade unions and workers than the Industrial Court is the unlimited jurisdictional scope of the High Court. The High Court is empowered, in terms of section 95(1) to entertain any matter of any nature before it without any limitation whatsoever. The court can grant various remedies and relief which the Industrial Court may not be competent to grant to litigants before it. It appears that there is uncertainty as to whether the Industrial Court has the power to grant general interdicts. The cases of *Auto Management Systems (Pty) Ltd v Derek Grace*⁴ and the *Kgarebe v National Food Technology Centre*⁵ provide contrasting positions on this critical legal question. Further, in terms of the Trade Disputes Act which established the Industrial Court, the Industrial Court cannot entertain matters which the Act classifies as a 'dispute of interest'.⁶ The constraints related to the issue of jurisdiction appear to make the Industrial Court an unattractive option as opposed to the High Court, and as a result trade unions refer their disputes to the High Court and not the Industrial Court.

To remedy the situation, it is important for the country to refine and improve the efficiency of the dispute resolution process, which may take various methods. The frequency of circuit courts must be increased for greater public outreach, especially in and around urban and peri-urban places where there are usually high volumes of labour cases.

3.3 Judiciary Challenges Faced by Trade Unions

Inadequate institutional capacity of the judiciary presents a significant challenge to trade unions. Labour law is a distinct genre of public law. Not all judges who preside over labour matters have sufficient and targeted training on labour law and labour standards. The lack of targeted training of judges on international labour law and the application of ILO Conventions and Standards presents a challenge to trade unions as does the insufficient staffing of judicial officers. The availability of staff or lack thereof, especially presiding officers, labour officers and support staff at the courts is directly correlated to the backlog of cases. A well-functioning and efficient judicial process for dispute resolution is anchored on adequate and competent human resources who can dispose of cases timeously.

One of the challenges posed by the judiciary to trade unions is the lack of an appellate Industrial Court in Botswana which can deal with appeals of decisions of the Industrial Court. Although the Industrial Court is a court of law and equity which must base its decisions on the law and principles of fairness, its decisions or judgments can be appealed at the Court of Appeal.⁷ This situation is problematic on two fronts. The first challenge is that the Court of Appeal is not a court of equity as it is the case with the Industrial Court. Unlike the Industrial Court which is not bound by strict rules of procedure, the Court of Appeal is. The danger of a lack of specialised Industrial Court of Appeal is that decisions of the Industrial Court which are arrived at on considerations of equity are likely to be reversed by the Court of Appeal which is not bound to consider principles of equity. This has the potential to reverse the rich jurisprudence of the Industrial Court. Some trade unions such as the BOPEU have made calls to government to consider establishing a specialised Industrial Court of Appeal which will be an appellate court of law and equity.

The anti-union perceptions levelled against some section of the judiciary is a challenge to trade unions in Botswana. Some trade unions have previously accused members of the judiciary of being 'executive-minded' and 'biased' when dealing with cases between trade unions and the government.⁸ The perceptions, real or perceived, are a challenge to trade unions because they cast aspersions on the independence and impartiality of the judiciary when presiding over disputes between trade unions and government. The judiciary has refuted these allegations.⁹

4 - *Network and Auto Management Systems (Pty) Ltd. v Derek Grace* IC 26/ 96

5 - *Kgarebe v National Food Technology* 581/ 2005.

6 - See Section 18 (1) (a) of the Trade Dispute Act, 2004.

7 - See Section 18 (5) of the Trade Disputes Act, 2004.

8 - See <http://www.thepatriot.co.bw/analysis-opinions/item/3694-opinion-kirby-is-an-executive-minded-judge.html> (accessed on the 10th of May 2018).

9 - See the Speech delivered by Judge President Ian Kirby at the Opening of the January 2017 Court of Appeal Session.

3.4 What Are the Legal Challenges Faced by Trade Unions in Trade Disputes?

The cost implications associated with litigation by trade unions representing their members is a fundamental legal challenge they faced. The Industrial Court does not award costs, except where the court is of the view that the litigation is frivolous and vexatious. However, accessing the High Court has huge financial implications for trade unions. The cost implications of litigation can deter trade unions from accessing the courts, especially the High Court and the Court of Appeal.

The lack of training and capacitation of shop stewards by trade unions is a major challenge in trade disputes. The failure to train shop stewards on labour and employment law, substantive and procedural issues, compromises the trade unions' effectiveness in representing members involved in trade disputes. It is important for trade unions to invest in training shop stewards to enable them to effectively represent members in trade disputes.

One of the major legal challenges faced by trade unions in trade disputes is the lack of conformity of Botswana's domestic labour law with international obligations imposed by the various ratified ILO conventions. Despite Botswana having ratified ILO core conventions, the domestic labour law framework violates the guarantees of such conventions. For international labour law conventions to be effected in law in Botswana, they must be domesticated by parliament by passing an enabling Act. Without the enabling Act, the application of international labour law conventions remains persuasive only. The delay in incorporating ratified conventions presents a major legal challenge to trade unions.

Botswana's domestic labour laws offer less rights and guarantees to trade unions and workers compared to the rights guaranteed by the ratified ILO Conventions. Another legal challenge caused by Botswana's labour law framework in its current form is the creation of multiple tripartism structures which results in duplication. Currently, the labour law framework has created the High Level Consultative Council (HLCC), the National Employment, Manpower and Incomes Council (NEMIC), Minimum Wage Board and the Labour Advisory Board (LAB). The numerous social dialogue platforms create a challenge for enhancing and promoting social dialogue and tripartism. Currently, some of these structures remain dysfunctional.¹⁰

To avoid redundancy or duplications, the NEMIC, HLCC and LAB could be merged to form a national structure for social dialogue and tripartism. It will improve the efficiency of

social dialogue in the country. The other challenge caused by Botswana's labour law framework is the inadequate monitoring and evaluation system by labour inspectorates that ensure that companies, especially in the private sector comply with labour and employment laws and standards. An effective monitoring and evaluation system will result in sound industrial relations in Botswana. As a result of the inadequate monitoring and evaluation system embedded within Botswana's labour law framework, it is difficult to monitor the implementation of the decent work agenda to which Botswana is a signatory.

3.4.1 Statutes that violate ILO Conventions

Some pieces of legislation in Botswana's labour law framework are in violation of the ratified ILO Conventions. The Trade Disputes Act, Trade Unions and Employment Organisations Act, the Prisons Act are some of the legislations which are in violations of the ILO Conventions.

3.4.2 The Public Service Act of 2008

It is the Public Service Act No. 10 of 2008 which significantly changed the relationship between senior government officials and trade unions. The enactment of the Act also changed the manner in which political leaders relate to and deal with trade unions as it prohibits public service employees from being actively involved in partisan politics. All public service employees, whether they are members of trade unions or not, are not allowed to take part in partisan politics. In the same vein, trade unions are not expected to pursue a political agenda or to publicly declare their support for any particular political party.

3.4.3 Trade Disputes Act, No. 16 of 2016

The Act was passed by parliament on 9 July 2003. It outlines the mechanisms and procedures for the settlement of trade disputes, both individual and collective level. It also encourages collective bargaining in the sense that it does create a possibility for the establishment of Joint Industrial Councils between employers/industries and trade unions recognised by such employers (FES: 2008). It is an instrumental Act for maintaining sound industrial relations as it establishes the Industrial Court. The Act, in its current form, has a schedule which lists all essential services. These are cadres whose right to participate in industrial action such as a lawful strike is limited in comparison to other public service cadres who are not essential services. Following BOFEPUSU strike in 2011, parliament amended the Trade Disputes Act, 2004 with the Trade Disputes Act, 2016 to broaden the essential service list to include other cadres not previously included.

10 - The Labour Advisory Board, established by the Employment Act is dysfunctional.

The table below contrasts the essential services schedule in the Trade Disputes Act, 2004 with the current essential services as provided in sections 46(1) and 47 of the Trade Disputes Act, 2016.

List of Essential Services Prior to the 2011 Public Sector Strike and the Amendment	List of Current Essential Services
Air Traffic control services	Air traffic control services
Botswana vaccine laboratory	Botswana vaccine laboratory
Electricity services	Electricity services
Bank of Botswana	Bank of Botswana
Health services	Health services
Operational and Maintenance services of the Railways	Operational and Maintenance services of the Railways
Sewerage services	Sewerage services
Transport and telecommunications and services necessary to the operation of any of the foregoing services	Transport and telecommunications and services necessary to the operation of any of the foregoing services
Water services	Water services
	Transportation and distribution services of Petroleum Products
	Veterinary services in public service
	Teaching services
	Diamond sorting, cutting and selling services
	Government broadcasting services
	Immigration and customs services
	All support services in connection herewith

Table 9: Essential Services Comparisons



The inclusion of non-essential cadres as 'essential services' is an affront of the spirit of the Convention on Freedom of Association and Protection of the Right to Organise, 1948, (No. 87), which Botswana has ratified. The Trade Disputes Act, 2016 has ignored the traditional ILO definition of an essential service and included services which are non-essential in the list of essential services. To this extent, the Act is in violation of the ILO Convention No. 87.

3.4.4 Trade Unions and Employers' Organisations Act, Cap 48: 01

Some provisions of the Trade Unions Employers Organisation Act (TUEO) are not in agreement with Botswana's obligations imposed by ILO Conventions.

Section 49(1) of the TUEO Act provide as follows:

The Minister may whenever he considers it necessary in the public interest to do, by notice in the Gazette, call on any registered trade union to produce for his inspection, or for the inspection by any person so authorised in the notice, all or any of the books or documents of the trade union.

The Act gives the Minister sweeping powers to interfere in the autonomy and administration of trade unions. This interference violates Articles 3(1) and (2) of Convention 87 which provide as follows:

Workers' and employers' organisations shall have the right to draw up their constitutions and rules, to elect their representatives in full freedom, to organise their administration and activities and to formulate their programmes. The public authorities shall refrain from any interference which would restrict this right or impede the lawful exercise thereof.

The Minister of Labour, Employment and Skills Development has recently invoked the powers under section 49(1) to notify public sector trade unions of his intention to inspect trade union books. Further, the Act excludes prison services in the definition of 'employee' under section 2(1).

Section 49 (1) of the TUEO Act also violates the labour relations (public service) Convention 151 of 1981. Article 3(5) (1) of the Convention states, in mandatory language, that 'public employees organisations shall enjoy complete independence from public authorities'. Further, Article 3(5) (2) states that 'public employees' organisations shall enjoy adequate protection against any acts of interference by a public authority in their establishment, functioning or administration'.

The exclusion of the prison services from the definition of 'employee' is also problematic as it denies them the right to organise and unionise as guaranteed by Convention No. 87.

3.4.5 Prisons Service Act, Cap 21: 05

In terms of section 35(1) of the Act, members of the prison services are not allowed to unionise. The government has maintained that in terms of section 19 of the Constitution of Botswana's, the restriction is valid. At the 103rd International Labour Conference session in 2014, the Botswana government stated that the restriction is premised on the fact that prison officers perform security functions and the restriction to unionise is a matter of national interest and security. However, the Committee of Experts on the Application of Conventions and Recommendations (CEACR) rejected this reasoning and advised the government to amend the Act and other related statutes to enable members of the prison services to unionise. In its current form, the Prisons Act is in violation of Convention 87 and 97.

3.4.6 The 2018 CEACR Report: A Clarion Call for Labour Law Review in Botswana

CEACR published its 2018 report on Botswana and its degree of compliance with the various ILO conventions. In particular, the report covers Botswana's compliance or lack thereof in terms of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98). Accordingly the committee called upon the Botswana government to do the following:

1. To take appropriate measures that ensure that the labour and employment legislation grant members of the prison service the rights guaranteed by the Conventions;
2. To ensure that the Trade Disputes Act is in full conformity with the conventions, and engage in social dialogue, with further technical assistance of the ILO;
3. To amend the Trade Unions and Employers Organisation Act in consultation with employers and workers organisations, to bring the law into conformity with the Convention, and;
4. To develop a time-bound action plan together with the social partners in order to implement these conclusions.

The 2018 report of CEACR shows that Botswana's compliance to the ILO core conventions is dismal and unsatisfactory. It is an indication that Botswana's labour law framework is in violation of the Botswana's obligations under the ILO Conventions.

3.5 Recent Trends in the Development of Labour Legislation in Botswana

3.5.1. Public Service Bill, No. 15 of 2017

In 2017, parliament gazetted the Public Service Bill, No. 15 of 2017 to amend the Public Service Act of 2008. The Bill has problematic provisions which, if passed into law, will further undermine government's obligations to various ILO Conventions. For instance, Article 72 and 74 of the Bill will empower the employer/government to unilaterally appoint the secretariat of the PSBC and, thereby, undermine the essence of tripartism and social dialogue. Under the Public Service Act, 2008, the secretariat of the PSBC is appointed by both the employer and the recognised trade unions in terms of the PSBC constitution jointly drawn by both parties. Further, Article 74(3) of the Bill restricts and limits public sector unions as to who can represent them at bargaining structures. This restriction is a flagrant interference on the administration of public sector unions in violation of Article 3(1) of Convention No. 87 and Article 2(1) of Convention 97.

3.5.2. Health Professionals Bill, No. 12 of 2017

On 29 December 2017, the government published and gazetted the Health Professionals Bill, No 12 of 2017. The Bill seeks to, inter alia, provide for the establishment of the Health Professions Council of Botswana, to provide for its functions and powers, to provide for the regulation of health professionals, and the establishment of the professional committees of the council and for matters connected with or incidental thereto.

Notwithstanding the existence of the LAB, which a Minister must consult before introducing a piece of legislation on employment in terms of section 144(1) of the Employment Act, the Bill was drafted and published without consulting the LAB. Despite trade unions having nominated their representatives to sit on the LAB, the it has been dysfunctional for some time. The dysfunction of the LAB defeats tripartite consultation and is in violation of the Tripartite Consultations Convention No. 144, which Botswana ratified in 1977.

3.6 The Development of the Terms of Reference for Labour Law Review

In response to Botswana's inadequate labour law framework and its violation of the core conventions of the ILO, the government has developed the terms of reference for the labour review. It is anticipated that a labour consultant will be appointed to revise and review the Employment Act, Cap 47:01 and the Trade Unions and Employers Organisation Act, Cap 48:01. It is surprising that the Trade Disputes Act has been omitted from the terms of

reference for review despite the numerous gaps identified by the ILO supervisory bodies on the Act. It would be better if the terms of reference for the labour law review be broadened to include all labour and employment statutes in Botswana. There is a need for a holistic review of the labour law framework in Botswana. A piecemeal approach to the labour law review, under the current terms of reference will not be durable in addressing and fixing Botswana's labour law framework to comply with the ratified ILO Conventions.

3.7 Strike Action between 2009 and 2018: Status of the Strikes and Number of Dismissals

Based on the literature surveyed and the primary data collected, including an interview with MsMasego Mogwera, the President of BOPEU in 2018, the number of strikes which occurred between 2009 and 2017 are as presented on the next page;

Year of Strike	Trade Union	Status of the Strike	Number of Dismissed Employees
2011	BOFEPUSU BOPEU BOSETU BTU Manual Workers Union BLLAHWU	The strike was legal. However, after five weeks of the strike, the court declared that the involvement of 'essential services' cadres in the strike was unlawful. In line with TDA of 2003, trade unions in Botswana exercised their right to withdraw their labour in April 2011. The strike started a bitter war between the ruling politicians under the leadership of Seretse Khama Ian Khama and trade unions. Numerous lawsuits and counter lawsuits were filled at the Industrial Court and High Court.	2808 essential services cadres were dismissed from work
2015	BURS Strike BOPEU	Legal	No dismissals
2018	Choppies Strike CASAWE	illegal	55 employees of Choppies Superstores are said to have been dismissed from work

Table 10: Strike Actions Between 2009 - 2018



3.8 Causes of the Strikes

The main reason which caused the above-mentioned strikes appears to be the failure by employers to address workers' grievances and conditions of services. For instance, during the BOFEPUSU-led strike, public servants demanded a salary increment of 16 per cent whilst the government maintained that it could not afford the increment, especially after the 2008/9 global recession which affected Botswana's mineral-reliant economy. The same cause applied to the BURS and Choppies' Superstore strikes. The BURS strike ensued after wage negotiations reached a deadlock.¹⁴ Employees demands for improved working conditions and the absence of effective bargaining structures in the work place, especially the private sector result in strikes and other forms of industrial action.

3.9 The Public Service Bargaining Council: Formation, Challenges and Prospects

The PSA No 10 of 2008 introduced the formation of the PSBC. In recognition of the essence of tripartite consultations, the Act allowed the social partners, in particular government and the recognised trade unions to draft the constitution to govern the affairs of the PSBC. The parties duly drafted the constitution and jointly appointed the secretariat of the council.

One of the major challenges which plagued the PSBC in its formative stage was the issue of admission and representation of trade unions to the council. The issue of union size emerged as trade unions jostled to be admitted as members of the council. Unions with smaller membership felt left out and the dispute resulted in litigation before the Industrial Court. TAWU took the matter to court in an attempt to interdict the admission of trade unions based on numerical strength. After losing the case, the larger unions in the public sector established, in terms of the Public Service Bargaining Council constitution, what is referred to as Acting Joint Arrangement (AJA) to meet the set threshold for admission to the council. The following unions were part of the AJA; BOSETU, BTU, BOPEU, Manual Workers and BLLAHWU.

Surprisingly, out of all the unions in the public sector in Botswana, only the Manual Workers Union qualified to be admitted as an individual trade union. It raises

questions why the parties set an impossible threshold which disenfranchised the majority of unions in the public sector. The PSBC was a new phenomenon in Botswana's industrial relations system. As may be expected, the council had a serious lack of institutional capacity in terms of funding and human resources. Further, the Council was often derailed by endless litigation amongst the trade unions and between the trade unions and the employer. The politicisation of the council was an existential threat. Government negotiators were often withdrawn from the council resulting in a deadlock. Trade unions had to seek recourse from the High Court to compel government to return to the bargaining council.¹⁵

Employer unilateralism in awarding salary increments and inflationary adjustments contributed to the collapse of the PSBC. Aided by the bickering of the unions in the public, the employer often took unilateral decisions which were the preserve of the PSBC. It resulted in numerous court applications which stalled the progress of the PSBC. The judgment by Judge Motswagole J held that the unilateral decision by government to award a three per cent and four per cent inflationary adjustment outside the scope of the PSBC was unlawful. The judge further interdicted the award from being effected. He made a landmark ruling that members of trade unions outside the PSBC are equally affected by the decisions of the PSBC irrespective of whether their trade union is a member of the PSBC or not.¹⁶ BOPEU lodged an urgent appeal in the Court of Appeal.¹⁷ Judge Gongalelwe JA granted BOPEU a stay of execution and ultimately held that only parties to the PSBC are affected by the decisions and outcomes of the council.¹⁸ In 2017, the BOFEPUSU AJA withdrew its membership and participation from the council and thereby rendering the council incapacitated to discharge its functions and duties. In terms of the PSBC constitution, a lawful resolution on any matter before the council requires an agreement of both the employer party and the trade union party. Finally, the employer party withdrew from the council. Currently, Botswana does not have a bargaining council. However, individual trade unions can bargain for their members on the basis of the recognition agreements they have with government.

14 - See the case of *Botswana Public Employees Union vs Botswana Unified Revenue Service Case No. ICUR 24/15*.

15 - See the judgment of *Leburu J in BLLAHWU & Others v Attorney General & Others*.

16 - See the Judgment of *Motswagole J in BLLAHWU & Others v Attorney General & 6 Others*.

17 - See the judgement of *Gongalelwe JA in BOPEU & Another v BLLAHWU & 6 Others (stay of execution)*.

18 - See the judgement of the Court of Appeal *BOPEU & Another v BLLAHWU & 6 Others*.

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4

Socio- Political Environment



4. Socio-Political Environment

4.0 Overview of Botswana's Socio-Political Environment

Botswana has received a considerable number of accolades from international institutions for democratic consolidation since its independence in 1966.¹⁹ The founding President, Sir Seretse Khama, died in 1980 in office and Vice-President Sir Ketumile Masire succeeded him until his resignation in 1998. It was during Masire's era that the presidential term was set at a maximum of two terms which is essentially ten years in the country's highest political office. Festus Mogae took over from Masire in what was recognised by the international community as a smooth transition which was/is unheard of in most parts of the African continent. The current President, Mokgweetsi Masisi took over from former President Seretse Khama Ian Khama, the son of the founding President, on 1 April 2018. Despite Botswana's accolades and being dubbed Africa's 'shining example' there have been arguments by political scientists and scholars, including Professor Kenneth Good that the state of democracy was deteriorating. Different scholars and commentators have described Ian Khama's presidency as autocratic because of his leadership style which was heavily influenced by his military background. It was during President Khama's term that there was a split in the ruling BDP resulting in the formation of a splinter party, the BMD. Further, the country witnessed the longest strike in the public sector, dubbed 'the mother of all strikes', during Khama's presidency. Khama's leadership was viewed as not being accommodative of civil society organisation especially trade unions and private media houses.

4.1 Tracing the Evolution of the Political Climate in Botswana from 1966 to Date

Botswana's political structure is founded on a multi-party constitutional democracy (FES, 2008). The ruling BDP has dominated Botswana's political landscape since independence. It convincingly won the first general election and subsequent elections by an overwhelming majority. The threat to the dominance of the BDP was first posed by the Botswana National Front (BNF) led by Dr Kenneth Koma in 1994. The BNF garnered 13 of the 40-member seats parliament. The 1998 split of the BNF, which resulted in the formation of the BCP at Palapye weakened the opposition and the BDP continued its political dominance. It increased its popular vote from 54 per cent in 1994 to 57.15 per cent in 1999. Civil society and trade unions, in particular, were relatively weak and could not influence the voting patterns significantly. President

Mogae brought in General Khama from the military as Deputy President. In 2008, Khama became President and immediately announced his vision as the '5 Ds – Democracy, Discipline, Dignity, Development and Delivery'. In 2010, the BDP succumbed to factionalism and internal fighting and a splinter party was formed led by Gomolemo Motswaledi. In 2011, a major strike in the public sector polarised the country and it marked the turning point in Botswana's political environment and the relationship between the State and the trade unions. Mwacha (2015) opines that there has always been conflict between the State and trade unions but the 2011 strike 'inflamed the already hostile industrial relations'. With the support of some trade unions and leaders, discussions of cooperation of opposition parties were held which resulted in the formation of the UDC comprising the BNF, BMD, and the BPP. The BCP did not join the opposition bloc and contested the general elections alone. In the 2014 general elections, the BDP lost its share of the popular vote, and for the first time in its existence garnered less than 50 per cent of the popular vote. The BDP won 46.45 per cent, UDC got 30.01 per cent, and BCP got 20.43 per cent whilst independent candidates got 3.11 per cent of the popular vote.²⁰

4.2 Political Environment of Trade Unions in Botswana: Challenges and Responses

4.2.1 Introduction

Trade unions, just like any other organisation, exist within a given environment and context. Their operations and activities are greatly influenced by the factors that are happening within their environment. These aspects include the structure and performance of the country's economy, the political system in place, the legal system, the strength or weakness of the media, the performance of other civil society organisations in the process of national development, the level of political awareness on the part of citizens and others.

4.2.2 Establishment of Trade Unions

In pursuit of social justice and equality, trade unions lobby government departments and ministries, different political parties, Members of parliament, clergymen and even international organisations on certain issues. In Botswana, trade unions have always operated in a very volatile environment as their involvement in partisan politics has always been and continues to be shunned by some political leaders, especially in government. The 2011 strike, which is discussed in detail below, soured the fragile

19 - See Somolekae G, *Democracy, civil society and governance in Africa: the case of Botswana 19 (1998)*, available at http://unpan1.un.org/intradoc/groups/public/documents/cafr/ad/unpan_009287.pdf.

20 - See *The 2014 Independent Electoral Commission Report*

relationship that existed between government officials and trade unionists.

In Botswana, the decision not to allow trade unions to participate in politics can be traced as far back as 1971 when the first President of Botswana, Sir Seretse Khama, was inaugurating a new Trade Union Education Centre in Gaborone. Whilst he acknowledged and appreciated the role that trade unions can and should play in a democratic society, he also made it clear that they should not allow themselves to be manipulated by government, political parties or external actors. As he put it, 'A trade union movement must seek to maintain the confidence of all its members irrespective of party affiliation. It must not become an agent of a political party... We have not given them freedom to promote the interests of political parties or external powers (Khama, 1972. p. 9).

4.2.3 Trade Union Leaders: a Reflection on Their Performance

Trade union leaders in Botswana have never shied away from taking the government to the courts for any decision that they deem detrimental to the welfare of the workers and citizens at large. They have been vociferous and aggressive in this front as evidenced by the high number of court cases launched against the government at the High Courts and Court of Appeal during the past ten years. For instance, the decision by the DPSM on the 30 August 2013 to withdraw the secondment of Secretary Generals of BOSETU, BTU and BLLAHWU was challenged in Court and Court of Appeal in 2014 and 2015, respectively. Trade unions emerged victorious (Weekend Post, 2015).

The leaders of BOSETU also took the government to court on issues related to invigilation of final examinations and marking of final examination papers when their members were forced to perform such tasks. The court ruled in their favour and indicated that it is not part of the teachers' responsibility to invigilate examinations and mark final examination papers unless the Botswana Examinations Council enters into an agreement with them.

In January 2015, trade union leaders promptly approached the High Court when President Khama and later the DPSM announced an increase of four per cent to the salaries of public servants whilst members of the PSBC were still negotiating salary increases. Trade unions wanted the High Court to clarify the scope of the PSBC in view of the decisions and announcements made by the President. And in April 2017, the High Court ruled that the President has no mandate to adjust the salaries of the public service employees as he was usurping the powers of the PSBC.

It is unfortunate that the acrimonious relationship between the representatives of the trade unions and government representatives at the PSBC resulted in the former withdrawing from the structure in May 2017 which led to its collapse. The collapse of the PSBC meant that there was no formal platform that could be used by trade unions and government officials to negotiate salary adjustments and conditions of service of the workers. This was a huge challenge and a test of character for the leaders of all trade unions.

It is important to note that trade union leaders have not only restricted themselves to labour issues. They have also challenged the decisions made by President Khama in the appointment of the judges of the Court of Appeal and the decision by the ruling BDP not to allow public service employees to participate in the party's primary elections. The issue of the appointment of judges was spearheaded by the leaders of the Manual Workers Union and the High Court ruled that the President erred in the manner in which he appointed some judges of the Court of Appeal. The President later moved to correct the mistakes that he made and averted a judicial crisis.

Regarding the participation of public service employees in BDP primary elections, the High Court ruled in favour of trade unions but the Court of Appeal ruled in favour of the BDP and the DPSM which is totally against active participation of public service employees in partisan politics.

4.3 Trade Union Investments

It is also important to note that almost all the trade unions in Botswana have diversified their sources of revenue. Whilst all of them rely on monthly subscriptions by their members, they have invested in property, hostels, kindergartens, microlending facilities, selling merchandise, funeral schemes and others. They have also partnered with various business entities so that their members can be given better loan or insurance premium rates and discounts when accessing services provided by some of these entities. All these activities have generated the much needed revenue for trade unions enabling them to serve their members in an improved manner.

4.3.1 The Controversy of Trade Union Investments

Unions' involvement in investments and business dealings is a contentious issue within labour movements across the globe. It is often viewed as contrary to the core mandate of trade unions which is the improvement of the living and working conditions of members through collective bargaining and the shop floor struggle. The investment controversy centres primarily on the question of ideology:

should unions run businesses in capitalist economies which have a very limited regard for the interest of the working class? There is fear that by so doing, it will severely cripple the notion of working class solidarity and collective action.

4.3.2 What Causes Trade Unions to Venture into Investment Companies?

Several reasons have been advanced to justify why trade unions venture into business investments. The primary argument has been the need to safeguard the interests of workers by making the very worker organisations sustainable and operationally effective so as to enable them to provide the most convenient and quality services to the members. In short, union investments are meant to earn good returns which are supposed to benefit union members. Proponents of trade union investment contend that unions cushion workers from unfavourable market rates by negotiating on behalf of their members for highly subsidised rates.

Proponents of union business ventures have contended that membership subscription fees cannot sustain the full trade union operations. As J. C. Hunyepa, the long-

standing Executive Secretary of BOSETU stated that:

[T]he proceeds from union business will undoubtedly help fight the employers for (sic) the benefit of members. Legal costs, consultancy on union activities, capacity building initiatives, conferences and congresses, literature, general resources like offices, vehicles, qualified and experienced personnel and so on need finances (Hunyepa, 2008).

4.3.3 Investments in Public Sector Trade Unions

Research by FES (2008) and Kalusopa (2011) has revealed that most of private sector unions in Botswana are largely in-house and that their membership is low and consequently have not been able to garner substantial investment in schemes.²¹ The analysis points out that such trade unions have largely relied on the existing structures of their employer organisations to get their statutory benefits. However, owing to their numbers, unions in the public sector seem to have taken a lead because of their strong membership base: most notably BOPEU, NALGCPWU, BTU, BOSETU, and BLLAHWU.



21 - In his analysis of trade union services and benefits In Botswana, Prof. Kalusopa makes a synopsis of benefits offered by selected Trade Unions and their effectiveness; see the publication *Trade Union Services and Benefits*, by the African Labour Research Network.

Trade Union	Investments
1. BOPEU	Babereki Investments – Babereki Investments (Proprietary) Limited is a wholly owned subsidiary of BOPEU. Babereki was incorporated by BOPEU in 2005 in order to de-link the business from the advocacy role of the union. The overarching objective is to create long-term value for its members to improve their lives, and make the union increasingly relevant. Babereki Investments was established to spearhead the growth of local and regional business interests of BOPEU. The microfinance business was established to assist members by providing access to loans in a controlled manner (matching loans with repayment ability), so as to avoid over-indebtedness of members whilst generating sufficient cash-flows in order to build a sustainable fund. Babereki's core business is microfinance, selling of promotional items and air time, and earning of commission through broking relationships with established financial and insurance services companies. (source, union website@ www.bopeu.co.bw)
2. BTU	More Power Investments – It is an autonomous company registered in accordance with the laws of Botswana, in 2012. The company's mandate is to manage the BTU Investments which are not limited to funeral, computer, housing and legal schemes, property, hotels, and insurances. The company provides a wide range of services such as loans, bulk airtime, funeral, legal, and computer schemes, and insurance brokers.
3. BOSETU	PEUBO – realising the need to provide its members with tailor-made yet affordable products and services, BOSETU created PEUBO. Its mandate is to provide an array of products and services specifically to union membership. BOSETU PEUBO provides conference regalia for the union delegates annually, a testimony that business proceeds are trickled down for member beneficiation. The justification for the investment arm is the provision of products specific to the demands of the union membership, and at affordable prices.
4. UNIGEM	Public service unions BTU, BOSETU, BLLAHWU and NALGCPWU collectively own a company called UNIGEM. The collaborative company provides civil servants with loans for residential property and vehicles.

Table 11: Trade Union Investments

4.4 Position Papers on National Issues

On national debates, the two existing federations in Botswana have made their positions known on issues that directly affect citizens. BFTU has produced position papers on privatisation, social security and social protection in Botswana, globalisation and education in Botswana. Similarly, BOFEPUSU, has also made public pronouncements on a number of issues such as elections, education, corruption, health, social security, pension and others.

Notwithstanding the positive things that have been alluded to in the preceding paragraphs, trade union leaders still have to contend with several issues. Below discussions are some of the challenges faced by trade union leaders;

(i) Support for Political Parties

One of the thorny issues facing trade union leaders is the subject of their unions publicly supporting political parties, be it the ruling or opposition parties. Prior to the October 2014 general elections, the leaders of BOFEPUSU decided to support opposition unity and therefore endorsed the UDC

against BDP and BCP. This decision did not sit well with leaders of BOPEU, one of the founding members of BOFEPUSU. And the disagreement on participation in partisan politics together with other issues resulted in the former terminating its membership from the latter. The bad blood between the two entities divides the labour movement and weakens the bargaining power of trade unions.

(ii) Sour Relationship Between Ruling Politicians and Trade Unions

The antagonistic relationship between President Khama and the trade unions which was heightened by the strike is captured succinctly by Mwacha (2015. pp. 44-45) when she states that:

In 2016, the President ignored the deliberations of the Bargaining Council and announced that salaries of public sector employees will be increased by 3 %. The DPSM Director, Ruth Maphorisa, issued a savingram to all government ministries informing them that the increase is effective 1st April 2016. The unilateral increase of salaries of public servants by the President was challenged in court by the leaders of BOFEPUSU and the Industrial Court Judge,

Harold Rukunya, issued an interim order on 4th April 2016 interdicting the increase stating that it amounted to bargaining in bad faith on the part of government.”

Another unilateral decision to increase the salaries of non-unionised public officers by four per cent during the 2017/2018 financial year was made by the Permanent Secretary to the President, Carter Morupisi. The increase was effective 1 April 2017 and the unionised employees of all trade unions affiliated to BOFEPUSU were excluded as the federation was still negotiating with the government through the legally establishing PSBC.

(iii) Union Versus Personal Interests

Four leaders of the trade unions who were interviewed stated that whilst every leader is expected to be trustworthy, honest and principled, there are cases whereby some use union leadership positions to place themselves politically, economically and otherwise. They position their personal interests above those of unions and only use them as a vehicle to achieve their goals or a means towards an end. This is a complex problem which cannot be resolved easily as the motives of individuals contesting for leadership positions may not be clear or known during their campaigns. It is therefore important that a concerted effort must be made to empower leaders on transformational and ethical leadership through proper and timely training. It is advisable for the leaders to refrain from the belief that they can enrich themselves through the leadership positions that they hold.

(iv) Prudent Management of Resources

Whilst there are regulatory frameworks in place to guide the manner in which unions operate and conduct their operations, there are some leakages that need to be attended to. Some unions have made bad decisions and invested in unprofitable activities. Such an example is that of BOFEPUSU investing about BWP 6 million in a newspaper, *The Nation*, which drained the federation's funds as there were no returns (Segaetsho, 2016). It is imperative that a proper cost-benefit analysis of any proposed project be done so that any decision taken is based on the available data and realistic projections. The trade union Board of Trustees who are entrusted with the responsibility of managing and taking care of the union assets and resources is another area that needs careful retrospection.

(v) Strategic Planning and Management

The notion that trade unions exist and operate in an ever-changing environment is not in dispute. Their operations are affected by the performance of the economy, the

political decisions made, social and cultural changes and others. They are also affected by international factors and they must always be ready to respond promptly to contemporary changes. Hence, it is important that all union leaders must embrace the use of strategic plans within their organisations as tools of management that can assist them to conduct their business in a more coherent and systematic manner. Most trade unions with astute leadership engage in rigorous strategic planning and budgetary sessions as a way of equipping the leadership with the expectations of their plan of actions. For purposes of ensuring that there is a proper linkage between trade unions and their affiliated federations: the strategic plans of the affiliates must feed into the strategic plan of federation.

4.5 Trade Union Education and Training in Botswana

Training and education for Botswana trade unions is mostly short-term and donor driven.²² There is currently no training institution in Botswana owned by a federation, that is, BFTU or BOFEPUSU, with the main intention of training all members of the various trade unions affiliated to it. However, there is only one functional labour institution offering specific trade union education in Botswana. BOPEU established a labour college, the ILES, the first of its kind in Botswana. The college was accredited to be an Education and Training Provider by the Botswana Qualifications Authority on 27 November 2017. Currently, the college is awaiting the accreditation of its learning programmes. Once accredited, it will offer labour specific courses such as certificates and diplomas in para-legal studies for shop stewards. In the near future ILES intends expanding its horizons to cater for Southern Africa labour organisations.

However, the BTU has established a training institution in Francistown which has already been accredited by the Botswana Qualifications Authority and will start operating soon. It is intended to train members of the BTU and those belonging to other trade unions who are interested in labour issues.

International civil society organisations like the Friedrich Ebert Stiftung (FES) have been instrumental in assisting BOPEU to establish the labour college. The organisation has sponsored benchmarking trips to Germany and Zimbabwe to offer BOPEU insights on the importance of labour colleges. The collaboration and partnership offered by FES have gone a long way in capacitating trade unions in Botswana through workshops, seminars and providing

22 - See *Trade Union Services and Benefits in Africa*, p. 126

technical assistance on labour matters. It is also worth noting that some trade unions are making a concerted effort to empower their leaders by sending them for short-term executive courses.]

In view of the uniqueness of the trade unions established by mine workers which arises from the environment in which they operate, they have a strong conviction that local training institutions cannot adequately address their needs and demands. Hence, they usually send their members to South Africa for short and medium-term training, because there are labour training institutions with immense knowledge on issues surrounding their area of operation.

Training is definitely a costly activity. And most trade unions are constrained in terms of extending training to all their members. Some members cannot be sent on long-term training because of costs as well as work and family commitments. Hence, training is limited to the leaders at the headquarters, branch and regional levels. However, BOPEU has made strides in sending their cadres for short, medium and long-term training to Global Labour University labour programmes. The union fully sponsored their members, whilst other trade unions have sabotaged individuals who are interested in pursuing their studies with labour institutions. Additionally, BOPEU and BOSETU have bursaries for their members solely intended to better their educational capabilities. Bona fide members must be given priority when awarding scholarships and bursary sponsorships, especially those who have developed through the structures of the union. A leader who knows the culture of the organisation is likely to uphold its aspirations and values.

Also, trade unions such as Manual Workers, TAWU, BLLAHWU and BOSETU have had policy conferences to ponder national issues and make positions as a collective. The forum gives members an opportunity to deliberate on matters of interest, and impart knowledge to the attendees. Consequently the positions adopted at policy conferences are further shared with the rest of the membership.

4.6 Concluding Summary

The economy of Botswana is largely dependent on mineral exploration, therefore it needs to diversify to curb the rate of high unemployment, especially prevalent amongst the youth. Policy makers, in particular those in the education sector, are challenged, to critically upgrade the level of education to bring about a knowledge and skills based economy. In the long run it will result in creation of

employment opportunities; it will therefore relieve the government of the burden of being the second highest employer after the private sector. Also, trade unions could benefit from this development given that the private sector is not organised. Workers in the private sector are the most vulnerable, and given their work insecurity, they need more trade union protection. Unfortunately, because organising in the private sector is onerous, workers in the private sector are not safe and protected.

On a positive note, the government social protection benefits are commendable, but need to be improved with the involvement of other stakeholders who are excluded from the decision-making, implementation and evaluation stages. Almost all the vulnerable groupings have been catered for, and it is therefore incumbent upon all stakeholders to see that those who have been excluded from social protection are included, to cushion them against economic hardships. An encouraging social protection programme may be attributed to the political stability in the country that is upheld on equal footing by both the ruling party and the opposition parties.

Another important player, labour in the form of trade unions, needs to reposition itself and demand its rightful place, particularly on matters of social protection, and being reliable watchdogs for society. It is crucial to note that, trade unions can only execute their responsibility with the right leadership, educated members and having appropriate policies adopted by collective congresses. Consequently progressive labour policies could be formulated to close the gaps in the existing labour laws, legal institutions and bargaining fora.



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