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LABOR INSTITUTIONS, LABOR-MANAGEMENT RELATIONS, AND SOCIAL DIALOGUE IN AFRICA

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Executive summary

After nearly a quarter of century of structural adjustment and liberalization, a discussion of labor institutions in Africa still seems unrealistic. Such institutions concern only the formal sector, which employs less than 5 percent of the workforce in most African countries. Organized labor is mainly active in highly protected sectors, such as the civil service and public utilities, or in local branches of foreign firms. Most African labor works in the rural sector and in the urban informal sector.

Moreover, the labor market institutions that do manage to prevail in Africa are quite diverse. To a large extent, that diversity results from the wide gap existing between the legal or regulatory framework supposed to prevail in some countries and the actual pattern of behavior that can be observed. Hence, labor market institutions are in fact a complex blend of formal and informal sets of constraints and incentives that shape the functioning of this market.

The survey data presented have shown that firms distinguish clearly between labor market rigidity and regulation. For example, although hiring and above all firing problems are widely perceived as a major obstacle to firm development, they are not necessarily blamed on regulations. The divergence between the two indicators may reflect both the differential level of enforcement in different countries and the fact that employment protection is often performed directly by trade unions. Moreover, a tradeoff between labor market regulation and union density seems to come out of the data. The more extensive involvement of the government in the labor market seems to have undercut organized labor. Casual observation suggests that this government involvement tends to make labor market outcomes more predictable, with a positive impact on productivity. Further research is needed to check this point and to determine its impact on the development of the formal economy.

If indeed there is a tradeoff between labor market regulation and union density, deregulating the labor market is not necessarily the best way to implement the much-needed improvements in labor market flexibility in Africa. Thus, there is not likely to be a quick fix through labor market liberalization. All the benefits of labor market flexibility could thus be undone by increasing union density. Further research should aim at identifying the other determinants of this tradeoff, to identify better the scope for an institutional policy aimed at improving labor market outcomes.

In the informal sector, the rules of the game are imposed neither by the government nor by the unions, but by the traditional institutional framework of kinship and ethnicity. The recent economic history of African countries does not suggest that the traditional framework provides the most favorable conditions for attracting large investment, particularly foreign direct investment. Hence, the challenge of African growth in the coming decades is certainly pointing to the formalization of the labor market as a desirable path to follow. The optimum point on the tradeoff between regulation and union density will probably have to be country-specific. It will depend on each country's legal history, formal and traditional institutions, and political aspirations.

1. The regulatory framework

Why do governments intervene in the labor market? The theory underlying most interventions is that free labor markets are imperfect, and that as a consequence there are rents in the employment relationship, and that employers abuse workers to extract these rents, leading to both unfairness and inefficiency. For example, employers discriminate against disadvantaged groups, underpay workers who are immobile or invest in firm-specific capital, fire workers who then need to be supported by the state, force employees to work more than they wish under the threat of dismissal, and so on (Botero et al., 2003). In response to the perceived unfairness and inefficiency of the free market employment relationship, nearly every state intervenes in this relationship to protect the workers.

Regulation of labor markets aiming to protect workers from employers takes three forms. First, governments forbid discrimination in the labor market and endow the workers with some “basic rights” in the on-going employment relationships, such as protection against forced labor, protection against gender or race discrimination, or protection for working children. Second, in response to the power of employers against workers, governments empower labor unions to represent workers collectively, and protect particular union strategies in negotiations with employers. Finally, governments regulate employment relationships, for example restricting the range of feasible contracts and raising the costs of both laying off workers and increasing hours of work.

Assessment of the regulatory framework

Even if a huge part of African economies stands beside the legal framework through informality and poor compliance, the regulatory framework of the labor market is surely one of the most rigid through out the world.

When running RPED surveys, firms were asked to identify issues that could be problematic for the operation and growth of their business. We report in table 1.1 to what extent does the labor regulation represent an obstacle to firms’ development. The percentage of firm perceiving labor regulation as a major or severe obstacle to their economic development lies between 4.6 percent for Ethiopia and 22.5 percent for Kenya. These percentages do not follow the same pattern as the rigidity of employment index found in table 1.2 across countries. Only 12.1 percent of firms in the most rigid labor market (Tanzania) find labor regulation problematic, compared with almost 11 percent in the most flexible labor market (Uganda).

Table 1.1. Labor regulations as obstacles to development in selected African countries

Survey group	Eritrea (2002)		Ethiopia (2002)		Kenya (2003)		Tanzania (2003)		Uganda (2003)		Zambia (2002)	
% of firms quoting labor regulation as a significant obstacle ¹	5.1	(78)	4.6	(416)	22.5	(275)	12.1	(272)	10.8	(259)	16.9	(207)
<i>By firm size</i>												
[1-9]	0.0	(7)	0.6	(171)	0.0	(9)	6.3	(48)	17.5	(40)	0.0	(1)
[10-49]	2.6	(38)	1.5	(130)	21.3	(89)	1.3	(107)	6.9	(131)	10.0	(60)
[50-99]	7.7	(13)	21.4	(28)	28.3	(46)	12.5	(48)	6.5	(31)	20.0	(50)
>100	10.0	(20)	11.5	(87)	24.3	(115)	16.7	(66)	17.5	(57)	19.5	(87)
<i>By ownership structure</i>												
Private domestic	1.9	(53)	3.0	(333)	23.2	(181)	10.0	(200)	9.7	(186)	17.0	(147)
Private foreign	0.0	(4)	13.3	(15)	14.3	(35)	25.0	(44)	13.1	(61)	17.3	(52)
State	14.3	(14)	12.5	(56)	26.7	(15)	0.0	(10)	28.6	(7)	16.7	(6)
Other	14.3	(7)	0.0	(12)	23.8	(42)	15.4	(13)	0.0	(4)	0.0	(2)
<i>Total number of firms surveyed</i>	79		427		284		276		300		207	

Note: Data in parentheses indicate number of respondents.

¹Indicates the percentage of firms which have associated an obstacle index of 3 or 4 to each issue. Knowing that: 0 = no obstacle; 1 = minor obstacle; 2 = moderate obstacle; 3 = major obstacle; 4 = very severe obstacle.

Source: Authors' computation from the firm level surveys (World Bank).

Hence, there is no real adequacy between actual employment labor laws and their perceived impact on firms functioning. This inadequacy first highlights the difficulty to catch all the different facet of labor regulation through synthetic indexes. The *Doing Business* Indexes prove helpful, because they constitute the only available source of information about labor legislation in Africa. These indexes only take into account what is actually written in the country law, no matter its implementation or enforcement. Nonetheless, firms' perception of the labor regulation as an obstacle to business running may also be biased. In countries where economic infrastructures are very poor and insufficient, firms may have a tendency to underestimate labor regulation's impact on their business. In some countries, the fact that a significant number of firms quote labor regulation as a significant obstacle may simply more highlights that the labor law is actually enforced rather than it is too rigid. Finally, this inadequacy might reflect that labor regulations are seen more dysfunctional than simply rigid or flexible. Both trade unions and employers are seen as strongly influencing labor laws by a relatively large percentage of firms. Both parties might end up being locked in with inefficient compromises.

Collective relations law and workers' civil rights

A huge majority of African countries have ratified the International Labor Standard Conventions. The ratification rate goes from 80.5 percent for Convention No. 138 involving the effective abolition of child labor to 100 percent for Convention No. 29 that suppresses the use of forced or compulsory labor in all its forms. However, we underline in this section the huge gaps between the ratification of ILO's conventions and national laws on the one hand, and between national laws and their enforcement in practice on the other hand.

The rights of freedom of association and collective bargaining

The right to organize. In a large number of countries (like Benin, Botswana, Niger, Rwanda, Senegal, Zambia, and so on), even if the Labor Code recognizes the right to organize,¹ it should be kept in mind that the majority of workers are excluded from the Labor Code

because they work in agriculture or the informal economy, where the Labor Code is usually not enforced.

Trade unions' registration. Even if the right to organize is fully recognized by the national law, trade unions' official registration can be an obstacle that considerably shrinks the freedom of organization in practice. In several African countries trade unions have to register with official organs (Ministry of Civil Liberties in Burkina Faso, Ministry of Justice in Angola, Ministry of Labor in Nigeria, or the Ministry of Interior in Senegal), implying possible government pressures to deny some trade unions' existence.²

The right to strike. This right is very often violated in practice in Sub-Sahara African countries. The most widely used tool by authorities to restrict strikes is to define "essential services" where workers are denied the right to strike. The problem is that the definition of these essential services are often much broader than what is recommended by the ILO.³ In practice, a huge part of the civil servants are considered as "essential services" workers. For example labor inspectors and magistrates in Burkina Faso; transport, sanitation, electricity, petrol, pharmacy, post, telecom, banks and water supply in Ethiopia; energy, health, policing and telecom in Mali; teachers in Nigeria; power, sewerage, and certain mining operation in Zambia; and so on.

Collective bargaining. While almost all African countries have ratified the ILO's convention on the right to bargain freely,⁴ there are large differences across countries in the enforcement of the right to collective bargaining. In Burkina Faso, Burundi, Côte d'Ivoire, Namibia, Niger, Senegal, and South Africa, collective bargaining agreements are in effect in many formal major business enterprises and sectors of the civil service. In several countries there are significant differences between the public and the private sectors.

The elimination of employment discrimination

We can roughly split Africa into two parts concerning equal remuneration for men and women workers for work of equal value.⁵ On the one hand we have countries where women face serious legal discrimination (Botswana, Cameroon, Gabon, Ghana, Madagascar, Mozambique, Rwanda or Tanzania). On the other hand, in many countries discrimination concerning employment and occupation is strictly prohibited by law (Côte d'Ivoire, Gambia, Guinea, Lesotho, Mauritius Namibia, Niger, Senegal, South Africa Swaziland, Togo or Zambia). However discrimination does occur as a result of traditional views on the role of women in society, concentration in a few economic sectors, and limited access to education. It should be noticed that discrimination against women takes place essentially in rural areas, where they make up the majority of rural farmers.

The abolition of child labor

Almost all African countries have ratified Convention No. 138 (1973).⁶ A member whose economy and administrative facilities are insufficiently developed may, after consultation with the organizations of employers and workers concerned, where such exist, initially limit the scope of application of this Convention.

The large majority of child labor takes place in what can be called "informal child labor," that is, children working in small family subsistence farming, in traditional apprenticeship system, in family owned small businesses or in housework. In fact, very few working children appear

to be wage employed. Hence, international labor standards do not apply to most working children.

The establishment of a minimum wage

More than 78 percent of African countries have ratified the ILO's minimum wage fixing machinery convention for manufacturing and commercial sectors. However, this percentage decreases to only 33 percent for agriculture and 15 percent for other economic sectors. The setting of the minimum wage provides in principle a floor to earnings for workers. However, the legislation of most countries excludes groups of workers from the scheme who thus legally earn subminimum wages. Estimates of the share of workers covered by a minimum wage system are scarce. Besides legally noncovered workers, some workers earn wages below the minimum because the employer fails to comply with the legislation. In fact, most African governments appear not to enforce strict compliance with minimum wages.

Employment law

Employment laws regulate the individual employment relation, including the alternatives to the standard employment contract, the flexibility of working conditions, and the termination of employment. To capture all these effects four indexes are reported (*Doing Business 2004*): a difficulty of hiring index, the rigidity of hours index, a difficulty of firing index and an overall rigidity of employment index, which is the average of the first three indexes. Each index may take values between 0 and 100, with higher values indicating more rigid regulation. The firing costs are also included. The data on hiring and firing workers are based on a detailed study of employment laws and regulations, as well as relevant constitutional provisions. Hence, informal employment is not taken into account when computing these indexes.

Table 1.2 displays these employment laws indexes for 33 different African countries. Africa exhibits the highest scores in terms of difficulty of hiring as well as in terms of the rigidity of working hours. This makes African labor market far more rigid in terms of employment than East Asia. Concerning the legal difficulties faced by firm to fire workers, African countries stand just behind South Asia, which seems to be the most rigid region in terms of firing legislation. Therefore, labor market rigidity concerning layoff procedures ensures relatively high protection to African workers.

These three indexes put African countries' labor markets as the most rigid in the world on average. These aspects may not enable firms to adapt to positive or negative market demand shocks in terms of employment. However, firing costs do not seem to be too high and are comparable with what can be found in East Asia.

The legal framework concerning hiring procedures, working hours and dismissals is certainly not widely observed in the informal sector. Therefore, important employment flexibility may be a possible reason for firms to operate in more informal sectors.

Table 1.2. Indexes of employment laws, by region and country

<i>Country</i>	<i>Difficulty of Hiring Index</i>	<i>Rigidity of Hours Index</i>	<i>Difficulty of Firing Index</i>	<i>Rigidity of Employment Index</i>	<i>Firing Costs (weeks)</i>
East Asia and Pacific	20	30	22	24	52
Europe and Central Asia	31	51	42	41	38
Latin America and Caribbean	44	53	34	44	70
Middle East and North Africa	22	52	40	38	74
OECD: High-income	26	50	26	34	40
South Asia	37	36	53	42	84
Sub-Saharan Africa	53	64	50	56	59
Angola	44	80	100	75	116
Benin	72	60	50	61	54
Botswana	0	20	40	20	19
Burkina Faso	100	100	70	90	80
Burundi	50	40	60	50	41
Cameroon	61	80	80	74	46
Central African Republic	89	80	60	76	37
Chad	100	80	60	80	47
Congo	89	80	90	86	42
Congo, Democratic Republic of	72	100	60	77	62
Côte-d'Ivoire	78	100	30	69	92
Ethiopia	50	60	20	43	48
Ghana	11	40	50	34	25
Guinea	67	80	30	59	133
Kenya	22	20	30	24	47
Lesotho	0	60	20	27	47
Madagascar	28	60	60	49	41
Malawi	22	20	20	21	90
Mali	78	60	60	66	81
Mauritania	89	60	60	70	31
Mozambique	72	80	40	64	141
Namibia	0	60	40	33	26
Niger	100	100	70	90	76
Nigeria	22	80	30	44	13
Rwanda	89	80	60	76	54
Senegal	61	60	70	64	38
Sierra Leone	78	80	70	76	188
South Africa	56	40	60	52	38
Tanzania, United Republic of	56	80	60	65	38
Togo	89	80	60	76	84
Uganda	0	20	0	7	12
Zambia	0	40	40	27	47
Zimbabwe	11	40	20	24	29

Note: Index components are scored between 0 and 100, with 100 representing the highest level of regulation. The Rigidity of Employment Index is the average of the first three indexes, and varies from 0 to 100.

Source: The World Bank, The original methodology and data come from The Regulation of Labor, by Juan Botero, et al. (2004).

Labor regulation

The basic question addressed in this section is, What determines the level of government intervention in the labor market? The interest groups theory (Olson 1965, Stigler 1971, and Becker 1983) assumes that labor regulations respond to the pressure from trade unions, employers' organizations, powerful individual firms, or informal groups of firms.

To investigate this theory we use RPED surveys in some selected African countries. Firms were asked how much influence various groups have on recently enacted national labor laws and regulations that have a substantial impact on firm's business. The surveys concentrate on the potential influence of trade unions, official employers' organizations and regional or local government.

The percentage of firms considering that one of the three groups influences the labor regulation is often quite high (between 18 to 48 percent). In all the surveyed countries (with the exception of Tanzania), the highest percentage of firms report that employers' organizations have major influence on labor regulation. For instance in Zambia, almost one third of firms think that employers' organizations have a huge influence on labor regulation, compared with less than 18 percent perceiving local authorities as the major labor regulation maker. In Kenya, this gap is much more reduced as 40 to 50 percent of firms quote employers' organizations, trade unions, and government as having a significant influence on labor laws.

Hence, labor law appears to be the result of a bargaining between these three main interest groups with a perceived stronger bargaining power on employers' organizations side. This effective bargaining may explain why in Kenya and Zambia more than 20 percent of firms still report layoff procedures as a significant obstacle, while employers' organizations seem to be the most powerful interest group.

2. Workers' organizations

What do unions do? Trade unions can be seen as organizations imposing “monopoly costs” to society, securing favorable pay and work conditions to their members by sharing supernormal profits with firms. By contrast, the “organizational view” (Freeman and Medoff, 1984) focuses on the economic benefits of unions, which facilitate worker participation and worker-manager cooperation at the workplace. Unions can also be seen as political organizations, which wield pressure on government for legislative or political change.

This section first portrays the extent and structure of trade union membership in Africa. Then we investigate the influence of unions on labor market outcomes, mainly through their influence on wages. Finally, we discuss the challenges African trade unions face to strengthen their activity and power.

Membership

African labor markets are far from reaching a level of union membership as high as the one observed in many developed countries (table 2.1). Indeed, African countries experience very low level of wage employment, the main base of trade unions. Moreover, given the costs of organizing workers in geographically dispersed rural areas, the locus of unionism is in urban areas and, within urban areas, in the formal economic sector that comprises “the wage-paying nonagricultural private firms and the public sector” (World Bank, 1995). This “modern” sector has been much eroded by the economic reforms and the liberalization process that took place from the 1980s on the African continent.

Table 2.1. Union density in selected African countries, 1995
(percent)

<i>Low</i> (<i><10%</i>)	<i>Intermediate</i> (<i>10% < <20%</i>)	<i>High</i> (<i>>20%</i>)
Eritrea (7.2) Ethiopia (4.1) Gabon (2) Guinea (2.5) Mauritania (2.7) Uganda (3.9)	Botswana (11.5) Cape Verde (16.9) Cameroon (14.7) Côte d'Ivoire (13) Kenya (16.9) Mali (13.7) Nigeria (17.2) ¹ Swaziland (19.1) Zambia (12.5) Tanzania (17.4) Zimbabwe (13.9)	Ghana (25.9) ¹ Mauritius (25.9) Namibia (22) Senegal (21.9) South Africa (21.8)

Note: Union density is the percentage of union members in all nonagricultural wage employment. The ILO figures on union membership are mostly based on a questionnaire on trade union membership and collective bargaining coverage sent to government, employers and union representatives. The others were provided by the ILO Regional Offices.

¹ Data are for 1990.

Source: Authors' classification from ILO (1997).

First, union membership figures should be considered cautiously as they mainly come from self-reporting membership from local unions, which reflects different administrative and political practices (ILO, 1997). In order to make comparisons between countries possible, we consider here unionization as the percentage of union members in nonagricultural wage employment.

According to Fashoyin and Matanmi (1996), there is a general link between the relative level of socioeconomic development and the degree of unionization or workers organizations. The

simple statistics in table 2.1 do not offer much support to this finding. Among the five African countries that exhibit a much higher level of union density than the average (Ghana, Mauritius, Namibia, Senegal, and South Africa), Ghana and Senegal are classified as low income countries, with a GDP per capita of \$755 or less, whereas richer countries, such as Botswana or Gabon, show evidence of much lower level of membership.

Table 2.2 focuses on the manufacturing sector only and offers another way of considering the extent of unionization in seven selected African countries:

Table 2.2. Unionization in the manufacturing sector in selected African countries

Survey group	Eritrea (2002)	Ethiopia (2002)	Kenya (2003)	Nigeria (2001)	Tanzania (2003)	Uganda (2003)	Zambia (2002)
Percentage of firms with unionized workers ¹	58.3 (79)	19.4 (407)	63.6 (253)	50.2 (221)	51.6 (246)	10.1 (298)	56.1 (173)
Percentage of the labor force unionized ²	53.2 (79) ³	15.2 (407)	41.4 (253)	42.7 (221)	40.1 (246)	6.1 (298)	41.3 (173)
<i>By firm size</i>							
[1-9]	14 (7)	0.01 (159)	12.5 (10)	0 (1)	6.4 (41)	0 (52)	0 (1)
[10-49]	45.3 (39)	2.7 (127)	32.6 (89)	8.6 (55)	33.5 (95)	8.8 (153)	27.9 (48)
[50-99]	60.9 (13)	18.7 (26)	39.8 (44)	29.6 (43)	59.3 (46)	7.8 (34)	34 (44)
>100	77.2 (20)	61.5 (86)	51.8 (110)	63.0 (122)	57.7 (64)	23.5 (59)	56.7 (76)
<i>By ownership structure⁴</i>							
Private domestic	43.2 (55)	4.3 (332)	38.6 (167)	27.4 (139)	32.8 (181)	1.8 (223)	36.0 (123)
Private foreign	94.3 (3)	50.2 (12)	50.8 (34)	68.4 (66)	59.8 (41)	16.2 (62)	50.3 (42)
State	81.9 ⁵ (14)	75.8 (55)	48.3 ⁵ (11)	54.6 ⁵ (6)	72.9 ⁵ (8)	43.1 (7)	68.2 ⁵ (5)
Other	49.2 (6)	0 (2)	41.6 (38)	50.5 (4)	48.5 (10)	0 (4)	95.5 (2)
Total number of firms surveyed	79	427	284	232	276	300	207

Note: Data in parentheses indicate number of respondents.

¹ Firms report to have at least one unionized worker.

² Firms report the percentage of their labor force which belongs to a trade union.

³ In parenthesis: total number of firms concerned.

⁴ Private domestic (more than 50% of the capital is owned by the private domestic sector).

Private foreign (more than 50% of the capital is owned by the private foreign sector).

State (more than 50% of the capital is owned by the state).

Other (when the owner is neither the private sector nor the state).

⁵ Percentage not significantly different (at the conventional 5 percent level) from the percentage computed for the private foreign firms.

Source: Authors' computation from the firm level surveys (World Bank).

- First, note that in Ethiopia and Uganda, a very high percentage of manufacturing firms (respectively, 80 percent and 90 percent) declare having not even one unionized worker. In the other countries, more than half of the firms report the presence of unions, with Kenya exhibiting the highest percentage (64 percent). The only data we have for French-speaking countries are from the 1990s. Cameroon and Côte d'Ivoire registered the lowest proportion of unionized firms (respectively 31.4 percent and 23.4 percent) (Mazumdar and Mazaheri, 2000).
- Second, as expected, unionization is low in Ethiopia and Uganda. In Kenya, Nigeria, Tanzania, and Zambia, around 40 percent of the workers appear to be unionized. Surprisingly, given the observation made in table 2.1 above, the highest unionization rate is found in Eritrea, where 53 percent of the manufacturing labor force belongs to a union.⁷

- Third, there is a clear correlation between unionism and firm size in all countries. The highest unionization rates are in large and very large firms.
- Finally, unionization appears to be sensitive to the ownership structure of the manufacturing firms. The percentage of workers unionized is always the lowest in the domestic owned firms. Whereas the public firms seem to be the most unionized in four of the seven countries.

The influence of trade unions on labor market outcomes and poverty

Trade unions affect labor market outcomes and poverty by influencing the level of wages, the prevalence of wage inequality and discrimination, and the antipoverty strategies adopted in Poverty Reduction Strategy Papers.

The influence of trade unions on the level of wages

The sources of union power. The union-nonunion wage differential is the most commonly used measure of union power. The theoretical literature on union power highlights several conditions under which a union can achieve a wage rate higher than the nonunion level (Booth, 1995):

- First, there must be some economic rents or surplus in the product market that can be shared. This surplus mostly arises from market imperfections or regulation of a particular industry. Teal (1996) points out that the rent-sharing effect is significant in explaining wage rates using a sample of Ghanaian firms. He emphasizes firm size and private sector as the main determinants of the rent-sharing effect. Azam and Ris (2001) find a similar result for manufacturing firms in Côte d’Ivoire. In addition, they find some evidence of a “hold-up” effect, whereby trade unions are able to grab a share of the incremental profits resulting from irreversible investment. Furthermore, Alby (2004) shows that the rent-sharing effect benefits the workers more, the higher up they are in the hierarchical ladder. In fact, the lower-ranking ones have a negative rent-sharing term. This study shows that an important source of the rent so shared is the monopsony power enjoyed by the firms on their local market for unskilled labor.
- Second, the union ability to bargain on wages depends on the monopoly power of the trade unions. According to Salmon (2001), if one excludes the public sector and other protected sectors, the capacity of unions to achieve power by threatening to strike in the private sector is quite small in developing countries as unionization rate and bargaining coverage is generally lower than in industrialized countries and labor regulation more uncertain.

The union wage premium in Africa. Only a few studies have been done on the extent of the union wage premium in Africa (table 2.3).

- First, some studies do not manage to measure any significant effect of unions on wages. The usual explanation for the absence of a positive union-nonunion wage differential is that wage increases secured by unionized workers spill over to raise the wages of certain nonunion workers (Pencavel, 1995). In Zimbabwe, where there is an extremely strong positive correlation between unionization and firm size, the size effect is actually picked up by the higher level of unionization in larger firms (Velenchik, 1997). In South Africa,

most studies do not find any significant wage advantage for White unionized workers. When bargaining at the firm level, union negotiators often focus on increasing the lowest wages and narrowing the wage gap between skilled and unskilled workers (Bendix, 1996). This bargaining is thus more likely to concern black workers.

- Second, in Cameroon and Senegal—the only two French-speaking countries for which we have data—union members seem to earn less than similar nonunionized workers. According to Rama (2000), these negative union premia suggest that union members may get other nonwage benefits that compensate for their lower earnings and that trade unions could have been used by governments in many CFA (Communauté Financière Africaine) countries to implement their wage moderation policies. However, Manda et al. (2001) discuss the same issue for the case of the Kenyan manufacturing sector, and show convincingly that the negative union premium is due to a mistaken empirical methodology. They show that the negative effect turns positive once due account is taken of selectivity effects.
- Finally, in those countries where the union wage premium is positive (Ghana and South Africa), the value of this premium falls in the higher “developing countries” range.⁸ Moreover, if one compares the results shown in table 2.3 with those found in developed countries, they are closer to the higher “American” range than to the lower “European” range. Blanchflower and Freeman (1990) demonstrate a contrast between the United States, where the union effect is some 20 percent and West Germany, Austria, and Switzerland, which have small union effects, between 4 percent and 8 percent.

The spillover effect to nonunion members. Some nonunionized workers can be covered by a collective bargaining agreement. Thus basing union status on membership rather than coverage may lead to nonnegligible bias in estimating the union-nonunion wage differential (Jones, 1982).

The firm level surveys provide some indirect information about the potential union wage spillover effect. Table 2.4 concentrates on Kenya, Tanzania, and Uganda.⁹ In those three countries, around 60 percent of the firms in the manufacturing sector report that nonunionized workers benefit from the wages unions are negotiating. Furthermore, this extension of union wage agreements to nonunionized workers appears to be higher in large firms (with more than 50 workers) and in the firms predominantly owned by the state.

- Focusing on South Africa, Butcher and Rouse (2001) observe that black nonunion workers covered by industrial council agreement earn about 10 percent significantly more than those not covered. In contrast, the difference is not statistically significant for white workers.
- Using a data set from Ghana, Blunch, and Verner (2001) find another type of spillover effect on wages of nonunion workers. This effect is estimated by introducing a variable measuring the union density of the sector.¹⁰ This variable does not seem to influence wages directly. However, when the worker is trained, the degree of unionization of the sector affects individual wages positively, suggesting that unions’ bargaining power allows them to extract some of the rents from the firm training and share it with workers.

Table 2.3. The union wage effect in selected African countries

<i>Country</i>	<i>Union wage effect</i>	<i>Sample</i>	<i>Econometric methodology and comments</i>	<i>Data set</i>	<i>Source</i>
Cameroon	-12.9%	Formal manufacturing Workers	(1) pooled regression with an individual union membership dummy	2 waves of RPED* (1993)	Thomas and Vallée (1996)
Ghana	15.7%	Formal manufacturing Workers	(1) with an individual union membership dummy	RPED (1994)	Verner (1999)
	16.9%	Formal manufacturing Workers	(1) with a dummy for the union status of the firm	RPED (1994)	Blunch and Verner (2001)
	28.4%	Formal manufacturing Workers	(1) pooled regression with a dummy for the union status of the firm	3 waves of RPED (1992, 1993, 1994)	Teal (1996)
Senegal	-12.5%		(1) with an individual union membership dummy	TRSV (1980–85)	Terrell and Svejnar (1989)
South Africa	Between 10% and 24%	Black male workers (blue-collar workers only)	Depending on the methodology used (1), (3), (4)	Household survey (1985)	Moll (1993)
	Between 26% and 43%	Black male workers	(1) with an individual union membership dummy. Variation of results depends on the skill level and economic sector	OHS** (1994)	Moll (1995)
	21% Positive but not significant	Black male workers White male workers	(1) with an individual union membership dummy	PSLSD*** (1993)	Mwabu and Schultz (1998)
	20% 11%	Black male workers White male workers	(1) with an individual union membership dummy	OHS (1995)	Butcher and Rouse (2001)
	83.8% and 100.5% Positive but not significant	Black male workers White male workers	Depending on the methodology used (2), (4)	OHS (1999)	Azam and Rospabé (2003)
Zimbabwe	Positive but not significant	Formal manufacturing Workers	(1) with a dummy for the union status of the firm.	RPED (1993)	Velenchik (1997)

Note: Numbers in parentheses referring to econometric methodology indicate the following:

1. OLS regression with an individual union membership dummy variable or a dummy for the union status of the firm.
2. Treatment effect model (wage regression with a union membership dummy variable, correcting for the selection bias).
3. Separate earnings regime for unionized and non unionized workers.
4. Separate earnings regime for unionized and non unionized workers with endogenous switching between the two regimes.

* Regional Program on Enterprise development (RPED), World Bank.

** October Household Survey (OHS), Statistics South Africa.

*** Project for Statistics on Living Standards and Development (PSLSD), World Bank.

Table 2.4. Percentage of firms declaring that nonunionized workers benefit from union-negotiated wages and benefits, 2003

<i>Survey group</i>	<i>Kenya</i>	<i>Tanzania</i>	<i>Uganda</i>
<i>Overall</i>	58.5 (124)	64.2 (104)	58.6 (17)
<i>By firm size</i>			
[1-9]	20 (1)	13.3 (2)	0 (0)
[10-49]	50.7 (34)	53.1 (34)	50 (1)
[50-99]	65.8 (25)	83.3 (30)	50 (2)
>100	62.4 (63)	80.8 (38)	60.9 (14)
<i>By ownership structure¹</i>			
Private domestic	58.1 (79)	58.4 (66)	42.9 (3)
Private foreign	47.1 (16)	73.3 (22)	62.5 (10)
State	81.8 (9)	100 (7)	75 (3)
Other	67.8 (19)	87.5 (7)	0 (0)
<i>Total number of firms surveyed</i>	284	276	300

Note: Data in parenthesis indicate the number of respondents.

¹Private domestic (more than 50 percent of the capital is owned by the private domestic sector).

Private foreign (more than 50 percent of the capital is owned by the private foreign sector).

State (more than 50 percent of the capital is owned by the state).

Other (when the owner is neither the private sector nor the state).

Source: Authors' computation from the firm level surveys (World Bank).

The influence of trade unions on wage inequality and discrimination

On wage inequality. In Ghana, Blunch, and Verner (2001) test for the presence of asymmetry in the union relative wage effect in the manufacturing industries. They find that unions mainly benefit the lower end of the wage distribution. In South Africa, Mwabu, and Schultz (1998) study the impact of unions on the distribution of wages. They estimate that union membership among black workers increases their wages by 41.2 percent at the bottom tenth percentile of the wage distribution and has no significant impact at the top of the 90th decile. Hence, these results suggest that South African trade unions narrow income inequality among black union members only.

On wage discrimination. In Ghana, Blunch, and Verner (2001) show that discrimination favoring male workers, while being present in the nonunionized sector, is virtually absent in the unionized sector. Indeed, they find that there is a positive premium to women from being employed in the unionized sector (around 5 percent). In South Africa, Azam and Rospabé (2003) demonstrate that the impact of unionization on wages seems to be higher for black workers than for White workers, who get on average roughly the same wage when they are unionized than when they are not. This result is in accordance with Rospabé (2001).

The participation of trade unions in Poverty Reduction Strategy Papers

Since 1999, African trade unions have been participating in Poverty Reduction Strategy Papers (PRSP), together with their government, other civil society organizations and in collaboration with the World Bank and the International Monetary Fund. Trade unions have been identified as stakeholders involved in policymaking and program implementation. Egulu

(2004) reports their perception on the PRSP process. Almost no union has reported being engaged in the drafting, implementation or monitoring and evaluation. This is the case, for instance, in Kenya, where trade union participation in the PRSP process has been minimal. However, in Ghana, where unions have traditionally been politically and economically active, the TUC has been largely involved in the PRSP process.

Box 2.1. Case studies of trade unions' efforts to integrate informal workers

Ghana

Adu-Amankwah (1999) provides a few examples of the full integration of informal workers into the mainstream trade union movement, ranging from help to access credit and financial support, through training, to awareness of rights and social protection standards. For instance, the most organized informal sector group of workers in the Industrial and Commercial Workers Union (ICU) is the Ghana Hairdressers and Beauticians' Associations (GHABA). GHABA registers 4000 members spread all over Ghana and has its own structure from district through regional to national levels. Each member of the association pays an affiliation fee which in turn is given to the ICU. In return, the latter provides legal services for members, organizes training and leads negotiations with the Accra Metropolitan Assembly on tax rates and rates to be paid for shops.

Zambia

Fashoyin (1998) presents another illustrative example where the Zambia Congress of Trade Unions (ZCTU) has a policy to protect the informal sector, including the self-employed and workers in small enterprises. The Congress amended its constitution in 1994. It now covers the informal sector as part of its organizing and representational constituency. Thus, it has implemented a two-sided approach as a prelude to organizing these workers into trade unions. For the self-employed workers, the Congress seeks to help them by providing training, legal advice and sources of funds. As regards workers in micro and small scale enterprises, the Congress seeks to extend traditional trade union protection to the workers, such as social security and create in them the awareness of occupational safety and health issues.

Kenya

Kenya provides the case of a relative failure of the trade union movement to address the issue of workers in the informal sector (Chune and Egulu, 1999). The main obstacle that COTU had to face was legal. Despite the explicit nature of COTU's constitution defining its obligations to workers of all categories, it could not overcome legal barriers: membership of a union is based on the existence of an employer-employee relationship that is not always guaranteed in the informal sector. Besides, informal workers are not covered by the Labor Act, nor by the Employment Act. Besides this legal framework constraint, the main obstacles to union organizations have to do with first, the low financial returns from the sector. Indeed, when informal sector workers join a trade union, their membership fees are either symbolic or much lower than those paid by regular wage-earners, and they are often irregular due to their unstable income (ILO, 1997). Second, unions point out the absence of ready packages of benefits to attract informal sector operating units coupled with their absence of previous experience of union organization (Adu-Amankwah, 1999).

3. Employers' organizations

In most African countries the common wisdom for many decades was that only the state could mobilize an “organized total effort” as a compelling development need. This notion of development implied the co-optation of employers’ organizations. Under such an arrangement, employers’ organizations forgo their legitimate right to protect their interests, and in return government grants them certain privileges. Moreover, following the predominant role of the state, the largest employer in most African countries is the government itself, decreasing de facto the weight of private entrepreneurs’ organizations in most negotiations and decision-makings. The 1990s have brought an emerging consensus that conditions of political liberty are essential for enhancing economic opportunity. As a consequence, some African governments are signaling their intent to deepen tripartite consultation and improve its efficiency for building better understanding between the social partners. Furthermore, the current trend toward privatization and market liberalization is reducing the role of government. Such trends have opened the door for independent, representative, and economically influent employers’ organizations (box 3.1).

Under the ILO’s Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), and Right to Organize and Collective Bargaining Convention, 1949 (No. 98), ratified by the majority of African countries, employers have the right to “gather together” to protect their interests and advance their capability to conduct their business in any appropriate manner consonant with national laws.¹¹

Box 3.1. Case studies of employers’ organizations

Côte d’Ivoire

The National Council of Ivorian Employers (CNPI) was formed on 4 December 1993 and it was officially registered on 30 June 1994. The council proved its credibility at the national level in 1994 by negotiating with the government the post-devaluation support measures and wage increases with the central trade union in 1995. The council’s objectives consist of:

- promoting free enterprise and the market economy
- elaborating legislations that promote development and progress of industrial and commercial enterprises and services
- representing and defending members’ interests before the relevant national or international authorities
- providing support to members with a view to increase global efficiency.

The council is a permanent member of the Labor Consultative Commission (tripartite organ) and a founding member of the Permanent and Independent Dialogue Commission (bipartite organ). These two national bodies take an active part in every negotiation. Nowadays, the council exerts a certain lobbying activity close to the administration, which often takes into account the council’s propositions in governmental project in favor of the private sector. On the whole the council represents more than 500 private or parastatal enterprises with an aggregate workforce above 100,000 workers.

Ghana

The Ghana Employers' Association (GEA) was formed in 1959 and later incorporated as a nonprofit making company. In general, the association's activities in pursuit of its functions include:

- keeping members informed of the operation of existing laws and practices and legislative proposals which may affect, or tend to affect, the interests of employers
- providing a forum for employers to meet, discuss, consult and exchange views, information, and experiences
- representing employers' interests in government circles
- offering consultancy services, education, training and human resource development
- providing advice to members on management-employee relations
- assisting members in collective agreement negotiations by providing advice, information on current trends, etc. and/or actually taking part in the negotiations
- representing employers on tripartite and other bodies, national and international
- fostering enterprise development, especially of small and medium scale enterprises
- promoting free enterprise.

Membership is open to individual employers both in the private and public sectors who employ five or more persons in a permanent establishment engaged in or connected with an industry, trade, business, education, or cultural activity.

Membership

Table 3.1 focuses on the manufacturing sector only and considers employers' organizations membership in five selected African countries.¹² Membership rates are not only quite high compared with union membership, but also much more homogeneous across countries, between 60 percent (for Uganda) and 78.6 percent (for Kenya). These five countries display the same ranking order for employers' organizations membership rate as for the unionization rate (see table 2.2). The heterogeneous composition of employers' organizations can result in conflicts of interests: small businesses versus large ones, indigenous businesses versus branches of multinationals, etc. There is a strong positive correlation between membership and firms' size in all countries. The membership rate is always the highest in the private foreign owned firms.

Hence, the membership of most of the employers' organizations is composed mainly of large and foreign owned companies. These kinds of firm are not the most numerous, but since they display the highest membership rate and probably the most effective economic power, they could manage to have much more bargaining power inside the organizations. However, there does not seem to be any evidence that these associations work against the interests of small and medium-size firms. Large and powerful firms often try to adjust the organizations' services toward small firm specific needs, even if they are never easy to implement. Useful services for small firms are more costly than those given to larger firms. Often the employers' organizations can be reluctant to make up some of the deficit of management resources existing in small firms.

Table 3.1. Producer or trade association membership in selected African countries

<i>Survey group</i>	<i>Ethiopia (2002)</i>	<i>Kenya (2003)</i>	<i>Tanzania (2003)</i>	<i>Uganda (2003)</i>	<i>Zambia (2002)</i>
<i>Percentage of firms members of an employers' association¹</i>	63.0 (427) ²	78.6 (281)	65.4 (269)	60.0 (300)	69.1 (207)
<i>By firm size</i>					
[1-9]	43.8 (176)	60.0 (10)	17.0 (47)	22.2 (54)	100.0 (1)
[10-49]	69.4 (134)	60.4 (91)	56.6 (106)	57.5 (153)	56.7 (60)
[50-99]	89.3 (28)	91.3 (46)	93.8 (48)	67.6 (34)	68.0 (50)
>100	83.2 (89)	88.8 (116)	95.4 (65)	96.6 (59)	80.5 (87)
<i>By ownership structure</i>					
Private domestic	59.1 (342)	74.9 (187)	62.1 (198)	54.3 (223)	68.0 (147)
Private foreign	93.8 (16)	94.3 (35)	88.4 (43)	81.3 (64)	73.1 (52)
State	77.2 (57)	86.7 (15)	70.0 (10)	71.4 (7)	66.7 (6)
Other	66.7 (12)	78.6 (42)	23.1 (13)	20.0 (5)	50.0 (2)
<i>Total number of firms surveyed</i>	427	284	276	300	207

Note: Data in parentheses indicate number of respondents.

¹ Firms report to be member of a producer or a trade association.

Source: Authors' computation from the firm level surveys (World Bank).

Services

Table 3.2 focuses on the manufacturing sector only and displays the value of employers' organizations services in five African countries. In the RPED surveys, firms were asked how important each employers' organization service is to the firm. Hence, this "value" is not the effective performance of employers' organizations but rather the perceived importance and effectiveness of each service provided to the firm.¹³

Table 3.2 highlights that the most important service provided by employers' organizations to member firms is the supply of information concerning current or new government regulations. Furthermore, even firms with more than fifty percent of their capital owned by the state need information about current or new government regulations.

A significant number of firms regard the lobbying role of their association as being of major or crucial importance for their business. The percentage of firms which value the lobbying actions as a major service increases with firms' size. Small and large member firms may not have the same priority in terms of economic policies that should be undertaken. However, as seen above (table 3.1), the composition of the coalition does not favor small firms as they are less represented in employers' organizations than the large ones. The composition effect and their limited bargaining power may both prevent small firms to impose their specific economic point of view. As a result, the lobbying organization does not seem to put pressure on the government to implement small firms' favorable reforms, even if about a quarter of very small firms quote this service as a crucial one.

Table 3.2. Producer or trade association services

Survey group	Service item	Ethiopia (2002)		Kenya (2003)		Tanzania (2003)		Uganda (2003)		Zambia (2002)	
Percentage of firms quoting the item as an important service ¹	Lobbying government	32.2	(214) ²	49.1	(212)	32.9	(164)	43.0	(165)	30.8	(130)
	Resolution of disputes	17.4	(184)	37.7	(207)	28.5	(123)	25.0	(140)	23.5	(51)
	Information on regulations	40.4	(223)	55.2	(210)	50.3	(159)	48.5	(165)	39.8	(118)
<i>By firm size</i>											
[1-9]	Lobbying government	29.0	(62)	25.0	(4)	0.0	(7)	22.2	(9)	0.0	(1)
	Resolution of disputes	25.0	(56)	75.0	(4)	0.0	(6)	27.9	(10)	0.0	(1)
	Information on regulations	32.8	(58)	75.0	(4)	25.0	(8)	27.3	(11)	0.0	(1)
[10-49]	Lobbying government	30.7	(75)	40.7	(54)	25.5	(55)	32.1	(81)	20.7	(29)
	Resolution of disputes	7.7	(65)	42.6	(54)	23.1	(39)	23.5	(70)	37.5	(8)
	Information on regulations	40.0	(80)	52.8	(53)	50.0	(48)	40.7	(81)	43.5	(23)
[50-99]	Lobbying government	50.0	(20)	38.1	(42)	29.3	(41)	47.6	(21)	20.0	(30)
	Resolution of disputes	26.7	(15)	29.3	(41)	35.3	(34)	27.5	(17)	36.4	(11)
	Information on regulations	56.5	(23)	52.4	(42)	65.1	(43)	57.9	(19)	28.6	(28)
>100	Lobbying government	31.6	(57)	61.2	(98)	40.0	(60)	61.1	(54)	39.4	(66)
	Resolution of disputes	18.8	(48)	38.9	(95)	30.2	(43)	10.0	(43)	16.7	(30)
	Information on regulations	41.9	(62)	60.2	(98)	42.4	(59)	61.1	(54)	41.9	(62)
<i>By ownership structure</i>											
Private domestic	Lobbying government	33.1	(163)	46.6	(133)	32.7	(113)	40.0	(110)	29.2	(89)
	Resolution of disputes	18.1	(138)	33.3	(132)	24.1	(87)	24.8	(101)	28.2	(39)
	Information on regulations	39.1	(169)	51.5	(130)	50.9	(110)	44.9	(107)	35.0	(80)
Private foreign	Lobbying government	50.0	(14)	57.6	(33)	27.8	(36)	50.0	(48)	33.3	(36)
	Resolution of disputes	14.3	(14)	45.2	(31)	39.1	(23)	26.5	(34)	8.3	(12)
	Information on regulations	50.0	(14)	57.6	(33)	47.1	(34)	52.9	(51)	52.9	(34)
State	Lobbying government	22.6	(31)	33.3	(12)	42.9	(7)	40.0	(5)	50.0	(4)
	Resolution of disputes	19.2	(26)	27.3	(11)	33.3	(6)	0.0	(4)	-	(0)
	Information on regulations	38.2	(34)	30.8	(13)	57.1	(7)	60.0	(5)	33.3	(3)
Other	Lobbying government	16.7	(6)	53.1	(32)	33.3	(3)	0.0	(1)	0.0	(1)
	Resolution of disputes	0.0	(6)	48.4	(31)	50.0	(2)	-	(0)	-	(0)
	Information on regulations	66.7	(6)	75.0	(32)	66.7	(3)	100.0	(1)	0.0	(1)
<i>Total number of firms surveyed</i>		427		284		276		300		207	

Note: Data in parentheses indicate number of respondents.

¹ Indicates the percentage of firms that have associated a value of 3 or 4 to each employers' organization service. Knowing that: 0 = no value; 1 = minor value; 2 = moderate value; 3 = major value; 4 = critical value to the firm.

Source: Authors' computation from the firm level surveys (World Bank).

Organizations' assistance to their members during disputes with officials, workers or other firms appears to be the least valuable service for firms.

There is no significant difference when looking at firms' size or ownership structure. In fact, disputes against officials, workers, or other firms seem to be much more related to firms' level problems that do not require any coalition to be formed to get solved.

Kenya, which displays the highest membership ratio, exhibits also the highest proportion of firms assigning a major value to organizations' services. This suggests that the employers' organizations membership and the perceived quality of their services seem to be related.

The role of employers' organizations in the informal sector

The majority of employers' organizations see the informal sector as unfair competition. Most employers' organizations see their key role as assisting the migration of informal enterprises into the formal sector, though this is not always seen as a high priority. The employers' organizations use their influence to remove regulatory obstacles to small and medium-size enterprises, which seem most pronounced and most entrenched as bases for bribery and similar corruption in African countries.¹⁴

Developing the link between the formal and the informal sectors

Formal-informal firms' cooperation can develop on the basis of subcontracting relationship.¹⁵ This is the reason why some employers' organizations have begun encouraging the establishment of associations of micro and small entrepreneurs and businesses. In fact, these employers' organizations have established, often in cooperation with the ILO, programs such as "Improve Your Business" and "Start Your Business"¹⁶ for this category of members.

Evidence suggests that including micro-entrepreneurs into formal employers' associations is not necessarily the most effective type of organization to overcome constraints in access to credit and training resulting in low productivity. Informal workers' organizations, home workers' associations and informal sector cooperatives often mobilize to obtain credit, inputs and training at more advantageous conditions.

Another strategy adopted by cooperative-type informal sector associations has been to pool resources and assets with other trade associations. For example, in Benin approximately 1,600 micro-enterprises, employing about 6,500 people, are organized in some 60 mutual savings and loan associations.

These associations combine traditional solidarity-based saving and credit practices with economic effectiveness. Apart from their high rate of recovery and observance of repayment schedules, these associations have shown a growing propensity to lend out the savings collected, thus increasing their contribution to capital formation. They have been vested with a legal personality recognized by the Ministry of Internal Affairs, and are governed by by-laws drawn up by their members. Legal recognition by the ministry has acted as a deterrent against abusive practices by local government agencies. Local proximity and social control have proved the key to their success.

In many countries, the government has become more active in developing targeted interventions to overcome various constraints faced by the informal sector. But well-intentioned government measures do not always yield the desired result. For instance, in Côte d'Ivoire (Gaufryau and Maldonado, 1997), a government policy to create a truly representative and functional national craft association failed to produce the expected results because the organizational structure proposed was too bureaucratic and complex.

The role of the International Finance Corporation

To reach the African private sector and respond to its needs, the International Finance Corporation (IFC) is establishing a different product mix, involving both investment and noninvestment services. IFC is working with the International Development Association to launch comprehensive programs targeted at micro, small, and medium enterprises (MSME) in 10 African countries. The proposed MSME Program aims at reducing constraints to growth and competitiveness by increasing access to finance, helping firms to find new markets by building their technical capacity, and reducing regulation to enable more private sector participation.¹⁷

A key resource for capacity building is IFC's Africa Project Development Facility (APDF). To make it more effective in meeting demand, IFC is increasing the scale of APDF's operations under a new and more flexible funding model. In addition, IFC is piloting a new model for delivering its services to smaller businesses through Small and Medium Enterprise Solutions Centers. Each center will be an integrated "storefront" of services and financing for small and medium enterprises, including short- and long-term finance, capacity building, access to information, and approaches to improving the business-enabling environment. The first Solutions Center opened last year in Madagascar.

4. Social dialogue, collective bargaining, and labor-management relations

The social dialogue of labor relations prevailing in Africa usually involves either two principal parties (the workers' and the employers' organizations) or three (those two parties plus the state). Collective bargaining or cooperation, whether bipartite or tripartite, generally occurs either informally in ad hoc bodies or formally through advisory or negotiating institutions.

Bipartite social dialogue

The social dialogue directly between workers' and employers' organizations encompasses the institutions of collective bargaining, the resolution of disputes and strikes, and the modes of labor-management cooperation.

Collective bargaining institutions

The literature on collective bargaining usually focuses on the level and the coverage of collective bargaining institutions.

The level of collective bargaining. In most African countries, sectoral and company-level bargaining systems prevail. As underlined by Fashoyin (1998), "in many African countries, public policy designs had tacitly promoted sectoral or industry level bargaining relationship, ostensibly to create some sort of stability in labor relations." Hence, in many African countries, such as South Africa, Zambia, and Zimbabwe for instance, bargaining at the industry level has been a major feature of the collective bargaining system. However, despite this support of public policy for centralized bargaining, enterprise bargaining exists. This is the structure of bargaining prevalent in such countries as Botswana, Lesotho, Mozambique, Namibia, Swaziland, Kenya, and Ethiopia.¹⁸

In Southern Africa, following the liberalization process, the trend toward enterprise-level bargaining has intensified in the 1990s with the employers (workers) recognizing the need to have more flexibility in the design of pay for productivity and competitiveness (Fashoyin, 1998). This is the case for instance in Zambia, where bargaining system in the banking industry shifted from industry-wide bargaining arrangements (through a Joint Industrial Council Agreements) to firm-level negotiation. A similar development occurred in Botswana. Finally, in Zimbabwe, although the sectoral level is still the most prevalent level (under the National Employment Councils), bargaining at the works councils in enterprise has recently increased.

Box 4.1. Case studies of collective bargaining systems

South Africa

Centralized bipartite bargaining structures. The Labour Relation Act (LRA) of 1995 promotes the use of centralized bargaining structures. It retains the previous Industrial Councils, now renamed Bargaining Councils and extends these also to the public service. At the end of 2002, according to the Department of

Labour, there were 62 Bargaining Councils, compared with 81 in 1994, indicating a substantial deregistration of Bargaining Councils since 1995. These Councils can cover a specific industry, occupation, and area (either the whole country, province or cities). Bargaining Council agreements can deal with items such as wages and conditions of service, retrenchment procedures, grading systems, etc. The “Compulsory centralization” whereby the Bargaining Councils agreements can be extended to nonparties still prevails under the LRA 1995. According to Moll (1996), the abolition of these “ergo omnes” rules, involving the enforcement of too high minimum wages for the small firms, would probably generate an increase in employment. However, as Bezuidenhout (2000) argues, only a third of the private sector employees are covered by such agreements. Also, as indicated above, firms can apply for exemption from Bargaining Council agreements. In 80 percent of cases, these exemptions are granted (ILO, 1999). In a number of sectors, national bargaining forums have been established by mutual agreement between employers and unions. For instance, this the case in the gold and coal mining sector between the NUM and the Chamber of Mines.

Decentralized bargaining structures. In terms of the organizational rights now accorded to unions by the LRA 1995, if a union proves sufficient or majority representation in the firm, the employer cannot easily refuse to recognize the union as the bargaining unit at the firm level. Negotiation can be conducted “on all matters of mutual interest,” such as wages, working conditions, training, discipline, grievances, retrenchment, job grading, etc. If the thrust of the LRA of 1995 toward a more centralized bargaining system is reflected in practice, then the institution of plant-level bargaining may gradually disappear. This might be supported by the fact that the workplace forums introduced in the LRA—representing all the employees in the workplace—might, in the future perform many of the functions of plant-level unions (Bendix, 1996).

Kenya

Collective bargaining has a long tradition in Kenya. Today, an average of over 300 collective agreements, mostly made on an individual employer basis, are signed annually in Kenya (Fashoyin 2001). However, the number of collective agreements registered has fallen due to growing economic difficulties, which have caused business closures, or have induced the parties to continue with existing conditions or even to abandon the bargaining process altogether. Both the Trade Disputes Act and the 1962 Industrial Relations Charter authorize collective bargaining between unions and employers to establish wages and conditions of employment. The government permits wage increases of up to 100 percent and renegotiation of collective agreements; however, the law allows employers in ailing industries to dismiss workers regardless of the provisions of their collective bargaining agreements. Collective bargaining agreements must be registered with the Industrial Court to ensure adherence to these guidelines. Collective bargaining can take place at the industry or sectoral level and the company level. As a result of the economic difficulties of the late 1990s, bargaining at the industry-level has become increasingly unpopular in recent years and there has been a growing shift toward individual bargaining at the company-level. Indeed, company-level bargaining leaves room for both sides to adjust employment conditions to their particular situation.

Collective bargaining coverage. In some countries, the collective bargaining agreements negotiated by unions also prevail for nonunionized workers. In that case, collective bargaining coverage rate is higher than the unionization rate. The difference between these two rates comes from legal constraints and institutional background.

Collective bargaining coverage ranges from 25 percent to 40 percent. When appropriate figures are available,¹⁹ union density generally appears to be lower than collective bargaining coverage, Zambia aside. A survey conducted in the South African manufacturing sector (the South African

Labor Flexibility Survey) presents a different picture of the Bargaining Councils coverage (Macun, 1997). It shows that in 1996, 65 percent of the firms that were surveyed are subject to Bargaining Councils agreements, be they party to such agreements or nonparties to whom agreement had been extended. The distribution of those firms by employment size was found fairly even, with a smaller proportion of larger firm subject to Bargaining Councils agreement.

Resolution of disputes and strikes

Dispute resolution. An important element of a sound labor relations system is the provision of an effective and practical dispute settlement machinery. Betcherman et al. (2001) bring out for developed countries a move away from court-based procedures and adversarial encounters toward alternative nonjudicial approaches that focus on conciliation and arbitration. The dominant innovation over the past half-century has been the introduction of administrative labor tribunals as an alternative to litigation. When considering the introduction of these alternative dispute resolution approaches in developing countries, the authors raise some reserves related to the support of cultural and institutional norms, the availability of trained and trainable mediators, sustainable financing and adequate legal foundation. They further highlight that this policy can be a good complement to court procedures that are long and costly but should not be a substitute to an effective judicial system aimed at enforcing labor legal standards.

In many African countries, dispute resolution processes have been dominated by the state via the Ministry of Labor, usually through its conciliation and mediation services (Fashoyin, 1998). Labor Courts have been established to resolve disputes that could not be settled by the government machinery. One exception is South Africa where an independent conciliation and arbitration system (the Commission for Conciliation, Mediation and Arbitration) has been created. In Southern Africa, these government conciliation services have generally become deficient mostly due to the reduction in resources of labor administration as well as a lack of definition of the procedures for settling disputes (Fashoyin, 1998). As a consequence, the labor court, which should be the ultimate authority in the dispute settlement system, is overburdened by too many premature referrals.

Strike activity. Strikes constitute the most obvious form of industrial action, beside go-slows, boycott, overtime bans etc. Statistics on strikes in Africa are sparse and highly dependent on the data source.²⁰ The Laborsta from the ILO provides some figures of the strike activity for a few selected African countries.

- First, strike activity seems to be significant during the 1990s in only a small number of countries, namely Kenya, South Africa, and Zambia. In other countries, the number of strikes rarely exceeds 20 a year.
- Second, among these three countries, only Zambia has experienced a steady decrease in the number of strikes in the 1990s. According to Fashoyin (2002), this might be attributed to the effectiveness of the dispute settlement machinery but it is mostly the threat of job losses that contributed to this change. In South Africa and Kenya, strike activity is much more volatile, but seems to have greatly declined since 1998.

The main reason for strike action is related to wage, other motives such as grievance and disciplinary issues remaining secondary. For instance, in 1999 in South Africa, around 97 percent of strikes were due to wage disputes.²¹ French-speaking countries have been particularly affected by unpaid salaries problems during the last decade (Mayaki, 2002 and Linard, 2002).

Firm level surveys conducted in a few African countries also supply some information on strike activity. In every country, a high percentage of the manufacturing firms surveyed does not report any days of production lost to strikes and labor unrest. In Zambia, for instance, only 3 percent of firms have been declaring some kind of damages. However, prevalence of strikes and labor unrest appears to be higher in Ethiopia and Nigeria.

Box 4.2. Case studies of dispute settlement South Africa

South Africa

South Africa, has, since the passage of the Industrial Conciliation Act in 1924 had an official dispute settlement machinery. It was only after the unfair labor practice concept and the Industrial Court were introduced in the 1979 and subsequent amendments to the Labour Relations Act that the settlement of individual disputes received increased attention.²²

The Labour Relation Act of 1995 has maintained the essential voluntarism of the dispute settlement machinery by providing the freedom to submit disputes to conciliation or mediation and arbitration, or in certain instances, to the Labour Court (which replaces the Industrial Court). A new body, the Commission for Conciliation, Mediation and Arbitration (CCMA) has been established to take much of the load previously carried by the Industrial Court. The legislation provided that the CCMA be independent of the state, any political party, union, or employers' organization. Furthermore, bargaining councils and independent agencies may now be accredited as mediators and arbitrators by the CCMA.

Disputes of rights may be submitted first to conciliation or mediation by either the CCMA, a bargaining council, or its accredited agent and thereafter to arbitration by one of the above or, in certain instances, to adjudication by the Labour Court. Disputes of interest may also be submitted first to conciliation or mediation. If this fails, parties may choose voluntary arbitration or engage in industrial action, except in essential services. The act interprets conciliation to include fact finding, mediation, and even advisory arbitration.²³

Ghana

The law provides for an independent National Labor Commission, made up of government, employers and organized labor representatives, responsible for settling disputes, first through mediation, then through arbitration. However, the Industrial Relations Act (IRA) provides for compulsory arbitration by the minister to resolve a dispute if one party to the dispute advocates compulsory arbitration. This procedure would allow employers to renege on their commitment to bargain in good faith and instead call for arbitration, violating the right to collective bargaining. The ILO has informed the government that compulsory arbitration is acceptable only when called for by both parties.

Kenya

The dispute settlement machinery in Kenya is designed to ensure that collective bargaining is adequately used in settling disputes and to ensure that disputes are appropriately and promptly settled (Fashoyin 2001). The law requires that all disputes be reviewed by the Tripartite Committee, which then decides on

one of three courses of action. It may first decide that the parties have not exhausted the collective bargaining machinery and return the dispute to the parties. Then, if it decides that the internal machinery has been exhausted, it can decide to send the dispute for investigation (generally rights disputes) or conciliation (generally for disputes concerning interests relating to one of the many items that are usually covered in collective bargaining agreements).

In 2000, over 946 reported disputes, 500 were settled at the investigation level, 136 at the conciliation level and 124 went through the Industrial Court. The dispute resolution settlement machinery has thus been supportive of the collective bargaining process in the country.

Labor-management cooperation

Management and unions have their own particular reasons for supporting participative programs. Whereas management may see participation as a means of obtaining greater commitment and cooperation from the workforce, unions view it as a means of extending employee influence and control at the workplace. However, both parties may also have certain reservations regarding participation. Management may object to participation because it delays decision-making, takes control out of the hands of the employer and may prioritize employee goals against the goals of the organization. Unions, on their part, encounter practical problems in demarcating areas for participation from those subjected to collective bargaining (Bendix, 1996). These worker participation and joint decision-making schemes are entrenched in law in a few countries, for instance in Swaziland, Zimbabwe and more recently in South Africa.

According to Fashoyin (1998), in countries such as Swaziland and Zimbabwe, national labor policies have promoted works councils as a mechanism for giving worker a voice, particularly where the union is either weak or nonexistent. In practice, however, some employers have seen the works council as a substitute for the union. However, Fashoyin also underlines that in Zimbabwe, works councils increasingly deal with issues that were previously exclusive of the sectoral level bargaining (in the so-called National Employment Councils).

Tripartite social dialogue

Many African countries have introduced tripartite cooperation framework as an essential mechanism for reaching good labor relations, increasing productivity, as well as a means of building consensus on socioeconomic issues. As a result, institutional structure such as the Labor Advisory Council (or board or committee) have been created in practically all English-speaking African countries in the post-independence period. These labor advisory bodies have been effective in dealing with issues of ratification of international standards, as well as the review of national legislation (Fashoyin, 1998).

Two main distinguishable types of tripartite consultation currently exist in Africa: the formal consultative and advisory institutions and the formal negotiating bodies. A third type can be added, which includes institutions providing opportunities for the social partners to discuss issues of broad national development that have no direct connection with the operation of the labor market (Fashoyin, 1997).

The formal consultative and advisory institutions

The formal consultative and advisory institutions are generally dealing with all labor issues.

It is often just after independence that these kind of tripartite cooperation institutions were established in Africa. In Senegal, for instance, the National Advisory Council on Labor and Social Security, created in the Labor Code Act of 1961, is still in use today. However, according to Dieng (1999) its operating methods and efficacy appear to be substandard.

In English-speaking countries, many of the labor advisory bodies, created in post-independence periods have been replaced by more recent structures in the 1990s. For example, in Malawi, the Labor Relations Act of 1996 created a Tripartite Labor Consultative Council which replaced the National Labor Policy Committee settled in 1969 but lapsed into oblivion by 1971. In Ethiopia, arguably tripartism started in the 1960s with the creation of the Labor Advisory Board in 1963, which until the 1990s was unable to meet regularly mostly because of resource shortage and organizational inadequacies of the Ministry of Labor (Buckley et al., 2004). However, the recently adopted labor law (Labor Proclamation 2003) sets up a new Labor Advisory Board.

In other countries, formal national consultative tripartite institutions have only been officially set up in the 1990s. This is the case in Zambia where until the establishment of the Tripartite Consultative Labor Council in 1993, tripartite meetings were held periodically on an ad hoc basis (Fashoyin, 2002).

These bodies, whatever their name—Labor Advisory Board (Kenya, Nigeria, Swaziland, Tanzania), Consultative Labor Commission (Côte d’Ivoire, Mozambique), Tripartite Consultative Labor Council (Zambia, Malawi)—all share the same features: they mostly have an advisory role to the government, represented mainly by the minister of labor. Their role is limited to the area of labor relations policy (i.e., formulation and review of legislation and matters pertaining to international labor standards).

A variant of this type of institutions have been set up in many countries to deal with specific labor subjects. Institutions in this group include those which have been established to deal with safety and health, such as the National Advisory Committee on Occupational Health and Safety set up in 1990 in Kenya or training, such as the Technical Education, Vocational and Entrepreneurship Training Authority in Zambia.

The formal negotiating bodies

The second type of tripartite dialogue institutions includes formal negotiating bodies. The main distinguishing characteristic of this type of tripartite machinery is that, unlike the first type, it has the capability to negotiate and arrive at binding conclusion. The outstanding example is the National Economic Development and Labour Council (NEDLAC) of South Africa. In Africa, institutions of this type are decidedly few. The closest resemblance to this type of institutions is the Botswana’s National Employment Manpower and Income Commission. Although the latter is not a negotiating body, its conclusions are sent to Cabinet for further determination (Fashoyin, 1997)

By and large, Zimbabwe abandoned its effort to set up a body similar to NEDLAC and created the National Economic Consultative Forum (NECF) in 1997, as a multi-party forum for discussion of national socioeconomic issues. Unlike NEDLAC, the NECF is a consultative group without decision-making power, however, given its high profile, it has a potential of getting its conclusions translated into policy (Fashoyin, 1997).

A variant of this type are the ad hoc tripartite forums, which are typically established outside the existing framework. Their mandate is usually to find immediate solutions to the particular problem that might have warranted their establishment. When ad hoc bodies of this type are set up, they invariably serve as negotiating forum. In Nigeria, this approach has turned to be the de facto method of resolving labor disputes of national significance. Thus, in 1988 and again in 1991, ad hoc arrangements were used to negotiate palliatives means to reduce the impact of the SAPs on workers. Although Kenya's permanent consultative machinery has operated mainly as a consultative organ, effort at negotiation has always arisen outside the tripartite framework (Fashoyin, 1997).

The limits of tripartite social dialogue

As highlighted by Fashoyin (1998), generally, most of the tripartite machinery in African countries shares common disabling characteristics. Their advisory nature tends to discourage effective participation among the social partners. It also has the tendency to confine consultation to predetermined labor issues. In the majority of tripartite consultative machinery in Africa the government representation is limited to the Ministry of Labor. A meaningful tripartite cooperation should require the participation of all arms of government that are directly concerned with policies that have direct or indirect effect on labor issues. The NEDLAC experiment seems to be a successful attempt in implementing this multiparties involvement.

In some African countries, tripartite consultations have been a kind of state-controlled arrangements where the social partners were co-opted into the socioeconomic decision-making process. Etukudo (1995) uses the concept of corporatism to define this kind of arrangements whereby the interests of social partners are integrated in state structures. Tripartism thus became a charade in many African countries as the social partners were mostly manipulated.

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¹ Convention No. 87 (1948) stipulates that workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organization concerned, to join organizations of their own choosing without previous authorization.

² Convention No. 87 (1948) stipulates that the public authorities shall refrain from any interference which would restrict the right to organize freely and shall not dissolve or suspend any employers’ or employees’ organizations.

³ ILO jurisprudence identifies occupations for which a strike could be prohibited, due to their essential nature, as those where there exist a clear and imminent threat to the life, personal safety or health of the whole or part of the population.

⁴ Convention No. 98 (1949) stipulates that each country which ratifies this Convention shall encourage and promote the full development and utilization of machinery for voluntary negotiation between employers or employers’ organizations and workers’ organizations, with a view to the regulation of terms and conditions of employment by means of collective agreements

⁵ Convention No. 100 (1951) emphasizes certain proposals with regard to the principle of equal remuneration for men and women workers for work of equal value. The term *equal remuneration for men and women workers for work of equal value* refers to rates of remuneration established without discrimination based on sex.

⁶ Convention No. 138 (1973) stipulates that each country for which this Convention is in force undertakes to pursue a national policy designed to ensure the effective abolition of child labor and to raise progressively the minimum age for admission to employment or work to a level consistent with the fullest physical and mental development of young persons.

⁷ Note however that the sample is quite small with only 79 firms surveyed.

⁸ Together with Malaysia, Mexico and Bangladesh where the union-nonunion wage differential exceeds 10 percent (Salmon, 2001).

⁹ Figures for Uganda have to be taken cautiously as only 17 firms answered that question.

¹⁰ Fraction of the firms in sectors that have at least one organized worker.

¹¹ Etukudo (1995)

¹² The question about employers' organization membership was not asked during RPED surveys in Eritrea and Nigeria.

¹³ The survey identifies three main services which are usually provided to the firm by its employers' organization. The first one is its capacity to lobby the government and hence to influence regulatory, economic or judicial decisions. Then, employers' organization main role is to defend its members during resolution of disputes which can be either with officials, workers or other firms. Finally, the organization may be useful to provide information to its members about current or new government regulations.

¹⁴ ILO (2004)

¹⁵ ILO (1997)

¹⁶ Start and Improve Your Business (SIYB) program is part of the ILO's International Small Enterprise Program. The SIYB program has been designed to provide a sustainable and cost-effective method of reaching substantial numbers of small-scale entrepreneurs and provide them with the management skills needed for profitability in a competitive environment. Aimed at a variety of target groups, it deals with various topics related to small-enterprise development such as training, business counseling, monitoring and evaluation, and networking. Small-enterprise development institutions in more than 70 countries worldwide have used the SIYB program.

¹⁷ International Finance Corporation, Small and Medium-Size Enterprises Group, African Project Development Facility (2003 Annual Report).

¹⁸ Some authors (for a review, see Aidt and Tzannatos, 2001) prefer using the larger notion of bargaining coordination which may encompass one or more of the following aspects: the degree of unions centralization, union concentration, the extent of employer centralization, the level of bargaining, the degree of informal coordination and corporatism.

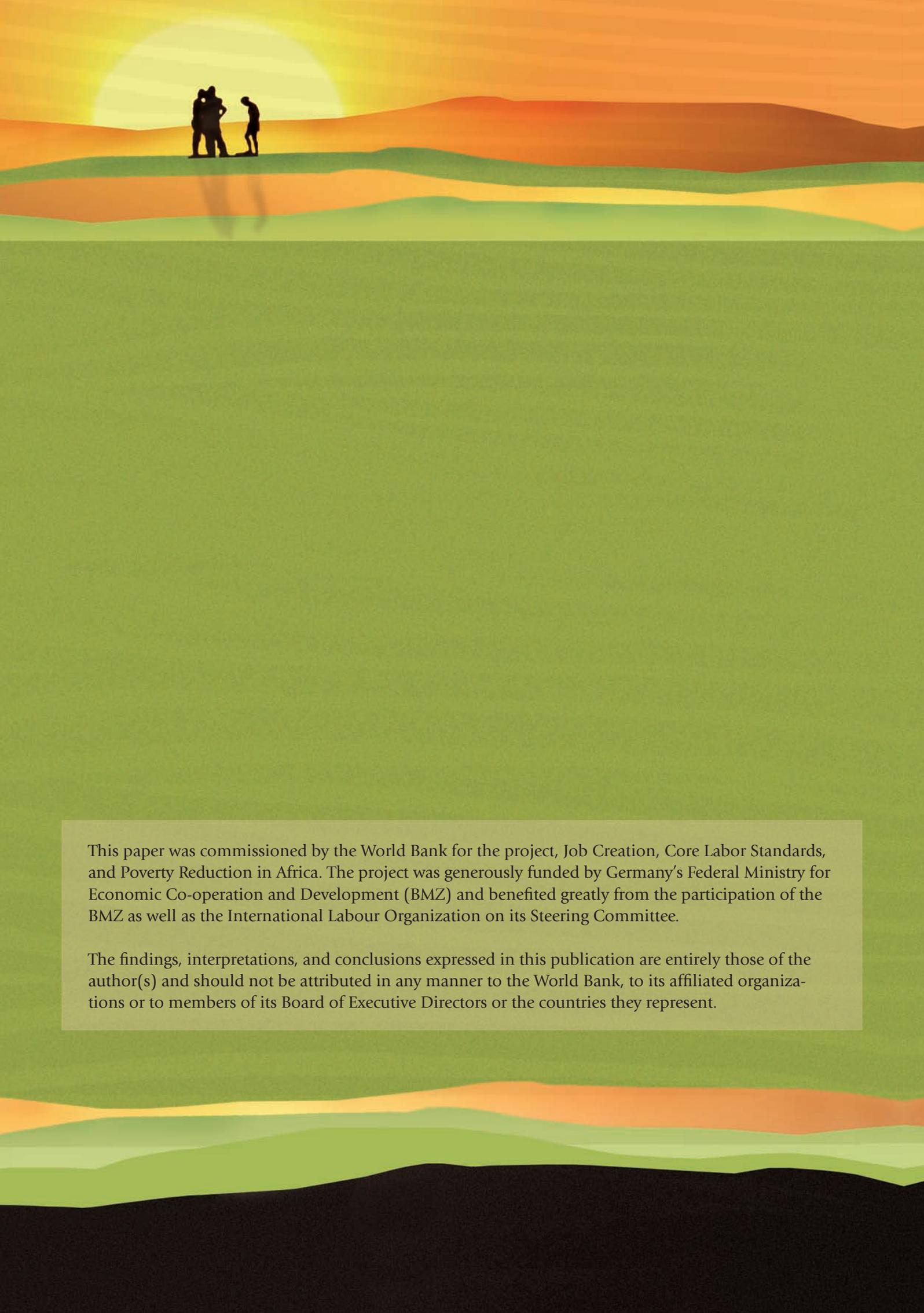
¹⁹ In order to be compared, the collective bargaining coverage and union density must refer to the same population, here the formal wage sector.

²⁰ The case of Kenya provides an illustration of this variability. The laborsta data source of the ILO reported 44 strikes, involving 16,029 workers in 1997. Whereas, according to Fashoyin (2001), the 1997 annual report of the Kenyan Ministry of Labor registered 97 strikes, involving 270,660 workers.

²¹ Department of Labor, Annual Report 1999, Pretoria.

²² Mostly based on Bendix (1996)

²³ The CCMA improved its settlement rate for conciliation to 73 percent of cases heard between April and September 2001. The daily average number of referrals was 477. A total of 67 percent of cases conciliated within the statutory framework were finalized and there are on average 212 arbitration per day (Department of Labor, 2001–02 Report, Pretoria).



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