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THE RIGHT TO ESTABLISHED TRADE UNION
UNDER ETHIOPIAN LABAUR PROCLAMATION AND
IT'S IMPLEMENTATION.

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Addis Ababa, Ethiopia

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LIST OF ABBREVIATION

ACT-	Articles
BOLSA-	Bureau of Labour and social affair.
CETU-	Confederation of Ethiopia Trade union
MOLSA-	Ministry of labour and social affair.
EEF-	Ethiopian Employer federation.
MGT-	Management
IND-	Industrial.
FED-	Federation
NIF-	National Industrial Federation
ILO-	International labour organization
FDRE-	Federal democratic Republic of Ethiopia.

INTRODUCTION

Trade Union is a vary component role it may have during emergence and development of labour law. It has played an important role to achieve a peace all industrial relation among employers and employees. Than, trade union movement has long history of development, being the creation of Industrial revolution in the "18th century, it can not be understood in isolation from capitalist system of production.

Since, until 19th century, trade union in their historical evaluation, where regarded as criminal organizations and most of their activities where considered as criminal acts committed against the authority of the government and were subject to action in criminal courts.

Though labour movement developed to day as an influential economic, social and political body in the world. In Ethiopia history trade union movement started in early 1940^s, at this time workers were compelled to work under worst form of working conditions. This worst situation moved workers to organize them selves and wages a batter against the employers and the government to safeguard their interest and benefits.

However, the principle of freedom of association is integral part of the basic human rights which the ILO has been formulated, on one hand, to adopted international standards and on the other hand, every Nation can be incorporate in their laws. For instance, in FDRE constitution Art 42(1) and In labour proclamation No.377/2003 incorporated or adopted. The principal purpose is guaranteeing for workers and employers, with out distinction what so ever, the right to establish and to join the organization of their own choosing.

Although, the purpose of this research paper will be to identify the problems of unionization and form of Anti- Union discrimination. In other world, how to implement the right to established trade union under Ethiopian labour law proclamation, Law and practice to show.

The subject matter of this paper is to deal with the topic the right to established trade union under Ethiopian labour proclamation and its implementation. The first chapter of this paper tries to devote the general overview of trade union, background of trade union and the emergency and development of trade union in Ethiopia.

The Second chapter of this paper deals with the definition, legal status of trade union, types of trade union, organizational structure of trade union, scope of trade union and duties and responsibilities of trade union.

The Third chapter of this paper deals with the main issue of formation of trade union, function of Trade union and dissolution and suspension of trade union.

The fourth chapter of this research paper tries to elaborate organizing problem of trade union, their form of anti-union discrimination, major problem of unionization, with in problems of organized and unorganized workers by using the questionnaires, Interview and literature review tries to raise certain issue of practice and questionnaires analyze.

Generally, this research paper tries to address some basic concept of the right to established trade union under Ethiopia labour proclamation and its implementation problem related to organized workers and unorganized workers. It is believed that even people who are not lawyers should have some knowledge of basic concept of the right to established trade union under Ethiopian labour proclamation and its implementation.

CHAPTER ONE

1. General overview

1.1 Background history of labour relation and ILO.

The history of ILO is too wide, but for the purpose of this research paper I try to lay down some of the high lights of the ILO. The ILO has their root in the social matrix of nineteenth – century Europe and North America. It is in these two regions that the industrial revolution began, generating extra ordinary economic development, through often at the prices of intolerable human suffering. The idea of international Labour legislation arose early in the nineteenth-century as a result of ethical and economic reflection on the Human cost of the industrial revolution. Such legislation was supported by a number of outstanding industrial chiefs such as ROBERT AWEN and DANIEL LE GRAND, politicians and economists.

Three types of argument for international labour standards were put forward by the ILO's precursors. Originating in humanitarian considerations, the first argument pointed out the necessity of improving the harsh lot of the working masses. The initiative, however, came from the middle classes and not from the workers themselves. The organized workers movement did not enter the scene until later, following the removal of various obstacles to freedom of association on the national scales.

The second, more political, argument emphasized the importance of consolidating social peace in industrialized countries, with aim of preventing social troubles. Political wisdom directed the founding fathers of the ILO to encourage the reformist aspirations of workers in order to

turn them away from the siren song of communism, which was increasingly being heard in Europe, following the October Revolution in Russia, in 1917.

The third argument was economic and sought to make it clear that an international regulation of labour would prevent countries which had protective national legislation in labour matters from paying for their social policies in the form of economic disadvantages in international trade. In other words, international regulation would allow equalizing of conditions for international competition.

These arguments were written in to the preamble to the 1919 constitution, which opens with the affirmation that universal and lasting peace can be established only if it is based on social justice, then clarified in the declaration of Philadelphia in 1944, and truer than ever today's age of globalization, they still provide the ideological basis for the ILO.

The proposals of the ILO's historic predecessor were often simply ignored by governments. Nevertheless the arguments were taken up in the last decades of the nineteenth-century by various private associations, which were particularly active in France, Germany and Switzerland. Under the influence of these bodies, the idea of international legislation penetrated in to political, religious, academic and economic spheres as well as, for the first time ever, the world of work. The most significant result of this intellectual fermentation was the creation, in 1901 in Basel, of the international association for the legal protection of workers. At the national level, the social laws of the German Government were another fore runner of protective labour legislation in the last two decades of the nineteenth-century.

In 1905-1906, Switzerland convoked diplomatic conference in Bern which resulted in the adoption of the first two international labour conventions, one regulating night work by women and the other eliminating the use of white phosphorus in the match industry. During the First World War, several international meetings of trade unions took place. Participants advocated the insertion of social clauses in the future peace treaty as well as the creation of an international institution specialized in the field of working conditions.

Then, a labour movement has long history of development. Being the creation of industrial revolution in the “18th century” it can not be understood in isolation from the capitalist system of production. Industrial process requires production to be carried in a long scale and this production process in turn requires the working together of hundred of workers. Thus workers initially for the purpose privilege financial assistance among themselves in the event of illness, death, accident etc. come together and form their own association. This organization gives them the possibility of discussing problems of their mutual concern including determination of wages rates and improvement of working conditions. However, as there was no forum to secure these demands, they were resorting to join actions and staging strikes.

Though Labour movement developed to day as an influential economic, social and political body in the world, it did not occur with out opposition. For instance, under the old English common law doctrine, workers organizations in to unionism were considered as civil and criminal conspiracy. Those are trade union through out their historical evaluation until 19th century, were considered as criminal acts committee against the authority of the government and were subject to action in criminal courts.

Since, the emergence of socialism the labour movement is supposed to mobilize its members for the creation of the material, technical and spiritual frame work of communism. But today ILO can have four conventions No.11, 87, 88 and 89 for security (guarantee) of workers in the world.

1.2 The Emergency and Development of Trade Union in Ethiopia.

The emergence and development of Ethiopian trade union like any other country, it may have its own straggle and history then; the writer of this paper is trying to identify the emergence and development of Ethiopian trade union as follows;

The history of unionization of Ethiopian workers started in early 1940's, where most of the industrial workers were employed in companies owned by foreigners. At that time, workers were compelled to work under worst form of working conditions. They were forced to work for long hours with very low wage and job insecurity. This worst situation moved workers to organize themselves and made a bitter struggle against the employers and the government to safeguard their interests and benefits.

The struggle of Ethiopian workers towards the formation of their union registered a remarkable achievement in 1945 after the establishment of the Franco- Ethiopian rail way workers union (cynical). Under their Syndical, the railway workers were able to present demands concerning their rights and benefits. Following railway workers series of demonstration and strikes were conducted in different enterprise on

similar issues.

The then Feudo- Burgiose Government and some Employers tried to reverse the struggle and dismantle the newly born workers union. Although their efforts were in vain, but, workers continued their struggle to strengthen their unity and to protect their right and benefits.

However, the formation of a union was more intensified in 1950's with the development of new industrial along with the industrial areas parallel to the rail way. The newly formed working class forced the government to accept the idea of establishing self- help association of workers locally knows as "IDIR"^③

The struggle of workers, which was supported by progressive young intellectuals, paved the way for the establishment of workers associations. As a result, the government was forced to proclaim the Labour Relations Decree in September, 1962 that led to the formation of the confederation of Ethiopian Labour Union (CELU) in April 1963.

After the overthrow of Emperor Haile Selase's government by the Military Junta, a new labour proclamation was issued in 1975. However, the new proclamation that was mainly copied from the socialist countries was promulgated to serve the interests of the government.

But, Ethiopian workers and their umbrella, Ethiopian Trade union (ETU) continued under the control of the Military Regime. Workers were not able to exercise their rights to freely organize and form their trade unions. The right of workers to demand their political and economic interests was denied.

Following the overthrow of the Military government, a new labour

proclamation ensuring worker's rights to freedom of association was promulgated in 1993 by the Transitional government. Consequently, a commission to reorganize the confederation of Ethiopian Trade union (CETU) was formed in 1994 by workers representatives across the country.

However, soon after the formation of CETU a big misunderstanding was created among the leadership that led to the decertification and closure of CETU's office.

In 1997, affiliated Industrial Federations of CETU created an organization committee that was responsible for the reorganization of CETU. In April 1997, after the formation of CETU the new leadership mainly concentrated on strengthening the organized workers, whereas, the issue of organizing unorganized workers was not given due attention and the problem is still unsolved, because a large number of the working force is unorganized. The organized workers and their leadership are also heard complaining that their rights are violated. In this period of globalization, the traditional way of relationship between employers and workers should be changed to a new and modern approach of dealing with issues which is based on mutual benefit and understanding. Therefore, it needs great attention and is essential to understand the situation and show a clear direction that social partners could work together within the framework of the relevant laws of the land.

CHAPTER TWO

2.1 Definition Of Trade Union

It is very difficult to give a precise definition of Trade unions. The difficulty arises from the fact that the difference in the ideological parameter on the one hand and even with in similar ideology. . . The degree of development of that particular country on the other has created a new work problem to define the term.

This is evident, if we have a look at the classic definition of trade union as “an organization formed to negotiate with employer, on behalf of workers collectivity, about job related issues. Such as, salary, benefits hours and working conditions ...”^④ this definition holds true for those who are thinking trade union is protected only the interest of workers, the 1960 civil code of Ethiopia defines trade union as “... grouping formed with a view to defined the financial interest of their members ..”^⑤ this definition has similar idea with the above,. But, the ILO defined trade union as follows “... trade union is an organization with corporate status constituted by workers or employers in order to protect and promote their common economic and social right and interests in labour relations shall be called trade union ...”^⑥ this definition is universally acceptable one, because according to the ILO definition. Trade union protects and promotes the common economic and social right and interest of the workers and employers.

The Ethiopian labour proclamation said that “... trade union means an organization formed by workers,^⑦ this means the employer do

4. Black law dictionary. P 15/65

5. Civil code of Ethiopia 1960, Art 406(1)

6. ILO Ankara, trade union act

7. Ethiopian labour law proclamation, No .377/2003 Art 114 (1)

not have a role to establish trade union.

At this point one should remember that, the writer of this paper is not trying to criticize the coverage of the definition and enable to escape the elements embodied there in; rather we are adding fuel to its positive contribution by wading its scope and to identify the universally acceptable definition for the purpose of peace and security of industry.

2.2 Legal Status Of Trade Union

Any organization, institution or association etc before it starts its operation should have legal personality form it may concern. i.e federal MOLSA or regional BOLSA mainly for two reasons. That is on the one hand to achieve the objective designed there in and implement them in practice and on the other hand like natural persons these organizations and institution are duty bound to observe the laws and regulations of the country concerned and also to acknowledge as they are required to abide by the law of the country.

As opposed to natural persons a juristic person is defined as any subject matter other than a human being to which the law attributes personality.⁸ It is a mask behind which so many natural persons gathered to attach some objectives. The subject matter of juristic personality can be of many kinds. for instance, the state and association, the Ethiopian Orthodox Church and associations are legal persons.

The birth and death of a legal person is not determined by nature like that of a human being but by law. The legal person comes in to being either by virtue of a general enactment making their attainment in compliance with certain prescribed conditions or by special act of comp⁹

8. Emily clark, Brawn, saviet trade unions and labour relations, Harvard University press, 1966 p.1.

9. Cited at not 5

ant authority.

A business organization which is established pursuant to the commercial code, must comply with rules of registration and publicity in order to attach their personality.¹⁰ Similarly trade unions like any organization before attaining legal personality should observe some requirement. The required numbers of member of workers, constitution of the organization, and registration of organization are pre- conditions of claiming for the formation of unions. Nevertheless so far, as legal personality and benefits derived there from it may concern. In practice all Ethiopia trade unions can have legal personality acquired from two organs. Those are:-

1. From Federal ministry of labour and social affairs (MOLSA).
2. From Regional labour and social bureau (BOLSA).

For instance, the government owned enterprise can be acquired legal personality (certify) from MOLSA. i.e Telecommunication, Commercial bank of Ethiopia, Ethiopia Airline and Ethiopia Road Authority... etc. in other words, private sectors employee's trade union acquire legal personality BOLSA.¹¹

In Hungary, there is no prior state approval, permission or registration is needed for the creation and functioning of trade unions.¹² The same holds true to the USSR trade unions for which they are not required to register in the state bodies.

As a general requirement, every trade union should have its formation, file with the registrar an application signed by leaders and carrying the seal of the union attaching a document carrying the names, addresses and signature of leaders.¹³ In case of general trade union, the name of undertakings where member are employed is required.¹⁴ In case of federation of confederation, the name and address of members' trade ¹⁵

10. R.Livetits and v.Nikininmy, an out line of soviet laobur law , progress publisher, Moscow 1977/1116

11.CETU.

12 Seyoum G/ezabher, the development of some institution concerned with labour relation in 1969. P51 Ethiopia

13.Cited at note 8, p 64.

14. Cited at note 7,Art 114 (2).

15. Ibid, Art 114 (3)

unions and signature of the leaders of each union is required.

In addition to this, pictures of the members of the executive committee of the association should be attached their to up on complication of these requirements the registrar should issue a certificate of registration with in fifteen (15) days.¹⁶ It should be noted that, if the registrar fails to reply with this period, the union should be deemed registered. The purpose designed behind this implied recognition seems to combat justice delayed is justice denied.

However, problems may arise in that, what if would be unions don not fulfill the requirement and field it in the fifteen days? The language at Art 118(4) seems mandatory not only in the obligation of the registrar, but also as to the right of the union for which they have gained it by virtue of the law as it stands new the law seems to disallowing performing of union activities. The union to deny their right for which they acquired it due to the negligent of the registrar it implies that strict observance of the law and full filling the requirement is necessary so as to benefit from their union, because ignorance of the law is no defense.

The employee less his benefit who have gain from union because of by their own mistake. But, if a trade union or employers association registered by the ministry in accordance with the proclamation No.377/2003 shall have legal personality and in particular, have the capacity to under take the following activities; to enter in to a contract; to sue and to be sued; to own; at any level and to perform any legal act necessary for the attainment of its purposes.¹⁷

Based on the above argument the legal status of trade union shall be commented from the level of the trade union according to his legal

16.Ibid, Art 118 (3)

17. Mekonnen Asefa, legal status of trade union under Ethiopia labour law(unpublished) P.18

status or like any similar legal person it may have a right to enter in to contract; to sue and be used; to own, use and transfer property; to represent members at any level, and to perform any legal act necessary for the attainment of it purpose.

2.3 Types of trade union

The simplest forms of employee's organization are formed at a plant level. We have two types of working organizations in this regard.

- These are:-
1. Basic Trade Union
 2. General Trade Union

2.3.1 Basic Trade union

A trade union may be established in an undertaking where the number of workers is ten or more provided however that the number of members of the union shall not be less than ten.¹⁸ The minimum number of workers that should exist in an undertaking for the formation of trade union is ten, hence, trade unions are composed of at least ten employees of an undertaking. This is the predominate kind of union existing in Ethiopia.

The right to establish and form worker's organization and employers' association is granted by the FDRE constitution and labour proclamation; there are accordingly, proc No.377/2003 Art 114(1). When there are workers in an undertaking whose number is ten, they can establish a trade union. It means that, unlimited trade union can be established in an undertaking when the number of workers in such

undertaking is ten or more.

2.3.2 General Trade union

According to Art 114(1) of labour proclamation 377/2003, if the workers can not satisfy the minimum number of member, basic trade union, based on sub article 2 of the same Article provide that workers in undertaking which have less than ten workers may form a general trade union with ten or more members. In a case, if workers want to form a trade union, the minimum requirement of their numbers must be met. Event though workers have the right to form a trade union, it is not possible to form trade union with less than ten members.^{①⑨} According to the proclamation, workers of different undertaking who can not form basic trade unions by them selves can have the right to form general trade union.^{②⑩}

2.4. Organizational Structure of trade union

2.4.1 General Principle

As a general principle the organizational structure of trade unions can be seen from two angles that is vertical and horizontal. Vertically, the structure of industrial organization begins with the establishment of a basic organization. As a basic organization, a trade union can be formed by workers of an undertaking. By the some taken, employers of different undertaking can form employers' association as a basic organization. By basic organization, we are referring to a trade union or employers association formed by workers or employers respectively. Under labour law, workers of an undertaking can form one or more trade union. From this, you can understand that there can be a number of basic trade unions in a locality or in a country.^{②⑪}

19. ALPHA University College, Distances labour law module (unpublished) P.128
 20. SMUC, Distance labour law module (unpublished)
 21. Cited at note 19, p.131

or more basic
 ration. Article

114(3) of the labour proclamation provides that trade union may jointly form federation. Thus, where there are two or more trade unions formed by workers of two or more undertakings, it is possible to form a federation. The same is true for employers. Therefore, from the workers' side, federation is the combination of trade unions, and from the employers' side it is a combination of employers' associations.²²

By the same token, two or more federation of either trade unions or employer associations can come together and jointly form confederation. Like wise, confederation is the combination of federations. It can be confederation of trade union's federation or confederation of employer's association federation. As a result, trade unions or employers association can not form a confederation with out forming federation.²³

Generally, the vertical structure of industrial organizations can be summarized as follows.



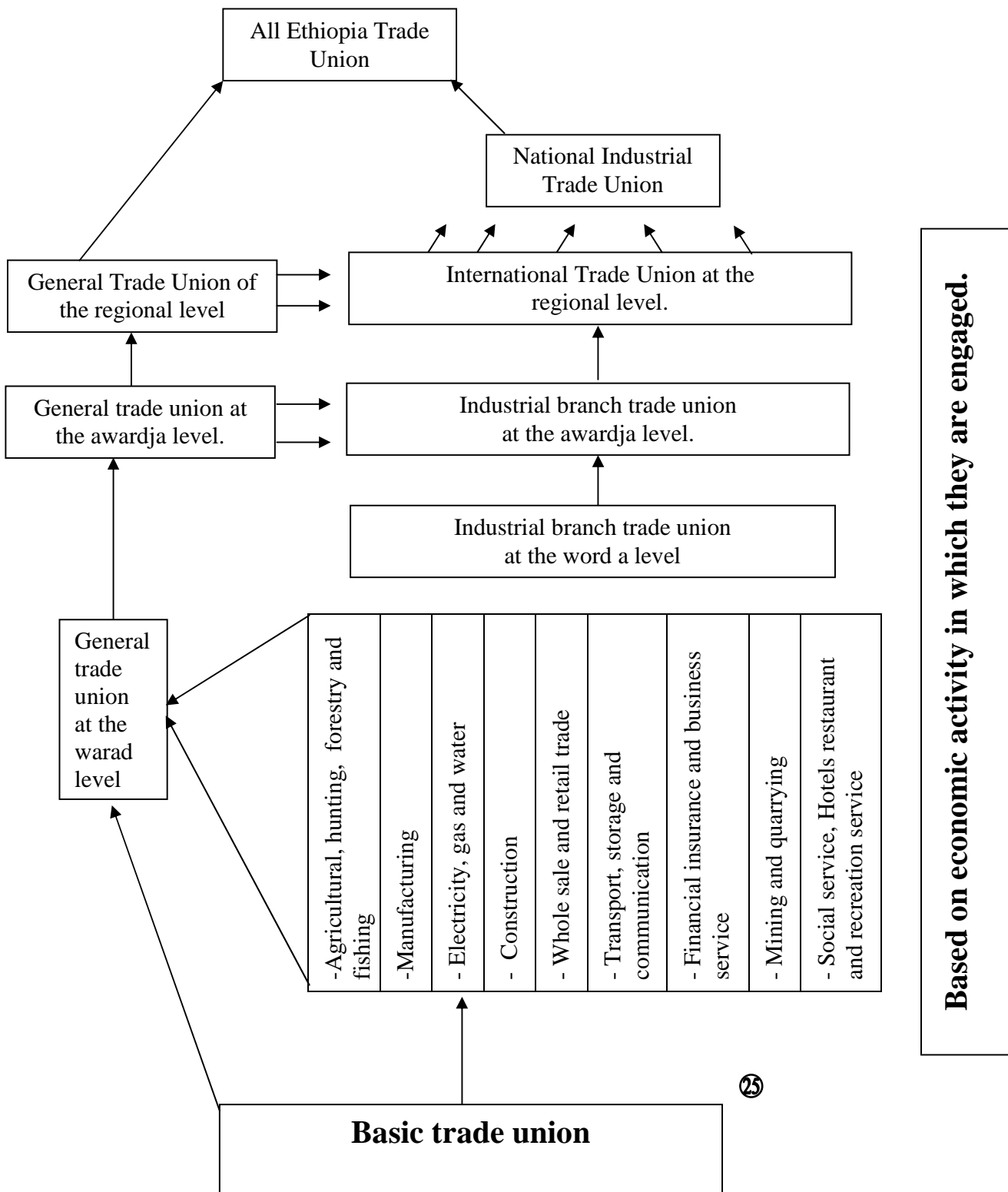
22. Cited at note 19, p.131
 23. Ibid

In Ethiopia, there is no limitation up on the number of federations and confederations. Thus trade union or employers association can have number of federation and confederation. But practically, so far, there is only one confederation and few federations in Ethiopia. With regard to structure of industrial organization as a unit, two categories of personalities are there the first one is body of elected leaders of the organization i.e. Chairman, secretary, deputy chairman, secondly experts who advice those leaders i.e. lawyers economists, accountant and the like.²⁴

The organizational structure of trade union pre 1996

The organizational structure of trade union pre 1996 (1977-1996) based on the recent Ethiopian state structure follows. i.e centralism it means the law and procedure can be emanating from central trade union.

Table. 1 pre 1996

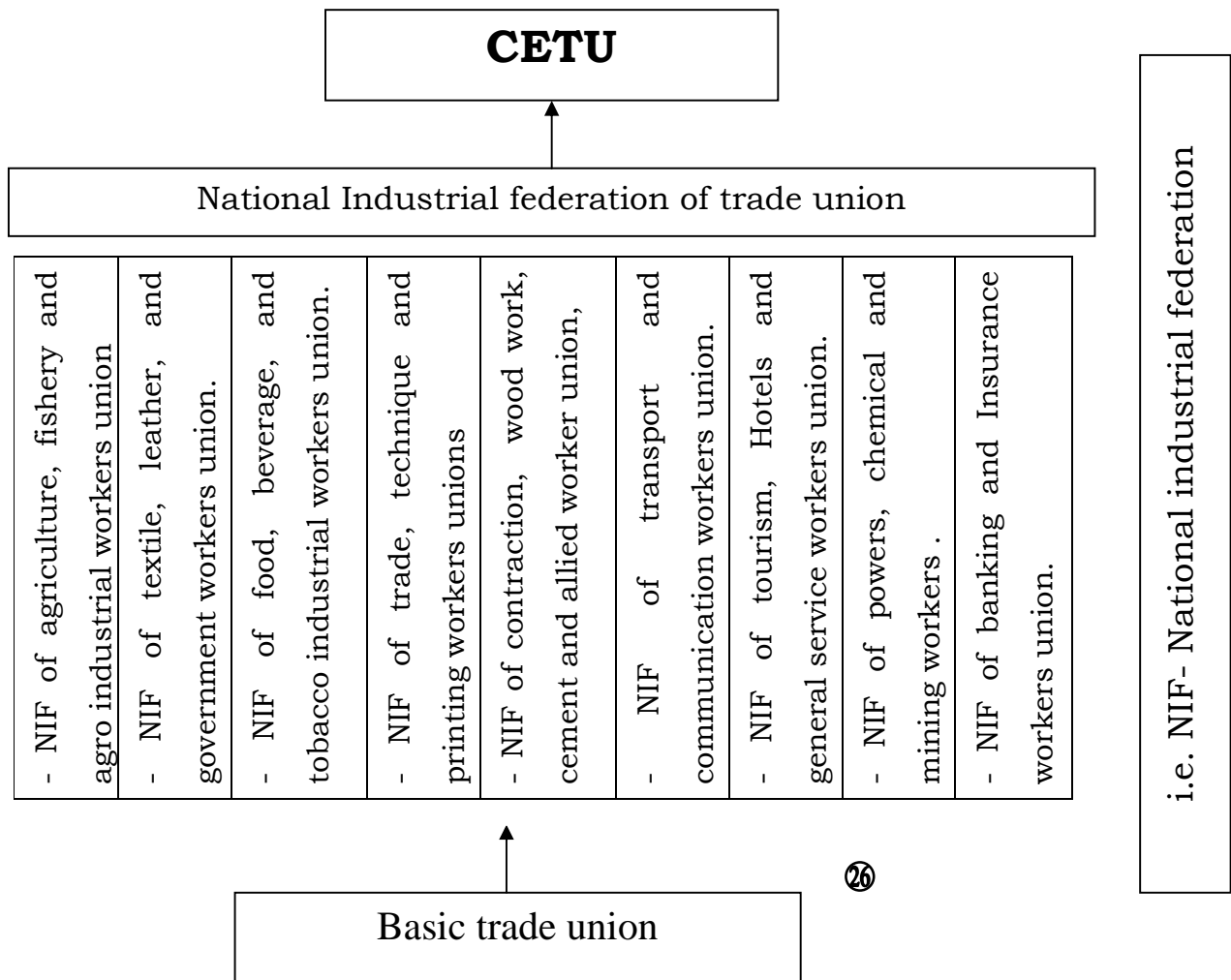


Organizational structure of trade union in Ethiopia, post 1996

The structure of trade union in Ethiopia legal contract can follow national structure of the state. It means that, the trade union following its own strategic plan and structure.

The structure is as follows.

Table .2 post 1996.



In summary, the hierarchy of trade union pre 1996, all Ethiopia trade unions at the head level, the national industrial trade union, the regional trade union on territorial basis, the regional industrial branch trade union etc, respectively to the woreda level and the basic trade unions at the plant level. This type of structure is subject to the principle of domestic centralism. In present day, the confederation of Ethiopia trade union is a national umbrella trade union organization, which represents Ethiopia workers nationally and internationally.

it is a union of industrial federation which is organized on the basis of basic trade unions. The following are members of confederation of Ethiopia trade union. ²⁷

Therefore, in Ethiopia recently based on the trade union's membership will one head and five regional office of confederation of trade union. Training center and nine National industrial federation and 575 basic trade unions are established. ²⁸

2.5 Scope of trade union

Trade union are mostly concerned on the economic interest of their members and employer, ²⁹ a part from the limitation which are placed up on the activities of trade unions by common law or statute, trade unions are also limited by their own constitution or rules.

Just as a limited company must act strictly with in the powers given by its memorandum and articles of association, and any action it takes beyond these power can be set aside as ultra vies, so is a trade union similarly restricted to acting the powers given in its constitution and rules, The later have the effect of a contact between the union members. ³⁰

27. Cited at note 26

28. Cited at note 26

29. SMUC, Distance module

30. Trade union law, by HARY, SAMUELS, MA 5th edition, P.43

CHAPTER 3

3.1 Formation of Trade Union

In light of the principles discussed here in above basic trade union may be formed in an undertaking where the member of workers is ten or more provided, How ever; the member of such trade union shall not be less than ten.³¹

In circumstance where the members fail to satisfy the required number i.e. ten, they can get together from different undertakings provided that they are engaged in similar activities and may jointly form a general trade union However, the number of members should not be less than ten.³²

Even though the purpose behind seems to form a basic trade union in each case. The mode of formation is not similar in that the first applies only for a given undertaking where as the second is for those workers from different undertakings engaged in similar or difference economic activities. The application of art 114(1) is only in crucial circumstance where there is no way out to form a basic trade union. For example, where there exists only one undertaking in a given area. But, if the employee satisfy the minimum number i.e. ten in one undertaking it may have a right to form a basic trade union,³³ this right does not satisfy the Need of employee because unity is power at the time of strike or collective bargaining.

There fore in circumstance where workers are gathered From different undertaking to form a general trade union below ten members non existence. In the Next Title to discuss pre-condition to form trade Union

31. Labour proclamation No.377/2003, Art 114(1)

32. *Ibide*, Art 114 (2)

33. SMUC, distance labour law module

3.1.1 Pre- Condition to Form Trade Union

Every organization has the duty to register in it may concerned office i.e. MOLSA or BOLSA. There are three basic requirements to be fulfilled in order to form trade union (Industrial organization). These are:-

1. The required minimum number of members.
2. Constitution of the organization; and
3. Registration of the organization. ³⁴

According to Art 114(1), a trade union can be established in an undertaking where the number of workers is ten or more provided, however, that the number of members of the trade union shall not be less than ten. Sub Art 2 of the same article provides that workers on undertaking which have less than ten workers may form a general trade union with ten or more members. ³⁵

In any case, if workers want to form a trade union, the minimum requirement of their numbers must be met, even though workers have the right to form trade union, it is not possible to form trade union with less than ten members. Total prohibition of workers to form trade union due to their number is against the freedom of association. Thus with the view to find solution for workers working in undertaking with less than ten workers, the law provides that these workers can form general trade union. That means, they can form trade union jointly with workers of another undertakings.

The second pre- condition to form trade union shall be constitution of an association. Constitution of an association provides that right and duties of its members, defines the relationship between the association

34. ALPHA University college, labour law distance module. (Unpublished) P.127.

35. Ibid.

and its members, and provided the organizational structure, the powers and responsibilities of its leaders ... etc. Therefore, just live any other association, trade union and employers associations must prepare their own constitution. ③⑥

Once the organization has prepared its constitution, then they have to go to for registration by filing their application the MOLSA or BOLSA. The application must be filed together with the following documents for registration to it may concern:-

- A. Constitution and internal regulation.
- B. Lists of names and Address of the members, Founder, Organizers and Officers.
- C. Name and emblem of the organization.
- D. Some times membership dues and other finical contribution required from its members. ③⑦

The filling of the above mentioned documents constitute an application or Pre- condition to form a trade union or employer association. Unless the documents to be incomplete, in adequate or involution of Art118 (3), the officers can be issue a certificate of registration with in fifteen days of receiving the application or impliedly accepted the registration of organization after expiry of fifteen days. In deed, this is one way of guaranteeing the full rights of the employers and employees to organize. ③⑧

The refusal must be reasoned out on any one of the four grounds enumerated under Article 119 of labour proclamation.

The four ground are:-

1. Non fulfillment of the requirement laid down under labour law.
2. The illegality of objectives and the constitution of the organization are illegal.

36. Cited at note 35.

37. Labour law proclamation, No.377/2003 Art, 118(2)

38. SMUC Labour law distance module, (Unpublished)

3. Problems related to naming of the organization which is so similar with another organization established prior to it that may result in confusion to its members and the general public, and
4. Criminal conviction of one or more of the elected leaders of the organization for services and non- political offence with in the last ten years, and the organization is not willing to substitute them by others.

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You have to bear in your mind that the law is talking about convection and punishment, mere prosecution and detention is not enough, presumably, by changing the name of the organization and by substituting leaders by others, the organizations can rectify the problem and get registered. Art 118 (4) provides that an organization, which is not registered in accordance with the provisions of the labour law proclamation, is a pre- requisite for the existence of an organization.

In conclusion, it should be emphasized that every organization that comes with the preview of the labour proclamation, if the requirement of pre-condition for registration should be full fill registered and setting out to do any activity.

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39.. Cited at note 35, P.128

40. Cited at note 39.

3.1.2 Freedom Of Association

I. The right to Association

An effective enjoyment of the freedom of association which enables workers and employers to come together in workers organization and employers association, respectively, is a pre-conditions for the existence of both employee and employers organizations and under for the subsequent collective agreements. This right of workers and employers is not only a National one, but also International right. Art 2(1) of the International convent on civil and political rights, and Art 8(1) the International convent on economic and social and cultural rights recognizes this right.

Like wise, ILO has fully recognized the principle of freedom of Association in these constitutions (1919) and the declaration of Philadelphia (1914). These after, ILO has Adopted two international convention, namely, 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).

In our case, the constitution of FDRE provides for the right to form trade union and other associations under Art 42(1) “--- workers have the right to form associations to improve their conditions of employment and economic well-being. This right includes the right to form trade unions and other associations to bargain collectively with employers or other organizations that affect their interests.” In addition to this, the proclamation No.377/2003 also reorganizes such right under Art 113.

The fact that the right is constitutional means, it cannot be changed or amended that easily. Constitutional provisions are not subject to easy change unlike rights that are provided under ordinary laws of a country. Despite the fact that freedom of association means that workers and employers are free to form and join their organizations freely or with out interference from the other side or from the government, we observe that such freedom is often infringed.

In real life, you can see both employers and government, for various reasons, interfering in the freedom association of workers, in one way or another. In certain instance the employer may want to form, what is called “company union” a union which is in this pocket “to hinder the formation of a free, independent and challenging trade union in this undertaking.

Government intervention in workers organizations, on the other hand, has taken many forms. These include absorbing organization leaders into political activities, providing certain detailed legal requirements or formalities for registration.

The requirement of registration is not inherency a violation of the freedom of association if it is more than the recognition and publication of the name, address, and principle officers of trade unions, it may even be helpful to identify trade unions in the eye of the government employers and the public at large.⁴¹

The right to form trade union (Freedom of association) can be summarized as follows.

- a. Any employee or employer has the right to form or join a law Fully formed employees association and employer association respectively

- b. Any employee or employer is free not to join any association
- c. No employer may join registered trade union and no workers may join a registered employers association
- d. No discrimination may be between employees because of their being or not being members of trade union
- e. No government interference, in regards to professional associations, permitted other than their registration and the control over the legality of their activities.⁴²

II. Right and Civil liberties of trade union

1. General Principle

Free and independent trade union movement can develop only under a regime which guarantees fundamental Human rights the Importance of Fundamental Human rights Principle enunciate in the universal declaration of Human rights, as violation of this principle may affect the free excurses of trade union right.

⁴³These rights refer to international convent on civil and political right. while recalling that the term of Art 8 of convention no 87, workers and employers and their respective organizations like other persons or organized collectivities shall respects the law of the land, provided that the law of the land shall not impair the guarantees provided for in the convention, has nevertheless expressed the opinion that a free trade union movement can develop only under a regime which greatness fundamental rights including the right of trade union is its to hold meeting in trade union premises, freedom of opinion expressed through speech and press and the right of organized workers to receive a fair trial at the earliest possible moment in case of arrest.

42. Macro Guagni, Ethiopia labour law hand boo, 1972, P.104

43. Freedom of association, Digest 2nd edition, P.135

The international labor conference has pointed out that to assembly, freedom of opinion and expression and, in particular, freedom to hold opinions with out interference and to seek, receive and impart information and ideas through any media constitute civil liberties which are essential for the normal exercise of trade union rights.⁴⁴ The FDRE constitution can be adopted this law in Art 14, 17, 29.

2. Rights of Assembly

Freedom of assembly for trade union purpose constitutes one of the fundamental elements of trade union rights. This right guaranteed in FDRE constitution, it implies that “...every one has the right to assembly and to demonstrate together with others peacefully and unarmed ... for the protection of democratic rights, public morality and peace during a such a meeting or demonstration...”⁴⁵ While a constitutional right can be easily can not changed, than this freedom are prohibited interference of government and employer in the holding and proceedings of trade union meeting constitutes an essential element of trade union rights and the public authorities should refrain from any interference which would restrict this right or impede the lawful exercise there of.⁴⁶

The right of member of trade union to meet in their own premises for the discussion of trade union matters constitutes a fundamental trade union right. It implies that with out the Need for previous authorization and with out control by the public authorities, to hold their annual congress and to draw up their agendas in full freedom.

Exceptionally a trade union congress was banned by the authorities because of certain specific facts which give reason to believe that the meeting might devote from trade union purpose and be used for

44. Cited at note, 44
45. FDRE constitution Art 30
46. Cited at note 44, P.137.

political end and the object of police and military control. At this time intervention was justified by the mere possibility that illegal acts might be committed. Police and military Interference, such as that admitted by the government, during a trade union congress is an infringement of freedom of Association. The presence of police officers at trade union meeting might constitute Interference from which by virtue of Art 3 of convention No.87, the public authorities should refrain.

A situation in which prior permission was required for the holding of a trade union meeting the presence of the police at such meeting and the requirement to furnish copies of the minutes of such meeting would clearly be incompatible with the minutes of such meeting would clearly be incompatible with the principle that governments should refrain from interfering in the holding and proceedings of trade union meetings. If the meeting is in a central trade union and its general council meeting are subject to the requirement of permission by the authorities, to furnishing the names of the speakers and the agenda, and to allowing tape recorders to be placed where they are hold is incompatible with the generally recognized right of trade unions to hold meeting in freedom.⁴⁷

3. Freedom of Expression.

The freedom of expression for trade union purpose constitutes one of the fundamental elements of trade union right. This right guaranteed in FDRE constitution Art 29 ÷1-7 a specially incases in which the freedom of Newspapers owned by those union is concerned.⁴⁸

The full exercise of trade union rights calls for a free flow of information, opinions and ideas and it this end worker, employers and their organizations should enjoy freedom of opinion and expression at their meetings, in their publications and in the course of other trade union activities.

47. *Ibide*

48. *Ibide*, P.146-147

4. Searches of Trade Union Premises

Like other association or person, trade union cannot to be subjected to searches of his property, or the seizure of any property under trade union possession. Search should only be made following the issue of a warrant by the ordinary judicial authority has been satisfied the reasonable ground exists.

The resolution on trade union rights and their relation to civil liberties, adopted by the international labour conference at its 54th session (1470) the right of trade union property was one of those civil liberties which are essential for the normal exercise of trade union rights.

5. Right to Security of Person

Measures of preventive detention may involve a serious interference with the exercise of trade union activity. Then the trade union leaders with out sufficient (serious) reason does not arrest. These in which the existence of a serious situation or emergency which would be justify. Unless open to criticism. Those accompanied by adequate judicial safeguards applied with a reasonable period.

III KINDS OF ASSOCIATION

In Ethiopia, there are two kinds of association or collective relations exist. These are:-

A. Employee (Trade union) Association

- basic trade union
- general trade union

B. Employers Association

49. FDRE Constitution, Art 26 (1)

50. Cited at note 44, P. 150

51. . *Ibide*, P.154

A. Employee (Trade union) Association

Workers (Employee) shall have the right to establish and form trade union associations, respectively and actively participate there in the employee,⁵² if to satisfy the minimum number of trade union i.e. ten, the right to establish basic trade union. Unless other wise, the right to join from different company in general trade union association.

In other word, trade union association can have the right to from federation (federation means an organization established by more than one trade union, and confederation means an organization established by more than one trade unions federations). It means that trade unions may jointly form federation and federation may jointly form employee confederation.⁵³ No trade union association may form a confederation with out forming federation while any federation or confederation of trade unions association may join international organization of trade unions.⁵⁴

B. Employers association

Like trade union association, employers association shall have the right to establish and form employers associations.⁵⁵ Employer associations may jointly form employer federation and employer federations may jointly form employer confederation.⁵⁶

The employer federation of confederation may join international organizations of employers.⁵⁷ The function of federation and confederation shall be to strengthen the unity and sprit of co-operation of their members; participate in the determination or improvement of the conditions of work at the trade or industry level as well as to encourage members to strengthen their participation in the construction of the national economy; to represent their organizations in any conference; to discharge other functions in accordance with their constitution.⁵⁸

52 Cited at note, 38 Art 113 (2) (C) and Art 114 (3)

53 Abide, Art 116 (1) and 114 (3) 54.bide, Art 113 (1)

55.de Art 113(1) 56.de, Art 114 (4)

57.de, Art 114 (6) 58.ibide Art 116(1-3)

Therefore, according to the above mentioned employee and employer association shall have the right to established and form trade union or employer association and federation and confederations.

C/ Access to Recognition

An organization that is duly registered will attain or access to recognition, as you recall law of person study, the organization will do almost any thing a human being can do once it access to recognition. If the officer fails to take any action within 15 days the date of submission of the required documents, a right of appeal is given to the organization. The organization can appeal against a decision of the officer (MOLSA or BOLSA) not access to recognition. Art 122 of the labour proclamation clearly provides that where the officer refuses as access to registration, the organization may appeal to the competent court within 15 days from the date of the receipt of the decision in writing. The competent- organ is the courts of the law. Once the organization access to recognition, we can do by his own name:-

- A. Enter in to a contract.
- B. Sue and Be sued
- C. Own, use & transfer property.
- D. Represent members at any level.
- E. and perform any other legal act. ⁵⁹

Therefore, any organization after full filling of the requirement of attaining legal personality can have a right to access to recognition. This implies that the officer can not arbitrarily refuse to register list it will not be infringement of the freedom of association.

3.2 Function Of Trade Union

3.2.1 General principle

Labour organization, in general terms, and are organized to ensure the respect of the rights and interest of their members, be it employees or employers. Registered organization should pursue the objective of regulation of labour conditions by means of free and voluntary collective bargaining with the view of achieving increased economic and social progress. They should also involve those selves in the peaceful settlement of labour disputes, by means of voluntary cancellation and the study, protection and development of economic, social and moral interest to respect the right and interest of their member.

The organization shall have the right to respect the right and interests of members in particular, represent members in collective negotiation, and labour disputes before the competent body when so requested or delegated; while, ensure that laws regulations, directives and statement are known to, to observed and implemented by members; initiate laws and regulations pertaining employers and worker; participate actively during their preparations and amendments; discharge other functions provided for in the constitutions of the organization. ⁶⁰ In addition to the above trade union shall have the following function:-

3.2.2 The right to draw up his law and rules

The workers and employers organization shall have the right to draw up their constitution and rules with out interference by the public authorities, Art 3 of convention No. 87 and Art 117 of labour proclamation, the listing in the legislation of the particulars that must

be contained in a unions constitution is not in it self an in infringement of the right of workers organization to draw up their internal rules in full freedom amendment to the constitution of trade union should be debated and adopted by the union members them selves.⁶¹In addition to this the organization shall also prepare and submit draft collective bargaining for the negotiation.⁶²

3.2.3 Right freely to elect representative

Freedom of association implies the right of workers and employers to elect their representative in full freedom and the latter should have the right to put forward claims of their behalf. The right of workers organization to elect their own representatives freely is an indispensable condition for them to be able to act in full freedom and to promote effectively the interest of their members. For this right to be fully acknowledged, it is essential that the public authorities refrain from any intervention which might impair the exercise of this right, whether it be in determining conditions of eligibility of leaders or in the conduct of elections them selves.

Any control of trade union election should be considered as a limitation of the right to elect their own representative freely. However, in general, laws governing the frequency of elections and fixing a maximum period for the terms of office of executive bodies do not affect the principle of freedom of association.

3.2.4 Rights to organize administration and activities and formulate programs.

In view of the fact that in every democratic trade union movement the annual congress of members is the supreme trade union. Authority

61.ited at note 44, 3rd edition, P.60

62Cited at note 38, Art 118

63.ed at note 44, 3rd edition, P.61-63

which determines the regulation governing the administration and activities of trade union and which establishes their program, the prohibition of such congress would seem to constitute an infringement of trade union right.

When legislation is applied in such a manner as to prevent trade union organizations from using the services of experts who are not necessarily elected officers, such as industrial advisers, lawyers or agents able to represent them in judicial or administrative proceedings, there would be serious doubt as to the compatibility of such provision with Art 3 of the convention and Art 117(8), According which workers organizations shall have the right inter alias, to organize their administration and activities.

Therefore, The right of workers and employers to organize their, administration and activities and to formulate programs of organization shall be one of the right to establish trade union to protect the interest for the membership. In other word, like any other legal person trade union shall have own administration, activities and programs, while, with out ⁽⁴⁾any interference by public authorities or employer the right to be done.

3.2.5 Financial administration of trade union

The source of income of trade union shall be derived from the following sources:-

- a. Registration fee and membership dues from members.
- b. Assistance from domestic or foreign source in accordance with by laws.

C. Interest from the accumulated monies of the union, and

D. Revenues collected from ventures established and administered by the union.

The above income of trade union to administer and utilizes its funds as it wishes for normal and lawful trade union purposes are incompatible with the principles on freedom of association. The way of collection can be formulated and implemented by the trade union constitution issued.

Measure for the protection of trade union funds against misuse may be particularly necessary in the early stages of the development of a trade union movement, but they are always liable to be applied in a manner that involves serious consequence as regards application of the principles of freedom of association.

A trade union account be audited, either by an auditor appointed by the trade union or less frequently appointed by the registrar of the trade union, it is generally accepted that such an auditor shall possess the required professional qualifications and be an independent person. The role of government should be before trade union opened book of account, stamped and to give page number for protection of preventing fraud.

In general, trade union organizations appear to financial statements to be annually presented to the authorities in prescribed form and the submission of other data on points which may not seem clear in the said statements, do not person infringe trade union autonomy. Measures of supervision over the administration of trade unions may be useful if they are employed only to prevent abuses and to protect the members of the trade union themselves against mismanagement of their funds.

3.3 Dissolution and suspension of trade union

This action where to be taken only as the last resort, and after exhausting other possibilities with less serious effects for organization as a whole. Like other similar organization trade union dissolved, by legislative or administrative measures, intervention by the judicial authorities, voluntary dissolution, dissolution on account of insufficient members and liquidation of trade union funds and assets. Detail expression (explanation) would be as follows.

3.3.1 The legislative or administrative measures

The suspension of trade union organization by administrative authorities constitute a serious restriction of the right of workers organization to elect their leaders in full freedom and to organize their administration and activities, the generally accepted principle that workers and employers organization should not be subject to suspension or dissolution by administrative authority.

The cancellation of registration of an organization by the registrar of trade unions is tantamount to the suspension or dissolution of that organization by administrative authority.⁶⁷ The administrative authority may apply to the competent court to cancel the certificate of registration of an organization, on any one of the following grounds.

- Where the certificate of registration is obtained by fraud or mistake or deceit;
- Where any one of the objective or constitution of the organization is found to be illegal under this proclamation and the organization is not willing to remedy or correct the illegal provision or conditions;
- Where the organization is found to have engaged in activities which are prohibited under this proclamation or performed acts which are contrary to its purposes and constitution and it is not willing to

67. Cited at not 43.

68. Cited at not 37.

cases or remedy or eliminate them ⑥⑧

3.3.2 Intervention by the judicial authorities

The suspension of the legal personality of trade union organization represent a serious restriction on trade union rights and in matters of this nature the rights of defense can only be fully guaranteed through due process of law.

Any measures or suspension or dissolution by administrative authority, where taken during an emergency situation, should be accompanied by normal judicial safeguards, including the right of appeal to the courts against such dissolution or suspension. Even if they may be justified in certain circumstance, measures taken to withdrawal the legal personality of a trade union and the blacking of trade union funds should be taken through judicial and not administrative action.

If the administrative authority has discretionary right to register or cancel the registration of a trade union, the existence of a procedure of appeal to the court does not appear to bed sufficient guarantee, the judge hearing such an appeal could only ensure that the legislation had been correctly applied. The same problem may arise in the event of the suspension or dissolution of an occupational origination.

3.3.3 Voluntary dissolution

Where the discion to dissolve a trade union organization was freely taken by majority vote of a members or a congress convened in a regular manner by all the workers concerned, the opinion that this dissolution, or any consequence resulting from it, would not be regarded as an infringement of a trade union right. ⑦⑩

3.3.4 Dissolution on account of insufficient members

A legal provision which obliges a trade union to dissolve if its membership fails below ten (10), depends in whether it is a workers union or

an occupational union, does not in it self constitute an infringement of the exercise of a trade union right, provided that such winding up its attended by all necessary legal guarantees to avoid any possibility of an abusive interpretation of the provision,71

3.3.5 Liquidation of trader union funds and Assets

When an organization is dissolved, its assets should be provisionally sequestrated and eventually distributed among it former members or handed over to the organization that succeeds it. The way of distribution of trade union asset should be, if the trade union submits to MOLSA OR BOLSA. 72

Chapter 4

4. Organizing problem of Trade Union

Based on the questionnaires, interview and literature review the writer of this paper should be identify form of Anti-Union discrimination and major problem of unionization.

4.1 Form of Anti- Union discrimination

Form of Anti- Union discrimination can be varying degree or virulence, in a great number of countries, but that the manifestations of the disease vary. Greatly from country to country, ranging from relatively minor disciplinary action to dismissal or other serious measures. How ever, behind this first impression of multiplicity certain forms common to

most of the countries can be seen: The first anti-union discrimination form is:- To keep a union out of the undertaking, to get rid of a union already present and to neutralize an unionist for food by closing all new job opportunities for him. The second form of Anti-union discrimination should be:- The leaders member and supporter of trade union to transfer, suspense, and other disciplinary penalties, less favorable, allocation of tasks, unilateral change of service conditions to the disadvantage or workers and retarded promotion.

The Third form of Anti-union discrimination should be affecting the workers financially which seem to be less widespread those are:- by giving promotion or pay increase salary to non unionist and promoting a worker or increasing his pay to secure his with drawl from the union.

So far, the acts of Anti-union discrimination considered have been those that normally, affect one or a few unionist at a time. However, certain discrimination acts can affect whole groups of workers. Total or partial shut- dawn or transfer of an establishment, or sub contracting the work, thus causing lay- offs or termination of contracts may be acts of such collective discrimination although obviously not every case of shut-dawn, transfer, or sub contracted its work for the specific purpose of getting red of a group organized workers. In addition to the above you have to show the major problem of unionization as follows.

4.2 Major problem of unionization

The forms of Anti-union discrimination widely discussed in the above topic. In this topic let us discuss specific problem as Ethiopian trade union for the simplicity reason let as categorize and look at the problem of organized (after unionization) and un organized (before unionization) workers Committed a problem.

4.2.1 Problem of organized worker

Organized workers are those types of workers who have already formed their trade unions and exercise their right based on the labour proclamation. According to management of each industrial federation the total number of trade union are 575 basic trade unions across the countries, who have been 306771 members organized workers.

But, according to the interview conducted with industrial relation department of CETU, leaders of industrial federation, BOLSA and MOLSA the questionnaires collected the following are some of the problems of organized worker.

Table 1 Total number of Trade union and organized workers. ⁽⁷⁵⁾

No.	No. of Federation	No. of trade union	No. of Workers		
			Female	Male	Total
1	Industrial federation of Agriculture	91	73000	19000	92000
2	Industrial federation of Textile	55	14533	12885	27418
3	Industrial federation of food beverage	48	8450	2553	11003
4	Industrial federation of power	47	13190	5174	18364
5	Industrial federation of construction	82	25039	2970	28009
6	Industrial federation of commercial and ethnic	54	8029	5266	13295
7	Industrial federation of Banking and Insurance	7	3975	2343	6318
8	Industrial federation of transport & communication	23	13004	5360	18364
9	Industrial federation of Hotels and tourism	168	56395	35605	92000

Total	575	215,615	91, 156	306771
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I/ Lack Of Awareness Of Relevant Law

Although the organized workers have some experience in trade union activities, but some are not fully aware of their rights and obligations that have in the labour proclamation and the collective agreement. They also lack fully awareness of the right of workers stipulated in art 42 of FDRE constitution Ethiopian labour proclamation and ILO convention No.87 and 98.

Since, all trade union leaders and members are not fully aware of the labour law and collective agreement that guarantees the benefit and interests of union members. In other ward, some of the industrial federation members are come in to management by election for four year it means that those are not have full, knowledge to organize the unorganized employee.

II/ Management Interference in the trade union affaires.

Another problem of organized workers management interference in the trade union affairs according to the interview conducted with officials of confederation of Ethiopian trade union Training center, Industrial Federations and Addis Ababa labour and social bureau and the questionnaires distributed and collected from workers and trade union members. The following problems should be rise. Such as unlawful termination of contract of implement, unlawful transfer trade union leaders, member and supporters refuse salary incensement, faculty and refuse up grade.

Therefore, most of the employers of the private companies do not want to see the formation of the trade unions in their companies. They deny trade unions general meeting, dismiss trade union leaders and workers who are activities, deny recognition after the trade unions have

been registered and certified by MOLSA OR BOLSA.

To assess to views of trade union leaders regarding the interference of the management in the trade unions activities, a tripartite committee carried out a study in November, 2004. Among 6 trade unions who filled the questionnaires, 63% agreed that management workers to ban the activities of trade unions with in the enterprise and they put the following illegal actions taken by the management.

- Dismissal or harassment of trade union leaders.
- Agitate and impose on some trade union members to disaffiliate from the union by providing special privileges.
- Management makes the necessary effort to paralyze the activities of the trade union by creating difference among trade union members.
- Deny permit ion for union meeting
- Management tries to divide the unity of workers.

III. Lack of capacity

In order to discharge their responsibilities and to provide the necessary service for the number ship , trade union leaders Need to be capable and supported by education and training programs they Need to acquire skill or collective bargaining, knowledge how to deal with the membership, employers and the government. They should carry out their Function in an effective and proper ways.

The trade union leaders Need Negotiation skill for collective agreement and dealing with other relevant issue and Grievance handling skill for represent grieved members and find fair and just solutions. They also Need to have dispute settlement methods salving problems and miss understanding that would be creating among them, union members, and

between the management and the trade union. In addition to the above the trade union Need administration and financial skill, it means that most of the trade union leaders do have neither the experience nor the skill of trade union administration and finance.

Especially they need, the skill of report writing, skill of collecting membership dues, skill of managing resources, and skill of communication with the membership, the management and the government as well. Those all the above problem is related to Implementation, it means the employee after establish his trade union in one way or in other's implementation problem situated.

4-2-2 problem of unorganized workers

Unorganized workers are those who have not organized and formed a trade union but the labour proclamation has included them in its scope. The problem of unorganized workers in Ethiopia has many similarities with that of organized workers, such as lack of awareness among members and interference of the management in workers affairs, lack of qualified organizer, because organizing is a profession that need skill, it means the organizer should be confident, knowledgeable , honest, and committed to his or her job, disciplined and who could be able to handle stress and flexible to manage circumstance.

Lack of information, since , before planning a stratage of organization, the must organizer collect information about the types of workers and industry, members of workers, condition of employment (permanent or temporary) ,location of the company, knowledge of the legal, and administrated conditions, types of employer (foreign or domestic).

On the other hand, the organization should be , it may have lack of strategic planning and problem of family based employment should be indicate in the small companies, as a result, most of the workers do not have clear employee-employment contracts. On the other hand, those who are interested to organize them selves and willing to approach the organizer are workers who are employed in open vacancy announcements. But, the Number is small employee. Therefore the Mgt could attack to threaten their job security. How ever, in big companies where the number of workers is large, Family based employment is not the problem of organizing the unorganizing workers.

There for, the tripartite committee in 2004 put the following views or In addition to the above some reasons (problems) raised by the response for the reasons of most of private company workers are not to established (unionized) trade union. Show table 2- in the Next topic.

Serial no	Name of industrial federation and enterprise	Unlawful action taken by the management
I	Industrial federation of agriculture	
1	Arsi flower	Dissolve
2	King flower	»
3	Golden Rooth	Dissolve and interference by Mgt
4	Omeni flower factory	Dismiss union leaders
5	Et plant flower factory	»
6	Aden Rooth	»
7	Ethylene Rooth	Deny freedom of association
8	Ethiopia media Rooth	»
9	Zeway Rooth	»
II	Industrial federation of textile	
10	Hefed tannery factory	»
11	Oxipord Plastic factory	»
12	Bate tannery factory	»
13	Ras dashin textile factory	»
14	Marfil PLC	»
15	Alhemic Plastic factory	»
16	Debreberhen tannery factory	Dismiss trade union leaders
17	Dire tannery factory	»
18	Express garment	»
19	Mulat garment	»
20	Younis garment	»
21	Ethio-italy shoe factory	»
22	Pea cock shoe factory	»
23	Dessa tannery factory	»
24	Nazerawi tailer	Interference by management
25	Zefemesh shopping center	»
26	Weynu global trading	»
		»

28	Mojo tannery factory	»
29	K.K textile factory	»
III	Industrial federation of food and beverage	
30	Dukem pastry	Deny freedom of association
31	Tena food factory	Dismiss trade union leaders
32	Burayu spring water	»
33	Astico food complex	Deny freedom of association
34	Kality food factory	Dismiss trade union leaders
35	Apex food factory	»
IV	Industrial federation of power	
V	Industrial federation of constriction	
36	Country club constriction	Deny freedom of association
37	Shebela korkor constriction PLC	»
VI	Industrial federation commerce and technique	
38	Ambo Mechanical engineering	Dismiss trade union leaders
39	Zefmesh PLc	Deny freedom of association
40	Verishaco Ethiopia PLC	»
41	G/meskel auto service	»
42	Pawa gos auto service	»
43	Wayech Ethiopia PLC	Interference of management
VII	Industrial federation of banking and insurance	
44	United bank	Deny freedom of association
VII	Industrial federation of transport and communication	
45	Agro-enterprise transport section	Dismiss trade union leaders
46	East-West transport section	Deny freedom of association
47	East Africa transport enterprise	Dismiss trade union leaders
48	Abissinia transport enterprise	»
49	Noh transport enterprise	»

50	Abeba Transport Enterprise	"
VIII	<i>Industrial Federation of Hotel and Tourism</i>	
51	Hibakes Hotel	Deny Freedom of Association
52	Imparieval Hotel	Trade Leaders
53	Unity University Collage	Dissolve Trade Union
54	Lalibel Hotel	"
55	Dejen Security Service	"
56	Turist Security Service	"
57	Crawon Hotel	"
58	Sheraten Addis Hotel	"
59	Gupiter Hotel	"
60	Family Planning	"
61	Fastul Hospital	"
62	Heyat Hospital	"
63	Teklhaimanot Higher Clinic	"
64	Nazerat School	"
65	Queen Saba Hotel	Dismiss Trade Union Leaders
66	Sebhatu and Sons PLS	"
67	Bargob Trading PLC	Dismiss Members of Employee
68	Nit to Finish PLC	Deny Freedom of Association
69	Equatorial Business Group	"
70	Securicor Ethiopia PLC	"
71	Ethio- Candian Business Group	"
72	Sefecon Electro-Mechanical Works	Interference of mgt
73	Dack Workers Basic Trade Union for the five Corridors	Deny Freedom of Association

74	Driver, Assistance and Ticket Attendants workers Basic Trade Union	Dismiss Leaders and Member of Trade Union
75	Humelmal Cosmetics	

Based on the above data, each Industrial federation leaders and same members of employee expressed those problems, such as, unlawfully dismiss trade union leasers and members, deny the freedom of association, interference of management in trade union actuates and transfer and dissolve the company during the employee established trade unions. This Indicate that, the employer indirectly refuses the freedom of association.

Therefore, we have seen in the previous chapter, the FDRE constitution, labour law proclamation No.377/96 and ILO contention No. 97:98 give guarantee and rights to established triadic union (organization) for the employee and employer.

How ever, when we came to the practical implementation, the above problems are situated in trade unions leaders, members and supporters of the union.

4-3 questionnaires Analyze

The questionnaires are distributed and collected from 25 leader or trade union, 100 member of trade union, organize 100 un organized workers members and 25 members of management. Since, the questionnaires should be covered public and private business enterprise.

1. Construction and business bank basic trade union
2. Ethiopia road authority basic trade union
3. Constriction and transport design SO.B.T.U
4. St, Mary's university collage
5. Securicor Ethiopia PLC

6. Bargob Trading PLC
7. Akaki steel factory basic trade union
8. Nit to finish PLC
9. Equatorial business group
10. Ethio-candian business group
11. Safecon electro- mechanical works.
12. Dack workers basic trade union for the five corridors.
13. Driver, Assistants and ticket attendant's workers basic trade union.
14. SebEhatu and sons PLC basic trade union
15. Filipos primary school
16. Artistic printing enterprise
17. Dashin bank S.C
18. Anidoda primary school
19. Trust security service PLC

TABLE. 3 LEVEL OF AWARENESS OF LABOUR PROCLAMATION AND COLLECTIVE AGREEMENT

Table .3 Level of awareness of labour proclamation and collective agreement.

Response	Number of respondent of the trade union leaders	Number of trade union	Members of Mgt	Percentage of response		
				Leaders of trade union	Members of trade union	Members of management
Yes	6	28	8	24%	28%	32%
No	16	64	2	64%	64%	8%
To some extent	3	8	7	12%	8%	28%
No response	-	-	8	-	-	32%
Total	25	100	25	100%	100%	100%

According to table 2, 25 questionnaires were distributed to leaders of trade union in the public and private enterprise to assess how to know labour proclamation and collective agreement. Based on questionnaires 6 yes, 16 respond No, 3 said to extent. The same questionnaires were distributed to 100 members of the trade unions, they respond as follows, 28 said yes, 64 said No, 8 members to some extent.

The questionnaires were also sent to 25 to the members of the management. The result was, 8 said yes, 2 said No, 7 answered to some extent, 8 respond No. 24% of trade union leaders, 28% of trade union members and 32% of the Mgt members are aware labour proclamation and collective agreement. Since, 64% of trade union leaders, 64% of trade union members and 8% of the Mgt members are not aware of the labour proclamation and collective agreement. On the other hand, 12% of trade union leaders, 8% of the trade union members and 28% are members of the Mgt those who aware of to some extent.

Conclusion:- when the writer of this paper compare all respondent, who said No and who answered to some extent with those who said Yes, 64% No said and 12% to some extent implies 76% of trade union leaders, 64% No and 8% to some extent implies that 72% of the members of trade union and 8% respond No and 28 % respond to some extent , implies that 36% of the management members are Not fully aware of labour proclamation and collective agreement. Especially the leaders of trade union should be not distributed collective agreement for member of union.

Table 4 level of management interference in the trade union activities

Response	Number of trade union leaders	Number of trade union members	Percentage	
			Trade union leaders	Trade union member
Unlawful termination contract of employment	7	32	28%	32%
Unlawful transfer of trade union leaders and supporters	5	22	20%	22%
Refuse up grade	4	10	16%	10%
refuse salary increment	6	10	24%	10%
Ferocity	.3	26	12%	26%
Total	25	100	100%	100%

To assess the level of management Interference the organized trade union leaders and members with out sufficient ground, 25 questionnaires were distributed to the trade union leaders, among them, 7 said unlawfully contract of emplacement is terminated, 5 said unlawfully transfer of trade union leaders, 4 respond refuse up grade, 6answered refuse salary increasement,3 said ferocity. Among 100 trade union members who received questionnaires, 32 said management unlawfully terminate contract of employment, 22 said unlawfully transfer member of leaders and supporter, 10 said refuse up grade member of trade union, 10 said refuse salary increasement members of trade union, 26 said management ferocity done member of trade union. Interims of percentage, 28% of trade union leaders and 32% of trade union members said the management interfere by means of unlawful contract of employment terminate, 20% of trade union leaders and 22% of trade union members, unlawfully transfer trade union leaders and supporters by Mgt, 16% of trade union leaders and 10% of trade union members respond the management refuse up grade,24% of trade union leaders

and 10% of trade union members should be the management refuse salary increasement , 12% of trade union leaders and 26% of trade union members ferocity by management.

Conclusion: - when the write of this paper analyze those data, the majority employee agreed that the employer (management) should be unlawfully terminate contract of employment, unlawfully transfer trade union leaders, refuse up grade, refuse salary incensement and ferocity the trade union leaders and members.

Table 5 RESPONSES TO THE REASON WHY MOST OF PRIVATE COMPANY WORKE ARE NOT ESABLISHED TRADE UNION

Response	Number of response trade union leaders	No response employes	No response by members of management	Percentage		
				leaders	numbe rs	Manage ment
Workers are not aware of trade union	4	25	10	16%	25%	40%
Workers do not want to form trade union	3	20	6	12%	20%	24%
Employer do not want to see trade union in their companies	15	40	1	60%	40%	4%
CETU, and industrial federations have not worked hard to organize unorganized workers	3	15	8	12%	15%	32%
Total	25	100	25	100%	100%	100%

The above table 5 show why most of the private company workers are not organized. To assess the reasons, 25 questionnaires were distributed to leaders of trade union, 4 said workers are not aware of trade union, 3 respond workers do not want to form trade union, 15 said employers do not want to see trade union in their companies, and 3 said CETU and industrial federations have not worked hard to organized unorganized workers. Among 100 unorganized employees of members who received questionnaires, 25 said workers are not aware of trade union, 20 respond workers do not want to form trade union, 40 said employers do not want to see trade union in their companies. 25 questionnaires were distributed to members of management responded that,10 said workers are not aware of trade union, 6 said workers do not want to form trade union, 1 said employers do not want to see trade union in their companies, and 8 said CETU and industrial federations have not worked hard to organized unorganized workers. Interims of percentage, 16% of trade union leaders, 25% unorganized workers members and 40% Mgt members said the reason is workers are not trade union.

On the other hand, 12% o the trade union leaders, 20% of unorganized workers of members and 24% of management members, said that workers do not want to form trade union. How ever, 60% of trade union leaders, 40% of unorganized workers member's and 4% of Mgt members said the employer do not want to see trade union in their companies, where as, 12% trade union leaders, 15% of unorganized, worked members and 32% of Mgt members said that CETU and industrial federations have not worked hard to organized un organized workers.

Conclusion: - when we see According to the percentage of response of

all the three groups, the majority put the reason is those employers do not want to see trade union in their companies. However, a certain percentage of trade union leaders, unorganized workers member, and Nearly one quarter of the Mgt members said the reason weakness of employee him self and CETU and industrial federation.

Table 6 RESPONIS TO WHAT SHOULD BE TO DONE TO ORGANIZE THE UNORGANIZED WORKERS

Response	No. of trade union leaders	Number of responses an organized workers	Member of management	Percentage		
				Trade union leaders	Members of employee	Members of management
Recruit some of the unorganized workers and provide them awareness creation training	8	30	5	32%	30%	20%
Conduct awareness creation seminar the management and unorganized workers	4	20	5	16%	20%	20%
Conduct joint training for the management recruited workers	11	40	3	44%	40%	12%
Set up steering committee composed of the CETU and industrial federation	2	10	12	8%	10%	48%
Total	25	100	25	100%	100%	100%

According to table 6, 25 questioners were distributed to leaders of trade union of organized private company employee to assess what

should be done to organized unorganized workers. Based on the questionnaires, 8 said recruit some of the unorganized workers and provide them awareness creation training, 4 said conduct awareness creation seminar for the Mgt, 11 respond conduct Joint training for the Mgt and recruited workers, 2 said set up steering committee composed of the CETU and industrial federations.

The result of 100 unorganized workers is, 30 said recruit some unorganized workers and train them, 20 said conduct awareness creation training to the Mgt of unorganized workers, 40 respond conduct joint training for the Mgt and recruited unorganized workers, and 10 said set up steering committee composed of CETU and industrial federation. Among 25 Mgt members, 5 said recruit some of unorganized workers and provide them awareness creation training, 5 responded conduct awareness creation seminar to the Mgt of unorganized workers, 3 answered conduct joint training for the Mgt and recruited workers, and 12 said set up a steering committee composed of the CETU and Industrial federation.

Interims of percentage, 32 % trade union leaders, 30% of unorganized workers members, and 20% of Mgt members responded, recruit some of the unorganized workers and provide them awareness creation training workers and provide the wariness creation training. On the other hand, 16% of trade union of leaders 20% of unorganized workers members and 20% of Mgt members said conduct awareness creation siminar to the Mgt and recruited workers. How ever, 44% of trade union leaders, 40%unorganizied workers members and 12% if management members said conduct joint training for the Mgt and recruited workers. But 8% of trade union leaders, 10% of unorganized workers member and 48% of Mgt members replied set up a steering committee composed of the CETU and Industrial federation.

Conclusion:-when the writer of this paper analyze those data, most of the trade union leaders and members of unorganized workers and a small number of the Mgt group agreed with the solution, conduct a joint training for the Mgt and recruited worked, while a majority percentage of the employer group put the solution is to set up a steering committee composed of CETU and Industrial federation.

Conclusion and Recommendation

Conclusion

The findings of the research have proved that Ethiopia has ratified ILO fundamental No. 87 and 98 which allows freedom of association and the right collective bargaining. Further the CDRE constitution has also stipulated a clear provision about the right of labour, which guarantees workers to form associations including trade unions. However, the labour proclamation has incorporates certain provisions, which are addressed with in the ILO standards, the proclamation has excluded Government employees including teachers, Nurse ,Doctors, Judges prosecutors, ad others civil servants from its scope of application . It has also denied the right of workers trade unions, in Non-governmental organist ions and Ethiopia working in diplomatic missions.

The labour proclamation has stipulated the right to form (establish) trade union, pluralism with in a given enterprise. But the union that has the right to bargain a collective agreement with the employer and allowed to deal with the government is the one hand who has 50+1 vote. In this regard, the purpose of trade unions that have not secured the majority vote is not clearly defined .It also violated the right of trade unions to bargain a collective agreements with the employers on behalf of their membership, and this creates misunderstanding among the trade unions, workers and the management with in enterprise.

The study has Indicate, the right and civil liberties of trade union. Where as, free and Independent trade union movements can development only under a regime which guarantees fundamental Human rights. As violation of these rights may affect the free excurse of trade union right. Those right include freedom of expression through speech and press, the right to assembly, searches of trade union premises, and

the right to security of the person.

The research paper should be addressed, kind of association, pre-condition to from trade union and access to recognition of trade union, after establishment of trade union. Additionally the registered organization should be to expression labour proclamation the following function it may have. For Instance the right to draw up his low and rules, the right to freely to elect representative, the right organized administration and activities and formulate programs and financial administration of trade union. But those right In small private company violated by companies.

The research paper has Indicate, the problem of organized workers and the challenges of organizing the unorganized workers are addressed in the study. Based on the study, trade unions are facing a lot of problems from the management. Some the trade unions called Not freely run their day to day tasks, because Mgt buns their activates, dismiss trade union leaders and members the union, deny recognition of the legitimate among workers. They also work hard to divide the unity of workers, in the form of establishing second trade union and some of them do not want to see strong trade unions.

According to the study, trade unions and workers who are not organized also suffer from lack of awareness of ILO conventions, the FDRE constitution, the labour proclamation and collective agreement trade union and an organized worker suffer from lack of capacity, they lack of collective bargaining skill, grievance handling and administration and finance skills.

The other are unorganized workers also, they do not have qualified organizer, in this regard, CETU and Industrial federation have Not give

due attention to their respective organization departments, because, they have not allocated the necessary financial, material and human resources. They also lack the relevant information about unorganized workers. Based on the study of CETU and Industrial federation have Not design a clear policy and strategy to organize the unorganized workers.

The study has also indicated that, the Interference of employers especially in private companies is another problem of organizing the unorganized workers. In this regard, most of the employers deny workers meetings, harass and intimidate activates, dismiss trade union leader and mummurs of union, ban trade union activates, deny recognition after the trade union have registered by the government and some times terminate the employment contracts of all union members.

The study has identified some of the Implementation problem of the labour proclamation and collective agreement. In this regard, one or the problems is that worker and employers are not fully aware of the labour proclamation. Employers violate the right of workers to form trade union. On the other hand, workers are Not fully aware of their right's and obligations that have Not stipulated in the labour proclamation.

Based on the study, those problem solved by conducting awareness creation workshops and seminars for workers and employers on the labour proclamation and other relevant lows. How ever to conduct training activities, MOLSA and BOLSA As lacks the necessary human and financial resource

Recommendation

Based on the finding of the research paper the following recommendation are forwarded.

1. Creation Awareness of relevant law for trade union leaders, Members, Unorganized workers and Management.

Creation awareness should be included organized, unorganized workers and management. Create awareness among organized workers that rights stipulate in the FDRE constitution, labour proclamation and the ILO convention No 87 and 98. In addition conduct awareness on union leaders to negotiate collective agreement that guarantees the benefits and interest of union members.

The awareness creation program on the above mentioned legal instrument and other relevant laws given to the leaders of the trade union, the CETU, the Industrial federation, ILO and MOLSA for the members of trade union and unorganized workers by Industrial federation at the plant level. For the management to conduct awareness creation training programs, the responsibility should be vested on EEF in collaboration with MOLSA, ILO and other collaborators.

Therefore, the creation of awareness should be given in the form of workshop, and seminar and by media coverage.

2. conduct awareness on policy

It is important to know that, for long period of time Ethiopia followed command economy policy. Thus situation is completely changed in recent time. Now the country follows free market economy policy. Because of this, basic trade union should conduct awareness creation – programs to the workers for better understanding of the free market economy policy.

3. Give legal protection to Organizer, Trade Union Leaders and Supporters.

The study indicates that, organizer and trade union have many obstacles which makes the job of an organizer more difficult. The problems could arise with members, employers and government. Due to this, the ILO and the labour proclamation should be given strong legal protection for they can negotiate with employers at equal footing. In addition, establish strong legal protection is important; they should be confident, committed to their job, and could be able to handle stress and flexible to manage circumstances.

4. Design a strategy to organize the unorganized workers

The research has indicated that, the problem of unorganized workers has many similarities with that of organized workers, such as lack of awareness among members, interference of Mgt in workers affairs and lack of capacity (knowledge organizers.)

In light of this, it is important to develop a systematic approach to organizing workers. It is important to make use of some key workers and influence others to join the trade union. It is also important to know that organizing, it means, doing a lot of research and information gathering, meeting with some interested workers, understanding their attitude towards trade union.

Furthermore, it is important to know that, before beginning to organize, it is important to collect information about workers to be organized, number of workers in the company, problem of workers, their immediate needs, attitudes, location of the enterprise, type of the industries and conditions of employment. After collecting the information, it is necessary to decide, where and when to begin organizing workers.

Generally, the organizers need to acquire knowledge and skills. Such as, purpose and function of union, collective bargaining skill, and understanding of FDRE constitution. ILO convention and labour proclamation. It is vary possible to get such qualified organizers by creating awareness and by training programs. On the other hand, the Mgt of most private companies denies the formation of trade

Union. How ever, the creation of awareness should be need for Mgt about the role of trade union insuring Industrial peace, Increasing productivity and profitability. By doing so, Mgt and unorganized workers would understand the im-Oprotant legal instrument and the role of trade unions.

5. Strengthening Relationship between Mgt and Trade Union

In order to create peace full industrial atmosphere, it is important to strength the relationship between Mgt and trade union. This smooth relationship help to respect the right workers provide service for the member ship.

6. Strengthening the Effort of Trade Union

Administration and Financial Skill

The research has indicated that, most trade union leaders do not have neither the experience nor the skill of trade union administration and finance .They must have to plan strategic methods how to handle the financial and material resource of the trade union and also need skill of administration or the day to day activates of the union. More over, they need to acquire the skill of report writing, skills collecting membership dues, skill of managing resource and skill of communication with the membership, the Mgt and the government as wall.

7. Enhance the capacity of social Affairs Offices and Regional Bureau of Labour

Based on the research paper, most of the problems arising between employers and employee's are lack of full awareness of a labour proclamation, ILO convention and FDRE constitution. These conditions contribute to the Implementation problems of the labour proclamation. Conduct intensive awareness creation workshops and seminars for employers and employee's would solve problems.

In this regard, the government must give due attention to strengthen MOLSA and BOLSA as with sufficient budget and skilled power. More over, the labour inspection department should be equipped with expertise, and logistic facilities.

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ANNEX

The objective of the questionnaires is to collect information from the public and private companies about the unionization and implementation. Problems to identify and indicate for concerned body. Please write the main obstacle's and circle against the letter of your choice.. You are not requested to write your name and you have a right to select about one answer.

A- Address of employees and employers

1. Name _____

Position: _____

Duration _____

2. Company's name _____

3. Address of company Region _____ Sub city _____

Tel. _____ Fax _____

4. Economic sector of company _____

5. Total Number of employee

Male _____

Female _____

Total _____

6. Total members of trade union

Male _____

Female _____

Total _____

B/ Organized or unorganized employers.

1. Are you aware of the labour proclamation?
A/ Yes B/ No C/ to same extent
2. Do you have a copy of collective agreement?
A/ Yes B/ No
3. Do you know the role of trade union with in employee's and employer's relation ship?
A/ Yes B/ No C/ to same extent
4. What do you think about the management- labour relationship in your organization?
A/ Good B/ Sometimes good
C/ bad D/ sometimes bad
5. In your opinion, what is the reason of bad management relationship in some enterprise?
A/ Management interfere in trade union international affairs.
B/ Trade union leaders interfere in management responsibility.
C/ The employee do not obey to the management.
D/ Lack of social dialog b/n the management and trade union Leaders.
6. In your opinion what is the reason that most of the workers in private companies are not organize?
A/ Workers are not aware of trade union.
B/ Workers do not want to form trade union.
C/ Employer's do not want to see trade union in their organization.
D/ The confederation and Industrial federation have not worked hard to organize the unorganized workers.
7. In your opinion, what should be done to organize the unorganized workers?

- A/ Recruit some of the unorganized workers and provide them Awareness, creation training.
- B/ Conduct awareness creation seminar for the management and Some recruited unorganized workers.
- C/ Conduct joint training both for the management and some Recruited unorganized workers.
- D/ Set up a steering committee composed of CETU and Industrial Federations.
8. In your opinion, is there administrative interference in internal trade union affairs?
 A/ Yes B/ No C/ Some times D/ I' don't know
9. Is their direct or indirect obstacle by employers, during the unorganized employee to organize
 A/ Yes B/ No
 - If your answer is "Yes", please write the way and cause
10. Is their, implementation problem after organized the employee?

C/ Management

1. In our company, there is a trade union.
 A/ Yes B/ No
2. Do we have a collective agreement?
 A/ Yes B/ No
3. During collective agreement promulgated is there conflict?
 A/ Yes B/ No
4. What are the implementation problems of the trade union after established in our company?

5. In your opinion, what is the reason of conflict rise between management and leaders of trade union?

D/ CETU

1. What are the main problems of facing organized workers?
2. What are the implementation problems of the trade union after registration?
3. What are the main obstacles to organize the unorganized workers?
4. What is the role of CETU during conflict raised between employers and employees?
5. To what extent is the support and cooperate union member to their trade unions.

E/ MOLSA

1. What are the implementation problems of trade union after organized?
2. What activity, have been preformed by MOLSA to enhncining the relationship between employers and employee.

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