

Trade unionism and politics in Africa: The South African Experience

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 The Nemaconde Family
 Colleague, Friends and Distinguished guests, good evening

Professor Makhanya it is time for me to perform the ritual

My presentation is entitled Trade unionism and politics in Africa: The South African Experience

1. Introduction

Since Roper published his *Overseas labour relations* in 1957, there has been an intellectual interest in trade unionism in Africa.¹ According to Allen, “academic attention has focussed on labour as a commodity rather than as a social movement”.²

In South Africa, trade unionism is generally studied from a labour law perspective. Many labour law studies focus on the Labour Relations Act. Few are undertaken from a comparative perspective. When such a perspective has been adopted, reference is generally made to labour laws of common law countries such as the United States, Britain, Canada,

¹ Allen V L “The Study of African Unionism”, in *The Journal of Modern African Studies*, 87, 2, (1969), 293-294.

²Idem 289.

Germany, Australia and India. Labour law and trade unionism in African countries are unfortunately overlooked.

On the other hand, African and South African labour law scholars tend to monopolise the intellectual discourse on trade unionism. Many legal scholars and social scientists feel intimidated and therefore refrained from intervening in this field yet open to multidisciplinary and interdisciplinary studies. In Africa perhaps more than elsewhere, trade unionism cannot be studied successfully independently of its association with national politics.

Bjorn Beckman and Sakhela Buhlungu reflected on the involvement of trade unions in African and South African politics since colonisation.³ With regard to political engagement, Josephine Milbrun argues that individual unions are primarily concerned with improving working conditions and providing services to their members, while federations tend to be more involved in relations with political parties and in national policies but neither group has devoted itself exclusively to a particular area.⁴

Sakhela Buhlungu rightly disagreed with Berg and Butler⁵ who argued that unions did not play any meaningful political role in colonial and independent Africa.⁶ He rather concurred with Davies⁷ that African unions have always been deeply involved in politics.⁸

This was demonstrated in subsequent studies conducted by Bienefeld⁹ in Tanzania, Sandbrook¹⁰ in Kenya, Alfred Inis Ndiaye¹¹ in Senegal, Emmanuel Akwetey and David Dorkenoo¹² in Ghana, Bjorn Beckman and Saligu Lukman¹³ in Nigeria, John Jean Barya¹⁴ in

³ See Beckman B & Sachikonye op cit 1-22; Buhlungu S “Trade unions and the politics of national liberation in Africa: An appraisal” in Beckman, Buhlungu & Sachikonye op cit 191.

⁴ Milbrun op cit 674.

⁵ Buhlungu op cit 191-206.

⁶ See Buhlungu op cit 191; Berg E & Butler J “Trade unions” in Coleman J S & Rosberg C G (eds) *Political parties and national integration in tropical Africa*, Berkeley: University of California Press, 1964.

⁷ See Buhlungu op cit 191; Davies I *African trade unions*, Harmondsworth: Penguin, 1966, 11-12.

⁸ Buhlungu op cit 191.

⁹ Bienefeld M A “Socialist development and the workers in Tanzania” in Sandbrook R & Cohen R (eds) *The development of an African working class*, London: Longman, 1975.

¹⁰ Sandbrook R *Proletarians and African capitalism: The Kenyan case, 1960-1972*, London: Cambridge University Press, 1975.

¹¹ Ndiaye A I “Autonomy or political affiliation? Senegalese trade unions in the face of economic and political reforms” in Beckman, Buhlungu & Sachikonye op cit 23-38.

¹² Akwetey E & Dorkenoo D “Disengagement from party politics: Achievements and challenges for the Ghana Trade Union Congress” in Beckman, Buhlungu & Sachikonye op cit 39-57.

¹³ Beckman B & Lukman S “The failure of Nigeria’s Labour Partry” in Beckman, Buhlungu & Sachikonye op cit 59-83.

Uganda, Lovemore Matombo and Llyod Sachikonye¹⁵ in Zimbabwe, Herbert Jauch¹⁶ in Namibia, and Roger Southall and Edward Webster¹⁷ in South Africa.

According to Beckman and Sachikonye, a strong tradition of close union-party relations exists not only in Africa, but also in the rest of the world.¹⁸ Trade unions were affiliated to labour, liberal and democratic parties in Western capitalist countries such as Britain, Australia, France, Germany, Italy, Sweden, and the United States.¹⁹ They were also integrated into the single party in communist and socialist countries like the former Union of Soviet Socialist Republics (USSR) and China.

In most cases, political parties served as the vehicles of the expression of the political objectives of trade unions and financed them, or the reverse.²⁰ Accordingly, trade unionism has influenced politics and *vice versa*. It has oscillated between “autonomy” and “political affiliation” and some scholars have called for unions’ “disengagement from party politics” in order to protect or preserve their autonomy.²¹

The aim of this inaugural lecture is to contribute to the debate on the relationship between trade unionism and politics in Africa with specific reference to South Africa.²²

Several objective and subjective reasons justify the choice of South Africa as an illuminating case of the African experience with trade unionism and politics. First, as a South African

¹⁴ Barya J J “Trade unions, liberalisation and politics in Uganda” in Beckman, Buhlungu & Sachikonye op cit 85-107.

¹⁵ Matombo L & Sachikonye L “The Labour movement and democratisation in Ziombabwe” in Beckman, Buhlungu & Sachikonye op cit 109-130.

¹⁶ Jauch H “Serving workers or serving the party? Trade unions and politics in Namibia” in Beckman, Buhlungu & Sachikonye op cit 167-190.

¹⁷ Southall R & Webster E “Unions and parties in South Africa: COSATU and the ANC in the wake of Polokwane” in Beckman, Buhlungu & Sachikonye op cit 131-166.

¹⁸ Beckman B & Sachikonye L “Introduction: Trade unions and party politics in Africa” in Beckman, Buhlungu & Sachikonye op cit 1.

¹⁹ See Jackson op cit 123- 127; Clegg, Hugh, *Trade Unionism under Collective Bargaining*, Oxford: Basil Blackwell, 1976, 55-67, 102-105.

²⁰ Jackson op cit 127.

²¹ Akwetey & Dorkenoo op cit 39-58.

²² It continues the academic conversation I started with the right to freedom of association in my Master’s dissertation (Budeli M *Freedom of Association in South African Labour Law: A Comparative Perspective*, unpublished LLM Dissertation, University of the North, 2003) and in doctoral thesis (Budeli M *Freedom of Association and Trade Unionism in South Africa: From Apartheid to the Democratic Constitutional Order*, unpublished PhD Thesis, University of Cape Town, 2007) respectively.

citizen and labour law academic, South Africa is undoubtedly the country that I know the best on the African continent. Second, South African trade unionism is the most developed on the African continent. South Africa is the most industrialised African country and its labour force is equally the largest and most powerful in Africa, despite the Nigerian Labour Congress (NLC)'s claim of a higher membership of 3 million.²³ Third, South Africa is one of the few democratic and constitutional states in Africa. Its 1996 Constitution, which includes a comprehensive Bill of Rights, is also regarded as the most advanced on the African continent and one of the most progressive in the world.

From the onset, a word of caution needs to be sounded. Most observations on trade unionism in South Africa relate to COSATU. However, trade unionism in South Africa is fragmented. There are many trade unions or federations of trade unions but COSATU²⁴ is the most important and the largest federation in the country. A study may be conducted on the political involvement of each trade union or federation of trade unions in South Africa.²⁵

The relationship between trade unionism and politics in South Africa reminds us of the relationship that existed or still exists in other parts of the world, especially in Africa. Trade unionism and politics in South Africa presents some particularities due to South Africa's historical, social, political, legal and economic contexts.

There are, indeed, many questions that may be raised with regard to trade unionism and its relationship with politics in Africa.²⁶ Unlike an expert, who is paid to provide answers to questions, a scholar generally ends up raising new questions likely to be answered by others in order to contribute to the development of knowledge. I can assure that while I will strive to provide answers, these answers will not be final and a number of questions will necessarily

²³ See Webster and Buhlungu reported that there were around 3.5 million members in 485 registered unions in South Africa. There were also 16 union federations registered with the Department of Labour in 2002 (Webster E & Buhlungu S "Between Marginalisation and Revitalisation: The state of trade unionism in South Africa", *Review of African Political Economy*, No 100, 2004, 231; Schillinger op cit 3.

²⁴ Webster and Buhlungu also reported in 2003 that COSATU had 19 affiliates with more than a 100, 000 members each, which represented a membership of 1, 864, 121 and around half of the total number of union members of in South Africa. The second and third largest federations are FEDUSA (527, 628) and NACTU (300, 000) respectively (Webster E & Buhlungu S "Between Marginalisation and Revitalisation" op cit 231-233).

²⁵ The Federation of Unions of South Africa (FEDUSA), for instance, which is predominantly white unlike COSATU, which is predominantly black, is non-aligned politically and relies heavily on lobbying to influence the political process. NACTU, the South African third federation of trade unions has also its origins in Pan-Africanism and Black Consciousness but is non-aligned and relies on lobbying as a strategy (Webster & Buhlungu "Between Marginalisation and Revitalisation" op cit 231-232).

²⁶ Beckman & Sachikonye op cit 1.

be left unanswered with regard to the relationships between trade unionism and politics in Africa in general and in South Africa in particular.

2. Trade Unionism and Politics in Africa

The flirtation between trade unionism and politics is a worldwide phenomenon.²⁷ I fully agree with Sakhela Buhlungu that trade unionism, which is not foreign to Africa, has been involved and played an important role in politics in Africa.²⁸

According to Edward Webster, “[T]rade unions in Africa have a long tradition of political engagement, beginning with their involvement in the anti-colonial movements through present day struggles for democracy”.²⁹

The history of the engagement of trade unions in African politics may be divided into several phases, namely the colonial, independence, and democratic periods.³⁰

2.1 Trade unionism and politics in colonial Africa

The first trade unions were created during colonisation. They were modelled around those which were operating in the European countries. During the first phase of colonisation, the membership of these trade unions was denied to Africans and reserved for Europeans only. It is only later that trade unionism was extended to the colonised people of Africa. In this context, African trade unions got involved in politics shortly after their creation since they were to participate in the struggle for political independence.

Contrary to the view expressed by European colonial masters, that trade unions in Africa had to remain wholly economic institutions concentrating on labour issues and union leaders should be discouraged from becoming involved in national politics,³¹ trade unions rapidly turned political as their members came to realise that the full enjoyment of their right to

²⁷ In the Case of Australia and New Zealand, see for instance Milbrun op cit 674-677.

²⁸ Buhlungu opcit 191.

²⁹ Webster E “Trade unions and political parties in Africa: new alliances, strategies and partnerships”, *Briefing Papers*, No 3, 2007 at <http://www.fes.de/gewerkschaften> accessed 15 June 2012.

³⁰ Idem.

³¹ Scott op cit 27.

freedom of association was incompatible with the continuation of the colonial order. Accordingly, they had to contribute to the struggle for independence and to even play the key role in this struggle. This development was anticipated by Americans who believed that, given the colonial setting, African unions' leaders would inevitably become involved in nationalist politics and suggested that the most important task was not to prevent this but to ensure that their politics were of the broadly non-Communist variety.³²

The role of trade unions and their leaders in the struggle for national independence in Africa is well documented and applauded in the literature.³³ Leopold Sedar Senghor, one of the fathers of Negritude and the first Senegalese President paid tribute to the Negro-African labour movement. According to the Poet-President, trade unions fought on both levels at once, namely the political and economic levels. It played a most vital role in our own liberation and produced the best political minds in Black Africa.³⁴ The participation of trade unions in the nationalist struggle was not only desirable but also inevitable.³⁵

Julius Nyerere referred to the union movement and the political party as "two legs of the same nationalist movement" while Sekou Toure held that the betterment of the workers' economic plight could be achieved only by political action and victories.³⁶ Trade unions were also instrumental in the fight by Dr Nkrumah to achieve independence in Ghana.³⁷

In their respective studies on *Labour in the Tropical Territories of the Commonwealth* and *Labour Training in Developing Countries*, Roberts and Zack held that trade unions played an important role in the growth of political nationalism and the struggle for independence.³⁸

In Schillinger's words, "As the most important African mass organisations of that time, unions very often had a decisive share in the national liberation struggle...Their actions usually occurred under the auspices of the national liberation movements, even though in

³² Idem.

³³ Scott op , R., "Are Trade Unions still necessary in Africa", Transition 33; Jackson op cit 1.

³⁴ See Senghor S *On African Socialism*, Pall Mail Press, 1964, 95; Pfeffermann op cit 213.

³⁵ See Wallerstein I "Voluntary Associations" in Coleman J S & Rosberg C *Political Parties and National Integration in Tropical Africa*, Los Angeles: University of California Press, 1964; Scott op cit 27.

³⁶ Scott op cit 27.

³⁷ Idem.

³⁸ See Roberts B C *Labour in the Tropical Territories of the Commonwealth*, Durham: Duke University Press, 1964, 48; Zack A *Labour Training in Developing Areas*, New York: Praeger, 1964, 5.

many cases the unions had to be credited for accelerating change via protest actions and political strikes”.³⁹

The first African leaders who led the struggle for independence in their countries were trade unionists. This was the case of Leopold Sedar Senghor in Senegal, Houphouet Boigny in *Cote d'Ivoire*, Sekou Toure in Guinea, Jomo Kenyatta in Kenya, Julius Nyerere in Tanzania and Patrice Lumumba, in the Democratic Republic of Congo (DRC), to name but a few. Even recently, the late President Chiluba of Zambia was the Secretary General of the Zambian Congress of Trade Unions (ZaCTU) that transmuted into the Movement for Multiparty Democracy (MMD). Similarly, Mr Morgan Tsvangarai, the current Prime Minister of Zimbabwe, used to be the Secretary General of the Zimbabwean Congress of Trade Unions (ZiCTU).⁴⁰

There was some harmony between trade unions and political parties in the struggle for political emancipation or independence. Trade unions even enjoyed autonomy and played a more important role especially when political parties were prohibited and their leaders and militants prosecuted, arrested, or condemned to exile.

However, parties were progressively recognised during the last decade of colonialism. Considering their primary objective, which is less political than associational, trade unions were overtaken by political parties and as their affiliates became less autonomous.

2.2 Trade unionism and politics in post-colonial Africa

The leaders of the newly independent states had learnt from the past. As they were aware of their contribution to the struggle against colonialism, most of them understood that unions had to be prevented from turning against their own regimes if they wanted to consolidate their power. This required recruiting among their members or subjecting trade unions to their government. The governments of the newly-independent African states were unwilling to

³⁹Schillinger op cit 2.

⁴⁰Hungwe, Augustine, “An Analysis of the Emerging Political Dispensation in South Africa – Parallels Between ZCTU – MDC and COSATU’s Relationship to ANC”, at <http://concernedafricascholars.org/bulletin/79/hungwe> accessed 23 June 2012.

tolerate the existence of autonomous institutions that could later challenge their authority and provide an alternative supply of political leaders.⁴¹

Scott argues that the character of trade unionism in Africa changed since independence and the initiative was placed in the hands of politicians, especially of the ruling parties.⁴²

When military regimes and single parties were established a few months or years after independence, it was not only the opposition parties, which were to be banned, but also the existing trade unions that constituted a threat to the regime. The military regime was incompatible with the existence of independent trade unions and so was the one party state. Single-party regimes left little or no room for free and independent labour unions.⁴³ Existing trade unions became branches of the regime or were suppressed.

Despite their incorporation into the one party state, trade unions remained active underground and became the only opposition to government and to the Structural Adjustment Programmes (SAPs) that proved to be antisocial, anti-poor and anti-labour.

Trade unions allied with human rights organisations to oppose the one party or military regime and demanded democracy and respect for human rights. The revolt against the failed “dictatorships of development”⁴⁴ imposed or sponsored by international financial institutions and Western governments resulted in the collapse of the one-party state and led to political liberalisation or democratisation in Africa. In many countries, trade unions became political actors for democratic change.⁴⁵

⁴¹ Scott op cit 28.

⁴² Idem.

⁴³ Schillinger op cit 2.

⁴⁴ See Mangu AMB *The Road to Constitutionalism and Democracy in Post-colonial Africa: the Case of the Democratic Republic of Congo*, unpublished LLD Thesis, University of South Africa, 2002, 44-45; Sklar RL “developmental Democracy”, in Nyang’oro J E (ed) *Discourses on Democracy: Africa in Comparative Perspective*, Dar-es-Salaam: Dar-es-Salaam University Press, 1996, 1-30.

⁴⁵ Schillinger op cit 3-4.

2.3 Trade unionism and politics in Africa since the establishment of a constitutional and democratic order

Unions re-emerged with the return to constitutionalism and democracy in the 1990s. Almost all African countries adopted new constitutions protecting human rights, including the right to freedom of association at the workplace that entails the right for workers, employees and employers to organise freely and unite in order to champion their interests.

This allowed for trade unionism to prosper on the continent as many trade unions were established *de jure*. This also provided the opportunity for trade unions and their members to re-engage with politics. Like during the last years of colonialism, some trade unions' leaders became political leaders and created their own parties, if they did not adhere to those that already existed. Faced with a plurality of parties, unions had to choose between supporting the ruling party or the opposition parties. In a few cases like in Zambia and Zimbabwe, confederations of trade unions transformed into opposition parties before ruling the country.

The history of trade unionism and politics in South Africa bears testimony to the major political role played by trade unions in Africa.

3. Trade Unionism and Politics in South Africa

Scholars like Edward Webster, Sakhela Buhlungu, Richard Johnson, and Hubert Rene Schillinger have particularly reflected on trade unionism and politics in South Africa.⁴⁶ The history of trade unionism and its political involvement in South Africa may be divided into four periods, namely the colonial period from the Dutch settlement during the 17th century to the formation of the Union of South Africa in 1910; the period from 1910 to the establishment of apartheid (1948); the period from the creation to the end of apartheid in the late 1990, and the post-apartheid and democratic period.

⁴⁶ See Webster & Buhlungu "Between Marginalisation and Revitalisation" op cit 229-245; Johnson R W "The Political Role of the Trade Unions in South Africa", at <http://www.africa.fnst.org/resource?the-political-role-of-trade-unions-in-south-africa> accessed 13 June 2012.

3.1 *Trade unionism and politics in colonial South Africa*

South Africa's colonisation started during the 17th century, when the Dutch East India Company established a provisioning station at the Cape around 1652.

According to Scheepers, Finnmore and Van der Merwe, the first unions were established in the late 1870s or early 1880s.⁴⁷ These trade unions represented skilled white workers mainly recruited from Australia and Europe.

The skilled mineworkers and artisans who poured into South Africa from overseas, during the latter half of the 19th century brought with them their peculiar style of unionism.⁴⁸ Between 1889 and 1902, attempts were made to secure cheap labour.⁴⁹ These attempts were relatively unsuccessful because many Blacks did not return to the mines after the Boer war. As a result of the failure by Blacks to return to their work after the war, in 1904, a large number of Chinese workers were imported.

Many problems arose and the Chinese workers were repatriated in 1907 because of the pressure from the British government. After the Anglo Boer War, the mine owners resumed the search for ways to reduce their labour costs.

Most of the unskilled labourers were deployed to do the work previously done by skilled miners. Threatened white miners who feared competition began to organise themselves and went on strike over wage-cutting in one of the mines. After the strike, miners decided to form a Transvaal miners' association, which was composed of whites only.⁵⁰ Trade unionism at this time presented little interest not only because trade unions that were allowed to operate excluded Black and unskilled workers who constituted the overwhelming majority, but also because they played a marginal political role.

⁴⁷ Scheepers A "The challenges facing Trade Unions" in Coetzee JAG *Industrial Relations in South Africa* (1976) 149-150. See also Budeli, Kalula & Okpaluba op cit 19.

⁴⁸ Jones RA *Collective Bargaining in South Africa* (1982) 26

⁴⁹ Budeli, Kalula & Okpaluba op cit 19

⁵⁰ Brassey M *Employment and Labour Law* Vol 1 (1998) A1: 20.

3.2 Trade unionism and politics after the creation of the Union of South Africa to the establishment of apartheid

The 1910 Constitution of the Union of South Africa ignored the rights and liberties of Black South Africans and protected those of the White minority only. Labour legislation enacted under this Constitution also favoured trade unionism by White employees. They alone were entitled to the right to freedom of association in the workplace, to organise, form and join a trade union, and also to strike. The Mines and Works Act of 1911 was passed to protect skilled White miners.⁵¹ The 1911 Native Labour Regulations Act prohibited strikes by Blacks and reinforced criminal sanctions for breach of employment contract by Black workers. It also instituted the “colour bar” or control of movements of the Black people in white occupied urban areas.⁵²

In 1912, mindful of the discriminations suffered by Black employees, the South African Native National Congress (SANNC) was created. It was the forerunner of the African National Congress (ANC). This explains the early support the ANC enjoyed from South African Black employees and the majority of the population. The SANNC embarked on a violent campaign against the 1910 Constitution and against legislation that reserved jobs for whites and coloured only while denying Blacks the right to organise at the workplace.

The period between 1917 and 1924 was marked by incidents of industrial unrest caused by White workers who rejected employers’ attempts to introduce cheap Black labour and retrench some White workers. The labour unrest that took place on the Witwatersrand⁵³ in 1922 was called the “Rand Rebellion”⁵⁴. The Rand Rebellion precipitated change of labour legislation. Accordingly, the Industrial Conciliation Act (ICA) was passed in 1924 and became South Africa’s first comprehensive labour legislation. However, only White and coloured workers were permitted to form and join registered trade unions. Industrial unions by blacks emerged outside the system.

⁵¹ See Coetzee JAG *Industrial Relations in South Africa* (1976) 179. See also Budeli, Kalula & Okpaluba op cit at 21.

⁵² See Brassey op cit at A1: 23; Finnemore & Van der Merwe op cit 223.

⁵³ See Coetzee op cit 179.

⁵⁴ Van Jaarsveld & Van Eck op cit 254.

A critical point in the history of freedom of association and trade unionism in South Africa was reached in 1926, when the South African Trade and Labour Council (SATLC) was formed.⁵⁵ The SATLC pursued a policy of open membership for all trade unions in order to achieve national unity and promoted the establishment of parallel Black unions. As a result, few Black trade unions were formed but not registered. The ICA of 1926 was amended in 1930 and 1937 respectively. However, these amendments did not solve the problems of the dual industrial relations system.

In 1941, the government appointed the Landsdown Commission, which advised against the recognition of Black trade unions on the ground that they were not coming from workers themselves, but were manipulated by the communists in the ANC. Towards the end of 1946, a strike broke out and as a result many people were injured. The government's response to the strike was to table amendments to the ICA to prohibit strikes by Blacks and shatter the Black trade union movement.⁵⁶

3.3 Trade Unionism and politics under the Apartheid Rule

In 1948, the National Party (NP) government was elected and institutionalised Apartheid. Shortly after taking office, the NP government established the Botha Commission of inquiry to investigate the whole spectrum of labour relation matters in South Africa.⁵⁷

As a result, the government passed the Suppression of Communism Act that suppressed any collective organisation or movement by Blacks, including trade unions. Many Black trade unions leaders were arrested and banned.

In 1954, the South African Trade Union Council, which became later the Trade Union Council of South Africa (TUCSA), was formed.⁵⁸ Although Black trade unions were excluded, their members were encouraged to form parallel unions to liaise and maintain a close working relationship.⁵⁹ In 1955, some erstwhile affiliates of TUCSA came together with some members of the Council of Non-European Trade Unions to form a new body

⁵⁵ Brassey op cit A1:31.

⁵⁶ Idem A1: 36.

⁵⁷ The Botha Commission was established on 01 October 1948. It was headed by Botha and it is hereinafter referred as the Botha Commission. See Budeli, Kalula & Okpaluba op cit 27.

⁵⁸ See Finnemore op cit 24; Budeli, Kalula & Okpaluba op cit 28.

⁵⁹ Idem.

called the South African Congress of Trade Unions (SACTU). SACTU was to a large extent a federation of Black trade unions. SACTU maintained a close political link with the ANC and was active in promoting a political role for trade unions. SACTU advocated what Southall and Webster referred to as “political unionism”.⁶⁰

After the Sharpsville massacre in March 1960, banning orders were served on some political parties such as the ANC, SACP, Pan Africanist Congress (PAC) and all SACTU leaders. As a result, Black trade unionism virtually disappeared during the 1960s.

The Union of South Africa became Republic of South Africa under the NP government in 1961 and adopted a new constitution. This Constitution made provisions for social and political participation in the highest affairs of the State by “Whites” only.⁶¹

In 1964, due to its apartheid policy, South Africa withdrew from the International Labour Organisation.

In 1973, Black workers embarked on strike over wages. After the strike, they started organising themselves into trade unions referred to as “independent trade unions”.⁶² In response, the Bantu Labour Regulations Act was passed in 1973 to regulate the conditions of employment for Black employees and undermined the development of Black trade unionism.

As a result of the pressure from the outside world, the government appointed the Wiehahn Commission of Inquiry into Labour Legislation in 1977. In its 1979 report to the government,⁶³ the Commission recommended that freedom of association be granted to all employees regardless of sex, race or creed and that trade unions be allowed to register irrespective of their composition in terms of colour, race or sex.⁶⁴

⁶⁰ Southall & Webster op cit 132.

⁶¹ Burdzik J & Van Wyk D “Apartheid Legislation 1976-1986” (1987) *Acta Juridica* 123.

⁶² Maree op cit 1-2.

⁶³ Report for the Commission of Inquiry into Labour Legislation Part 1 RP 47/1979.

⁶⁴ See Roos J “Labour Law in South Africa 1976-1986 : The Birth of the Legal Discipline” (1997) *Acta Juridica* 96-98; Du Toit op cit 9; Budeli, Kalula & Okpaluba op cit at 33.

Trade unions were granted full autonomy in respect of their membership and all racial restrictions were removed. The definition of “employee” was changed to avoid any reference to race or any other ground of discrimination.⁶⁵

Accordingly, a number of trade unions were formed in the 1980s on the principles of non-racialism. Some Black and mixed trade unions were also formed and registered. This constituted a virtual revolution in industrial relations in South Africa. In 1983, a constitution was adopted and like its predecessors, entrenched and enforced racial discrimination.⁶⁶

In 1984, the government created a tri-cameral parliament extending political rights in central government to coloureds and Indians but still excluding Blacks. The Black labour movement organised further to fight the entrenched apartheid government.

As a result, in 1985, the Congress of South African Trade Unions (COSATU) was formed with strong support from the banned ANC.⁶⁷ COSATU supported the political struggle and called for international sanctions and boycotts against the apartheid government.

In 1986, other trade unions were formed under the umbrella of the IFP and Pan African Congress (PAC).⁶⁸ Between 1988 and 1990, the maintenance of apartheid in South Africa led to further subjection and harassment of trade unions and labour leaders. In 1990, President FW De Klerk announced the release of Nelson Mandela and other political prisoners. The government lifted the ban on various political organisations including the ANC, PAC and the United Democratic Front (UDF). In September 1990, the government entered into a broad-ranging agreement with the South African Consultative Committee on Labour Affairs (SACCOLA), COSATU and NACTU and committed itself to modifying those provisions of employment law statutes, which labour found most offensive. The Black working class became obviously the driving force of the struggle against apartheid.

⁶⁵ See Pienar G “Freedom of Association in the United State and South Africa: A Comparative Analysis” (1993) *CILSA* 147 at 169; Finnemore op cit 31; Van Jaarsveld & Van Eck op cit 255.

⁶⁶ Burdzik & Van Wyk op cit 126.

⁶⁷ Southall & Webster op cit 132.

⁶⁸ These unions include the United Workers Union of South Africa (UWUSA), the Azanian Council of Trade Unions (AZACTU) and the Council of Unions of South Africa (CUSA). UWUSA and NACTU joined forces to establish the National Council of Trade Unions (NACTU).

Although the South African Communist Party (SACP) played a central role in the organisation of Black workers into trade unions during the 1920s, 1930s and 1940s⁶⁹, it is only during the 1950s that labour began to engage in party politics seriously, especially since the creation of the South African Congress of Trade Unions in 1955.

Aligned with the ANC after the suppression of the Communist Party⁷⁰ and its reformation underground as SACP, SACTU suffered the same fate when this party and other anti-apartheid movements were banned and driven into exile from 1960 to 1970s.⁷¹ The South African Allied Workers' Union (SAAWU) followed in the SACTU tradition when it was created in the late 1970s. SAAWU considered that trade unions had an obligation to take up community issues. COSATU was created in 1985 as a "strategic compromise" between the national democratic and shop-floor traditions of trade unionism in South Africa.⁷² During the late 1980s, COSATU was the *de facto* leader of the internal anti-apartheid movement.⁷³

According to Southall and Webster, "COSATU committed itself to participation in the national democratic struggle under the leadership of the ANC and joined the tripartite alliance not as a subordinate partner (as had SACTU) but, formally, as an equal player with an independent power base, strategy and leadership".⁷⁴ This changed with the unbanning and the return from exile of the leaders of the two other tripartite alliance partners, namely the ANC and SACP. Accordingly, there was a power shift to the political parties that had to play the central role in the transition process, mostly the ANC which was to lead the post-apartheid government.⁷⁵ COSATU was excluded from the Convention for a Democratic South Africa (CODESA), the forum which negotiated the making of a new Constitution.⁷⁶

The ANC took the leadership of and dominated the alliance. The dominance of the ANC inside the Alliance increased significantly after the passage of the Growth, Employment and Redistribution strategy (GEAR) in June 1996.⁷⁷

⁶⁹ See Southall & Webster op cit 135; Simmons J & Simmons R *Class and colour in South Africa 1850-1950*, London: International Defence and Aid Fund for Southern Africa, 1981.

⁷⁰ The Communist Party was dissolved by the Suppression of Communism Act (No 44 of 1950) and reformed underground as the SACP in 1953.

⁷¹ Southall & Webster op cit 132, 135, 136.

⁷² Idem 151.

⁷³ Webster & Buhlungu "Between Marginalisation and Revitalisation?" op cit 236.

⁷⁴ Southall & Webster op cit 139-140, 153.

⁷⁵ Webster & Buhlungu op cit 236.

⁷⁶ Southall & Webster op cit 140.

⁷⁷ Webster & Buhlungu op cit 236.

COSATU was neither demobilised nor tamed during the transition period from 1990-1994 and its ability to mobilise mass support for the ANC's position during the negotiations was critical.⁷⁸

However, according to Webster, with the ANC asserting its hegemony and set to lead the post-apartheid government, COSATU's position within the alliance drifted into one of subordination.⁷⁹ This remind us of the post-colonial situations where political parties had to prevail and subordinate other freedom movement actors, including unions, after having coalesced with and used them during the struggle.

3.4 Trade unionism and politics in post-Apartheid and democratic South Africa

Despite the shift of power to the ANC in the Alliance, trade unionism continued to play a critical role to ensure that labour benefit from the new democratic order. Although COSATU was excluded from CODESA, the ANC and SACP, its partners within the alliance had to make sure that COSATU's interests were secured.

Accordingly, the 1993 or "Interim" Constitution that resulted from the negotiations contained a Bill of Rights that protected the rights of all the people in the country, including the right to freedom of association at the workplace. These rights were consolidated in the 1996 or "final" Constitution.

Later on, COSATU had twenty (20) of its leaders elected as Members of Parliament on the ANC's national lists and several others on its provincial and local lists during the first democratic elections held in 1994 and 1995.⁸⁰

The Labour Relations Act (No 66 of 1995), which was the first piece of post-apartheid legislation that promoted workers' rights and interests through a new vision of work and industrial relations in South Africa was the result of the close relationship between trade

⁷⁸Southall & Webster op cit 140.

⁷⁹ See Southall & Webster op cit 140; Webster E "The politics of economic reform: trade unions and democratization in South Africa", *Journal of Contemporary African Studies* 16 (1), 1998, 39-64.

⁸⁰ See Southall & Webster op cit 141; Johnson R W "The Political role of the Trade Unions in South Africa", at <http://www.africa.fnst-freiheit.org?resource/the-political-role-of-trade-unions-in-south-africa> accessed 20 June 2012.

unionism and party politics.⁸¹ Followed by the Basic Conditions of Employment Act (No 75 of 1997), the LRA of 1995 was far more favourable to workers and trade unions than any other legislation that preceded it.⁸²

Despite its affiliation to the ANC and its association with SACP, COSATU remained an important social and political force in South Africa, a “kings’ maker”, and strategically succeeded in promoting the rights and interests of its members through its participation in the tripartite alliance. However, its senior leaders deployed to the government and Parliament rapidly lost their close ties to labour. Southall and Webster considered this a “brain drain” for COSATU.⁸³

Like most SACP leaders deployed to Cabinet, most COSATU leaders became themselves and tended to behave like “petty bourgeois”, being more preoccupied with their personal interests than those of the working class that they claimed to represent and fight for. Some ended up becoming careerist politicians and contributed to reinforcing COSATU’s subordination to the ruling party.

COSATU itself has regularly and bitterly complained about its marginalisation within the Alliance.⁸⁴ However, could it expect a better treatment when it had become a “party-ancillary movement” or a “party-surrogate movement” to borrow from Martin’s categorisation⁸⁵ of trade unions? As in communist states or “state parties”, COSATU is used as an instrument⁸⁶ by the ANC for mobilising votes during elections, but otherwise ignored.⁸⁷

Tensions within the Tripartite Alliance became explicit in the run-up to the 2002 national conference that elected the leadership of the ANC and the country. They culminated during the 2007 ANC national conference when COSATU and SACP together with the ANC Youth League openly campaigned against the incumbent President Mbeki. They even got him replaced by President Jacob Zuma whom they thought was closer to the people and

⁸¹ Southall & Webster op cit 141.

⁸² Idem 153.

⁸³ Idem 141.

⁸⁴ Southall & Webster op cit 142-143.

⁸⁵ Martin op cit 103-234.

⁸⁶ Idem 38-50.

⁸⁷ Southall & Webster op cit 142.

employees after accusing President Thabo Mbeki of pursuing a neo-liberal policy leading to greater poverty and unemployment, which was yet an ANC policy.⁸⁸

According to Roger Southall and Edward Webster, although COSATU was not formally represented at the conference, it was “the elephant in the room”, “a force which was not visible but which nonetheless had a powerful presence”.⁸⁹ They held that “it was a – and probably *the* – crucial factor which provided for systematised backing for a Zuma slate of candidates, as well as for Zuma himself” after they had succeeded in infiltrating the ANC branches across the country and achieving what Southall and Webster considered “an internal capture of the party”.⁹⁰ Southall and Webster held that this signalled the re-emergence of a powerful trade union movement in South Africa which had been marginalised under Mbeki’s presidency.⁹¹ This “re-emergence” of COSATU was short-lived, as the ANC did not take long to assert its prominence over its two partners within the Tripartite Alliance and imposed its macro-economic neo-liberal policy that Thabo Mbeki was blamed for and cost him the presidency.

Southall and Webster argue that contrary to the discourse for public consumption, much of Zuma’s backing was opportunistic, scarcely ideological as Zuma’s populist campaign provided no coherent alternative to the government’s economic programme.⁹²

As the ANC prepares for its 2012 national conference in Mangaung, the feeling is that little change has been made in the economic policy since Thabo Mbeki’s departure. Some of the very same people who voted Mbeki out did not take wait too long to call him back as they rightly or wrongly judged him better than his successor.

What is the future of the Tripartite Alliance? Is COSATU going to withdraw and create its own party, enter into opposition against the ruling party that led the struggle against apartheid and get its Secretary General elected president as the ZaCTU and ZiCTU did in Zambia and Zimbabwe respectively? Is it in the best interest of labour for COSATU to remain indefinitely

⁸⁸ See Southall & Webster op cit 142, 147-150.

⁸⁹ Southall & Webster op cit 150.

⁹⁰ Idem 150, 154.

⁹¹ Idem 131.

⁹² Southall & Webster op cit 142-143.

within the Alliance as a client and an affiliate instead of asserting its own autonomy and disengaging from party politics?

Is such a high politicisation of trade unionism that could be justified during the struggle and reminds us of the communist era acceptable in post-apartheid and democratic South Africa without undermining labour and democracy in this country?

Is it also beneficial to the ANC as a political party? For how long should the ruling party expect to retain power while subjecting its policies to one confederation of trade unions and partnering with it without alienating the support of other trade unions, labour, and other components of the people who do not belong to this confederation of unions?

Many reasons may account for a trade union's continuous alliance with a ruling party rather than to follow the example of the Ghana Trade Union Congress that moved from a relationship of close connection with the ruling nationalist party due to marginalisation and repression to one of autonomy.⁹³

COSATU's threat – with the SACP – to create a socialist party⁹⁴ proved to be blackmail and never materialised since they knew that such a party would be a still born and would not change the balance of power held by the ruling party. However, as stressed earlier, the ANC should be warned that such a mutation is not totally excluded and COSATU may follow the example set in the Southern African region by two other confederations of unions, namely ZaCTU and ZiCTU that transformed into opposition parties (MMD in Zambia and MDC in Zimbabwe) to ruling parties that led the struggle (Kaunda's United National Independence Party- UNIP – in Zambia and Mugabe's ZANU- PF in Zimbabwe) and won elections against them.⁹⁵

⁹³ Akwetey & Dorkenoo op cit 39-57.

⁹⁴ Southall & Webster op cit 154.

⁹⁵ Hungwe op cit.

Between the Alliance's members, the divorce is not excluded in the long run with its dire consequences for each of the three "partners". As in Australia, New Zealand,⁹⁶ and Britain an important part of the ANC membership and affiliation comes from COSATU. However, the Tripartite Alliance still stands firm in the short term.

Despite the fact that the level and intensity of its support has declined significantly over the years, COSATU's membership in general and leadership in particular has on balance been a significant beneficiary of the ANC's rule and will continue to remain loyal to the ANC, at least for some time.⁹⁷ However, no relationship or alliance is eternal on earth. This is a lesson that COSATU can learn from other trade unions.

There is certainly a need for revitalisation of South African trade unionism in the face of its marginalisation due to its political affiliation to the ruling party.⁹⁸ On the other hand, ANC leaders and militants should not be amnesic and fall in the same mistake as their NP counterparts who had wrongly thought that apartheid was eternal and they would rule for ever. It is unlikely that the ANC will beat the record set by the NP and remain in power for more than five decades.

One may also wonder whether the political involvement of a trade union federation like COSATU and the promotion of the interests of its members and society at large necessarily require its membership of a political alliance or its affiliation to a political party. It would also be contentious to argue that COSATU would not have achieved anything outside the alliance.

Nevertheless, such a close association or excessive politicisation of trade unionism, which is frequent in Africa and perhaps more pronounced in South Africa than in other parts of the continent, presents us with a difficult problem related to the autonomy, the politicisation of trade unions, the unionisation of political parties, and the demarcation between a trade union and a political party.

⁹⁶ Milbrun op cit 677.

⁹⁷ Southall & Webster op cit 143.

⁹⁸ Webster & Buhlungu "Between Marginalisation and Revitalisation" op cit 229-245.

4. Conclusion

Trade unions are important and influential bodies or, according to Clegg, “one of the most powerful forces shaping our society and determining our future”.⁹⁹ They are not only social and economic, but they also have political powers. In Africa as elsewhere, trade unions have been involved in politics and played a crucial political role since the colonial era.¹⁰⁰

As pressure groups, trade unions will always strive to influence politics or government in favour of labour principally and accessorially to promote the interests of the society at large. On the other hand, political parties will always woo them with promises of improvement of the living conditions for their members in order to be voted in power during elections.

To respond to the question on the state of trade unionism and its relationship with politics in Africa, one may say that even in South Africa where it looks stronger than in other parts of the continent, trade unions are weak¹⁰¹ and marginalised,¹⁰² but they are feared and remain political forces to be reckoned with.¹⁰³

The relationships between trade unions and governments are complicated and the pattern varies over time. Unions have sought the assistance of governments in achieving safeguards for their members. Governments have also taken an interest in the functioning of trade unions.¹⁰⁴ Southall and Webster wondered whether there were new directions for the relationships between trade unions and governments.¹⁰⁵

There will always be a tendency for politics and political parties, especially ruling parties, to control and subject trade unions while the latter will fight to increase their influence in politics and lead it in a direction that better promote and protect the interests of their members.

⁹⁹ Jackson op cit 1.

¹⁰⁰ See Johnson op cit; Schillinger op cit; Milbrun op cit 672-687; Webster E “Trade Unions and Political Parties in Africa: New Alliances, Strategies and Partnerships” op cit; Pfeffermann op cit 213-230.

¹⁰¹ Schillinger op cit.

¹⁰² Webster & Buhlungu “Between Marginalisation and Revitalisation” op cit 229-245.

¹⁰³ Schillinger op cit 7.

¹⁰⁴ Jackson op cit 148.

¹⁰⁵ Southall & Webster op cit 148-169.

The relationships between unions and governments, whether they remain simply at the discussion and consultation level or whether they extend to formal social contract type arrangements, raise problems as well as possibilities for trade unions.¹⁰⁶

A trade union's refusal to enter into discussions or agreements may mean that unions lose the opportunity to influence events in a way that would benefit their members. On the other hand, its willingness to do so may lead to its incorporation into the capitalist state and loss of independence.¹⁰⁷

Democratic consolidation in Africa, including South Africa, requires a new role for trade unions that should be autonomous. Any consolidated democracy is based on strong political parties as well as trade unionism. Therefore, trade unions' affiliation to or dependence on the ruling party may become a threat to democratic consolidation.

According to Jackson, there is not any blanket answer to the dilemmas facing union/government relationships. The nature and type of these relationships will depend on the historical, social, legal and political context of each particular country and these relationships are not static.¹⁰⁸ Politics is dynamic. So is trade unionism.

As Jackson pointed out, "Trade unions never have been, nor ever could be, static organisations. They have changed and developed and will continue to do so. In part the way they change will be a response to the environment in which they operate".¹⁰⁹

I also agree with Roger Southall and Edward Webster that in truth, there can be no single, programmatic, and final answer to the dilemmas posed by union-party relationships, for they are shaped in different countries by different historical and national circumstances.¹¹⁰ Some answers to those dilemmas are better than others. I hope that the ones provided here tonight are among the best but as I promised in the introduction, some questions which are not all too

¹⁰⁶ Jackson op cit 179.

¹⁰⁷ Idem.

¹⁰⁸ Jackson op cit 179.

¹⁰⁹ Jackson op cit 179.

¹¹⁰ Southall & Webster op cit 160.

familiar to many labour law scholars and other social scientists remain unanswered for further discussions required by the advancement of knowledge.