

**ASSESSMENT OF PERFORMANCE OF TRADE UNIONS IN
MALAWI**

MASTER OF HUMAN RESOURCES MANAGEMENT DEGREE

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**A Thesis Submitted to the Department of Political and
Administrative Studies University of Malawi- Chancellor
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Human Resources Management Degree**

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DECLARATION

I hereby declare that this thesis entitled: **Assessment of Performance of Trade Unions in Malawi** is my own work and that it has not been submitted to any university before for any award.

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JULY 2008

CERTIFICATE OF APPROVAL

We, the undersigned, certify that we have examined and recommend to the Postgraduate Studies and Research Committee and Senate the acceptance of this thesis entitled: “ASSESSMENT OF PERFORMANCE OF TRADE UNIONS IN MALAWI” submitted by ISAAC EDWIN GOODWIN KAMBILINYA in fulfillment of the requirements for the award of the degree of Master of Arts (Industrial Relations).

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Dedication

To my dear wife, Mary, our three sons Noel, Chilungamo, Patrick and my parents Mr and Mrs E. G. Kambilinya for their prayers and moral support they provided me during the entire three-year duration of my studies. May God bless them.

Abstract

Trade unions have operated in Malawi for sometime since the colonial era. They have operated under various political systems. There have been problems associated with the running and operations of various unions that have led to problems of operational efficiency and effectiveness of trade unions in Malawi. Although a number of studies and researches have been conducted on various aspects of trade unions, not much has been done specifically focusing on performance of trade unions in Malawi.

The purpose of the study is to assess the performance of trade unions in Malawi. The study focused on all organizations that have registered trade unions in Malawi. There are two main local registered trade union federations in Malawi. These are Malawi Congress of Trade Union (MCTU) and Congress of Malawi Trade Union (COMATU). MCTU has 16 affiliate trade unions while COMATU has six affiliate trade unions. With the inclusion of the two trade union federations, there are 24 registered trade unions in Malawi. A sample of 10 registered trade unions was drawn through stratified random sampling method. The sample was stratified by federation. Therefore, the sample comprised seven affiliate trade unions from MCTU and three affiliate unions from COMATU.

One of the major findings of this study is that trade unions in Malawi have not adequately met the needs of employees. From the data collected, the study established roles of trade unions and how they can be achieved as perceived by trade unions themselves and other stakeholders. The study has also identified some of the problems affecting trade unions. In addition, it has further come up with proposed strategies to improve the performance of trade unions in Malawi.

Some of the main recommendations for trade unions to improve their performance are: improvement on fundraising to establish a sustainable financial base; improvement on marketing for increased membership; training and capacity building of union leaders and members; creation of permanent secretariat; improvement of relationship among union leaders and members; and trade unions should exercise good governance by abiding to and complying with the provision of their constitutions.

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List of Abbreviations

ABC	African Bible College
BCCEAWU	Building Construction on Civil Engineering and Allied Workers Union
CBAs	Collective Bargaining Agreements
COMATU	Congress of Malawi Trade Union
CSTU	Civil Servants Trade Union
DOAWTU	Democratic Organisation of African Workers Trade Union
ECAM	Employers' Consultative Association of Malawi
EI	Education International
ESCOM	Electricity Supply Commission of Malawi
GIAWU	General Industrial and Allied Workers Union
HC	High Court
ICFTU	International Confederation of Free Trade Unions
ILO	International Labour Organisation
IRC	Industrial Relations Court
ITF	International Transport Workers Federation
ITGLWF	International Textile Garment and Leather Workers Federation
IUF	International Union of Food
JCC	Joint Consultative Committee
MANEB	Strengths, Weakness, Opportunities and Threats
MCTU	Malawi Congress of Trade Union
MPs	Members of Parliament
MRA	Malawi Revenue Authority
MSCE	Malawi School Certificate of Education
NSCM	National Seed Company of Malawi
PSEU	Private School Employees Union of Malawi
PUSEPA	Public Service Pensioners Association
QUAMIWU	Quarries, Mines and Infrastructural Workers' Union
SPAWUM	Sugar Plantation and Allied Workers Union of Malawi
TECOMA	Tea, Coffee, Macadamia and General Workers Union
TGLSWU	Textile Garment Leather and Security Services Workers Union
TUC	Trade Union Congress
TUCM	Trade Union Congress of Malawi
TULRCA	Trade Union and Labour Relation (Consolidation) Act
UDF	United Democratic Front
UK	United Kingdom
UNI	Union Networks International
USA	United States of America
WETUM	Water Employees Trade Union of Malawi

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Chapter One: Introduction

1.0 Introduction

The purpose of this study is to assess the performance of trade unions in Malawi. The chapter highlights the background to the study and presents statement of the problem. The problem statement is derived from the gaps identified from previous related studies carried out by various authors.

The chapter proceeds to discuss the research hypothesis; overall and specific objectives. Furthermore, the chapter discusses the research process in relation to research methods and it comprises a study design; population; sample; sampling methods; data collection methods; data analysis and interpretations. It also explains the rationale of the study and lists some study limitations faced. Finally, it provides a conclusion to the chapter.

1.1 Statement of the Problem

Trade unions have operated in Malawi for some time since the colonial era. The unions have operated under the various political systems such as colonial, one party, multiparty and post-multiparty eras. However, there have been problems associated with the running and operations of various unions leading to problems of operational efficiency and effectiveness of unions in Malawi.

A number of studies and researches have been done on various aspects of trade unions but not much research focusing on performance of trade unions in Malawi. This study therefore intends to assess the performance of trade unions in Malawi and to determine the reasons for this under performance. The main focus of this study is to complement the other researchers by contributing towards filling this gap.

According to Dzimbiri (2004, 18 17-33) trade unionism was affected during the various political systems this country underwent from colonialism through to post-multipartism.

The report, in detail, contrasts the inevitable dilemma between the need to meet economic development programmes on one hand and international human rights standards such as freedom of association, collective bargaining and right to strike on the other hand. Manda (2008:8-14) also writes on how the state in various forms sought to control labour movement and its activities in order to protect the interests of the capitalists and its own credibility. This work articulates how Malawi labor movement has remained weak from colonialism to post-independence.

However, Phiri (*Nation, Jan. 10 2005*) argues that trade unions play a vital role in most of the economies, in Africa both in past and present, they have been treated with suspicion by employers and governments. He explains that during pre-colonial days, trade unions turned to be the training grounds for political leadership. Between 1986 – 1992, labour force was estimated at 42% of the total population and that there was a general increase in the number of persons in paid up employment in Malawi, Kalula and Madhuku (1997: 99-107). The research also reveals that the level of unionization in public sector was not high due to the fact that unionism was a new concept in Malawi. On the other hand, Manyamba (HRM/17/03) identifies the problems of uncertainty and instability in the employment relationships in workplaces and subsequent constraints and challenges in the progress of trade unions in Malawi.

Although in some of the literature highlighted above, performance of trade unions has been mentioned, not much detail has been given on performance of trade unions in Malawi. This study therefore endeavours to assess the performance of sampled trade unions in Malawi. Specifically the study focuses on the following indicators of performance; levels of negotiations and collective bargaining with management; capabilities to fund raise; levels of influencing labour policies; levels of good governance in complying with requirements of union constitutions and labour legislations; levels of affiliation to local and international federations; levels of training and capacity building; level of improvements in terms and conditions of services; level of influence on formulation of favourable labour laws and ability to organize various sensitization

activities for employers and employees in the place of work; and ability to recruit new union members.

1.2 Objectives of the Study

The overall objective of this study is to assess the performance of trade unions in Malawi.

1.2.1 Specific Objectives

In order to achieve the overall objective, the following specific objectives were pursued in this study:-

- ❑ To identify and analyze the perception of employers, employees (unions) and other relevant stakeholders on the role of trade unions in Malawi.
- ❑ Assess the performance of trade unions in relation to meeting employees needs.
- ❑ Identify and analyse the challenges trade unions in Malawi face.
- ❑ Examine factors influencing performance of trade union in Malawi.
- ❑ Analyse strategies on how to improve the performance of trade unions in Malawi.

1.3 Research Hypothesis

The hypothesis in this study is that trade unions in Malawi have been under-performing hence do not adequately meet the needs of employees.

1.4 Rationale of the Study

From labour economics perspective, one learns that productive resources are relatively scarce or limited. In contrast, society material wants, the needs of customers, businesses and government institutions for goods and services exceed the production capacity.

McConnell and Brue (1984: 1 – 4) believe that both qualitatively and quantitatively, the economic system is incapable of providing all the products and services which individuals and institutions would like to have. Since resources are scarce and wants are virtually unlimited, society is obliged to manage its resources as efficiently as possible so as to achieve maximum fulfillment of wants.

According to McConnell and Brue (1984: 1- 4), labour economics is important because most of compelling socioeconomic issues of the day center upon the labour section of the economy. They argue that three quarters of national income flows to workers in forms of wages and salaries. They note that the primary source of income for vast majority of the households in the United States of America is from provision of labour services. There appears to be a similar situation in Malawi. The primary source of income for most of the people in Malawi comes from wages and salaries. Labor force was estimated at 42% of the total population and that there was a general increase in the number of persons in paid employment between 1988 and 1990 in Malawi, Kalula and Madhuka (1997: 99 – 107). This statistics imply that like in United States of America, the primary source of income for majority of households in Malawi is from provision of labour services. That is why, McConnell and Brue believe that both qualitatively and quantitatively labour is one of the most important economic resource.

It is also argued that labour markets have special characteristics. Labour markets transactions are very different from product market transactions. According to Marshall (in McConnell and Brue 1984:2),

It matters nothing to the seller of bricks whether they are to be used in building a palace or sewer, but it matters a great deal to the seller of labour, who undertake a person to perform a task of given difficulty, whether or not the place in which it is to be done is wholesome and pleasant one and whether or not his associates be such as he cares to have.

It must be noted that demands for particular kinds of labour are derived from demands of the products they produce. Samuelson and Nordhaus (1985 : 25) reiterate that because of its uniqueness, labour is the most familiar and critical factor of production to any economy.

Similarly, from industrial relations perspective, trade unions are institutions for organizing labour at a workplace. Industrial peace and harmony are very vital, for increased productivity and profitability in organizations, and national economic growth in general. Most countries that have experienced economic growth or economic revival, one finds industrial peace as one of the major contributing factors and it is argued that there can be no economic growth where there is no industrial peace (Phiri: *The Nation*, 10 January 2005). Strikes and threats of strikes frustrate production.

According to Dzimbiri (2004: 18, 17-18) the print media reported 90 strikes during 1992 – 1999 and a sample of 54 organisations reported 75 strikes involving 70,000 workers and 400,000 days lost. At the same time, the official records showed that there were 300 strikes involving 270,000 workers and 800,000 working days lost. From the statistics, using simple arithmetic, 800,000 days of strikes translate into 2,667 years of loss of goods and services for the society. This is on the assumption of a working year of 300 days (after excluding holidays and non-working week-end days). Although the figure of 2,667 years appears very unrealistic, this emphasizes the fact that there cannot be economic growth in an environment where there is no industrial peace and harmony.

It is therefore important and necessary to assess the performance of trade unions as institutions for organizing labour. It is only when trade unions are well organized and perform well that there will be industrial peace between employing organization and the labor movements. If trade unions are well organized, they will be able to execute their function and effectively achieve their set objectives in line with their constitutional requirements.

The lessons learnt from this study will be used to assist in improvement of performance of trade unions in Malawi and elsewhere.

1.5 Research Methods

1.5.1 Study Design

This study largely depends on qualitative method of data collection. . As a result, the key research questions are exploratory and descriptive. The study mainly used qualitative data to establish areas of common themes whereas the quantitative data was analysed to establish numerical comparative information.

According to Robson (in Saunders, *et. al* 2003:96), exploratory studies are valuable means of finding out what is happening; to seek new insights; to ask questions and to assess phenomena in this new light. This is particularly useful for clear understanding of a problem. On the other hand, the exploratory approach to this study has also been pursued for flexibility reasons. Adams and Schvanceveldt (in Saunders, *et. al* 2003: 97) argue that the flexibility inherent in exploratory research does not mean absence of direction to the inquiry but that the focus is initially broad and becomes progressively narrower as the research narrows.

In order to have a better understanding of the problem, the study also takes an inductive approach. Saunders, *et. al* (2003:87) confirm that inductive approach enables one to get a feel of what is going on so as to understand better the nature of the problem.

1.5.2 Malawi Trade Union Population

The population in this study includes all organizations that have registered trade unions in Malawi. There are two main local registered trade union federations in Malawi. The federations are Malawi Congress of Trade Unions (MCTU) and Congress of Malawi Trade Union (COMATU). Each of these federations is comprised of registered affiliate trade unions. MCTU comprises of 16 registered affiliate trade unions whereas COMATU has 6 registered affiliate trade unions. There is a total number of 22 registered affiliate trade unions for both MCTU and COMATU. This makes the total number of 24 registered trade unions in Malawi when the two trade union federations are included.

As can be seen, COMATU is the smallest federation in terms of number of trade unions affiliation. It represents 30% of affiliate registered trade unions and MCTU is the largest representing 70%.

1.5.3 Sample

The overall study sample covers a total of 10 unionized companies from the two main local trade union federations. The ten registered trade unions represent approximately 42% of the trade union population in Malawi. The sample is made up of seven trade unions from MCTU and three trade unions from COMATU. The seven trade unions represent approximately 41% of MCTU trade unions and the 3 trade unions represent 42% of COMATU trade unions.

1.5.4 Sampling Methods

In order to get a representative sample, stratified random sampling was used to identify a proportional sample size. The sample has been stratified by federations. Welman and Kruger (2004:56) argue that with stratified random sample, one is assured of representativeness irrespective of sample size because it has been in built into the sampling strategy right from the beginning.

1.5.5 Data Collection Methods

Data was collected using the following data collection tools:

i) Interviews

In order to collect in-depth information, face-to-face interviews were conducted with the respondents. Besides use of questionnaires, supplementary semi-structured questions were asked as follow-ups in order to give both the respondents and researcher clear understanding of the questions being asked and explanations to the questions.

ii) Questionnaires

Preset questions were administered to the respondents in order to ensure focus of the subjects being researched. The questionnaires ensured that data being collected was consistent. The questionnaires were designed in such a way that both quantitative and qualitative data would be collected. Different questionnaires were formulated for different information sources. In addition to union leaders, the questionnaires were administered to the following various key informants:-

Leaders and members of various selected unions in Malawi, Leaders of Employers Organization in Malawi, Representatives of Employers Organizations in Malawi, and Representatives of selected Government institutions such as:- a) Registrar of Trade Unions in Malawi, b) Labour Commissioner – Ministry of Labour, c) Chairman of Industrial Relations Court in Malawi, and d) The Ombudsman, and e) the Executive Secretary – Ombudsman office.

iii) Focus Group Discussions

It was envisaged that focus group discussions would be conducted in sampled companies. However, due to time limitations, these were conducted in two companies only, namely ESCOM and Lilongwe Water Board.

iv) Documentary/Archival Data

Some primary data in respect of the study was obtained through reading and analyzing various documents such as official government documents and correspondences; minutes of various meetings by unions and government; journals; ILO publications and reports; newspaper articles, newsletters and text books. Mason (in Dzimbiri 2002: 18) argues that written words, texts, documents, records are meaningful constituencies of the social world in themselves.

1.5.6 Data Analysis Method

The study collected both qualitative and quantitative data. Qualitative data was analysed by making systematic comparisons and aggregation of notes collected from the field. This data was analysed to establish areas of common themes. The analysis involved categorizing issues according to the themes relevant to the set research objectives.

In addition, quantitative data was also analysed to complement and assist interpretation of the qualitative data. Quantitative data was analysed by computing numerical comparative information for the study. Data was processed manually.

On the other hand, existing case studies and documentary data were used to explain various concepts relating to the study. The results derived from the data were related to relevant cases that happened elsewhere.

1.6 Study Limitations

The major study limitations were; Geographical coverage of unionized companies was too spread and this made it difficult for the researcher to visit all companies. Restrictions to collect relevant documents for the research were another limitation. For example in some situations, organizations and individuals did not allow the researcher to collect documents that were relevant to the study.

Unavailability and unwillingness by some sampled companies and individuals for interviews and discussions were also a problem. Some of the sampled organizations and individuals were unwilling to participate in interviews and discussions.

Scarcity of reading books was a limitation too. There were limited relevant reading books available since the field being studied is fairly new in Malawi compared to other disciplines. Nevertheless the sample of organizations visited was adequate to provide a basis for sound assessment and judgment of performance of unions in Malawi.

1.7 Conclusion

The chapter has given a background to the study. It has identified the gaps the study intends to fill by stating what the problem is. Furthermore, the chapter has described the entire research process the study has taken. In brief it has described the research design followed. It has defined the sample size and the methods followed to come up with the sample. Methods of data collection have been explained and limitations faced during the research process have been listed down. All in all, the data collected is adequate to provide a reasonable basis for sound assessment and judgment of performance of trade unions in Malawi.

Chapter Two: Literature Review

2.0 Introduction

This chapter discusses the available literature on meaning of trade unions; how they are determined structurally; what their roles are in terms of functions and objectives; how performance of trade unions is assessed, what their challenges are; and what strategies are applied to overcome the challenges. The chapter attempts to identify areas of relevance and similarities to trade union experiences in Malawi, and ends up with a conclusion drawn from the literature review.

2.1 Definitions of Trade Unions

This section explores trade unions definitions and at the same time identifies commonalities of such definitions by various authors. Finally it analyses whether trade unions in Malawi fall within the parameters of these definitions or not.

Section 2 (1) of Labour Relations Act, Cap 54.01 of Laws of Malawi describes a trade union as any combination of persons, the principal purposes of which are the representation and promotion of employees' interests and the regulation of relations between employees and employers and includes a federation of trade unions but not an organization or association that is dominated by an employer or employers' organization.

Furthermore, Section II (2) of the Act provides that seven or more members of unregistered union may apply for registration with the Registrar of Trade Unions. This implies that according to the Laws of Malawi, a minimum of seven people can form a trade union.

On the other hand, the MCTU Organisers Education Material (1990:1) defines a trade union as a voluntary, democratic, independent and sustainable organization formed by workers to protect and improve their working conditions of service through collective bargaining and other forms. The definition puts emphasis on the fact that a trade union is

a workers' organization where workers use it as a forum for expressing views on problems affecting them. It further indicates that a trade union is created to facilitate workers' participation in national development. It is felt that through trade unions, workers can play a meaningful role in the production, distribution and sharing of national wealth. Trade unions are also custodians of human rights, in particular workers' rights.

The MCTU definition relates to the Labour Relations Act definition in that both definitions agree that trade unions are workers' organizations whose purpose is to protect and promote workers' interests. The two definitions clearly exclude employers or employers' organizations.

However, Salamon (1992 : 77) describes trade unions as organisations of workers set up to improve the status, pay and conditions of employment of their members and associations of workers who by means of collective bargaining endeavour to improve their working conditions and economic and social positions. He further reiterates that the functional approach underlining the above descriptions include any organisation that adheres to these purposes irrespective of its "unionateness".

Unionateness is the extent to which an organisation is a whole-hearted trade union, identifying with the labour movement and willing to use all the power of the movement Blackburn (1967 :18).

He listed seven characteristics that describe a unionateness. The first one is that the organisation regards collective bargaining and protection of its members' interest as a major function. The second one is that it is independent from any influence by employers, particularly in relation to collective bargaining. The third one is that it is prepared to be "militant" through the use of industrial action. The fourth feature is that it declares itself to be a Trade Union. The fifth feature is that it is registered as a Trade Union. The sixth characteristic is that it is affiliated to the Trade Union Congress (TUC) and finally that it is affiliated to a Labour Party.

However, any general definition of trade union must encompass a variety of organisations, with varying degree of unionateness, ranging from traditional manual unions, white-collar unions, staff associations and professional associations (Salamon, 1992 : 78). There are three elements central to any definition, which distinguishes trade union from other organisations, and these are the nature of their membership; their purposes; and the means they employ to achieve their purpose. In this case he defines trade union as “any organisation, whose membership consists of employees, which seeks to organise and represent their interest both in the workplace and society and in particular, seeks to regulate their employment relationship through the direct process of collective bargaining with management”.

Section 28 of Trade Union and Labour Relations Act of 1974 English law defines trade union as an organisation whether permanent or temporary, which consists wholly or mainly workers of one or more description and is an organisation whose principal purpose includes the regulations of relations between workers of that description and employers or employers associations (Salamon, 1992 : 78). The law further acknowledges various grades of trade unions and these are: Registered trade unions. Registration in this case provides the union with certain advantages in the handling of its financial affairs; Independent trade unions. In this case, a registered trade union may specifically apply to Certification Officer in a declaration that it is not under the domination or control of an employer and not liable to interference by an employer. Recognised trade union is the one recognised by Management as representing all or part of workforce for the purpose of collective bargaining.

Trade unions are more than engines for converting bargaining power into improved pay and conditions of their members. They form an integral and important part of the system of checks and balances which compose capitalist and, liberal democrats, [Towers (1988 : 184)].

Furthermore, trade unions are also looked at as a continuous association of wage earners for the purpose of maintaining and improving the conditions of employment (Coates and

Topham , 1988 :1). They are unique means whereby men and women in employment can themselves decide how their interests can best be furthered. Workers have the right to combine to form their own organisations and through this means to advance and protect their interests.

On the other hand, trade union can also be defined as any organisation of employees which, first, has as one of its main objectives negotiating with employers in order to regulate the pay and conditions of its members and second, is independent of employers with which it negotiates or seeks to negotiate (Farnham and Pimlott (1995 : 105)

In conclusion, one observes that the common characteristics of all these definitions are that trade unions are organization of workers or employees, independent of employers or employers' influences, whose purposes range from protecting, improving and promoting interests or rights of its members and regulating the relationship between workers and employers. The definition of trade unions in Section 2(1) of Labour Relations Act Cap 54.1 of Laws of Malawi and Organisers Education Material (1999) of MCTU to a large extent falls within the definition of trade unions by the other authors above.

2.2 Theories to the Understanding of Trade Unions

Trade unions are employment organizations. As such it is important to know the various situations they operate in and why they operate in this manner. The understanding of the theories in respect of employment organizations provides a deeper understanding of why and how various company authorities treat trade unions differently as employment organizations.

There are three different scenarios in which trade unions may operate or may be treated by management as employment organizations. Salamon (1992: 31 – 39) and Farnham and Pimlott (1995: 44 – 58) describe the three scenarios in which trade unions operate as unitary, pluralistic and Marxist perspectives.

The unitary approach is a situation where it is assumed that a union is an integrated group of people with single authority with a set of common values, interests and objectives shared by all members of the organization. Under this set up, it is assumed that it is the responsibility of management to manage and make decisions. Any opposing views to management are considered to be irrational. There is no conflict of interests between providers of capital and workers.

This approach further assumes that there is harmony in the organizations and any conflict is not necessary. The effects of this assumption are that any expression of employee's dissatisfaction and differences with management are looked at as irrational activity. Under this assumption, management approach in solving conflicts tends to follow authoritarian and paternalistic style. The use of force to solve conflict is the common feature of such organizations. In this situation, trade unions are perceived as intruders from outside and that they compete with management for loyalty of employees.

Although management may accept the existence of trade unions when determining terms and conditions, they do not accept any authority and decision making role by trade unions within the organization. Under this approach, the existence of trade unions and collective bargaining suffers and management resists them.

It appears in Malawi a good number of companies follow unitary approach in the manner they treat trade unions. They avoid negotiations with trade unions. This is manifested through the existence of large numbers of companies that do not have trade unions despite the coming of democratization in Malawi. They fear or avoid having trade unions as structures for negotiating and bargaining conditions of employment with the company. The majority of the companies opt to have Joint Consultative Committees as opposed to trade unions.

The other approach is the pluralistic perception of employment organizations. The assumption in this approach is that organizations are composed of individuals who grow together into various distinct groups each with own interests, objectives and leadership.

The organization is seen as multi-structured and competitive for leadership, authority and loyalty. In order to manage tension and competition, there is need to manage a viable collaboration structure. Under this approach, there is a conflict of interest between management and employees. While management interest may include reduction of high operations costs in order to increase profits, this may conflict with employees' interest to increase wages and have high job security.

The pluralistic approach accepts that it is legitimate for employees to combine in formal organization in order to express their interests and seek to influence management decision to achieve their own objectives. This approach accepts the fact that trade unions and their representatives are as much an internal part of the organization. The pluralism is criticized for maintaining an illusion of a balance of power between the various interest groups, which hide the imbalance in the social power.

In contrast, the other assumption of employment organizations exists within a capitalist society where the production system is privately owned, profit is key influence on company policy and control over production is enforced by management who are representatives of capital owners. This theory recognizes that group conflict is a source of society change. It also recognizes the fact that class conflict arises where there is disparity in distribution of economic power. This gap is usually between owners of capital and suppliers of labour (workers).

Marxist Theory views trade unionism and industrial relations as political activities associated with the development of the working classes and that they are part of the overall political process of achieving changes in nature of economic and social systems.

In conclusion, the three theories of employment organisation are not mutually exclusive. They overlap in one way or the other. These theories assist in the understanding of the environments in which trade unions operate. As commented earlier, most of the trade unions in Malawi find themselves operating in unitary environment where most

management resists opposing views from suppliers of labour. This approach usually weakens the performance of trade unions in Malawi.

2.3 Structural Determinants of Trade Unions

This section of the study discusses the available literature on structures of trade unions. It explains how one can identify a union through a structure. It further explains situations where each structure is applicable. The section also identifies what form of structure trade unions in Malawi have taken and gives reasons why Malawi adopted such structures.

The classical analytical tool for determining the structure of trade unions in Britain was by dividing them into crafts unions, industrial unions and general unions (Farnham and Pimlott (1995: 118 – 119). Crafts unions referred to those unions whose members were intended to protect and promote a marketable profession and they were restricted to skilled and apprentice served workers. Doctors and engineers can fall under this category. Industrial unions referred to those unions formed in coalmines, docks, railways and gas industries. They covered all workers within a particular industry or organization regardless of trade, grade or skills. The general unions referred to the amalgamation of the existing trade unions. All employees regardless of their occupation or industry belonged to the general trade unions.

It is argued that this form of classification of trade unions is confusing. This is because it forces each union into a single category when in fact most of them have features common to all the three categories. Farnham and Pimlott (1995:120) notes that one observer of British Trade Unions structures rejected the classical classification thirty years ago. He rejected this classification on the basis that certain important classification in union types has their origin in slogans of dead ideological debate rather than in objective description. They neither explain the present morphology of trade unionism nor illuminate its likely behaviour.

It was suggested that a better analysis was the one that categorized unions into those with open and those with closed membership recruitment policies. Unions with open membership policies are often associated with big general unions that seek membership growth almost regardless of their members' jobs or industry where they work. These unions organize their internal structures to cope with diverse membership needs. Unions with closed policies do not seek growth in members but aim at security in closed situations and strong organizations. Their membership levels expand or contract according to the changing staffing levels in their industries.

Trade unions in Malawi are organized on industrial basis. This means one union for each industry. This is in accordance with government policy. Malawi opted for industrial trade unions under sectorisation plan due to political reasons and that this policy was another manifestation of the state strengthening its grip on labour movements (Manda 2000: 52 – 53).

The way the state did in establishing the Trade Union Congress (TUC) as the only national center for easy control of its leadership, the industrial structure adopted is also for the state to have control on individual unions. Both Employers Consultative Association of Malawi (ECAM) and Trade Union Congress of Malawi (TUCM) accepted the sectorisation plan instituted by government in July 1994. Under this plan twelve sectors were formed. It was noted that the objective of the sectorisation plan was to prevent the unnecessary multiplication of trade unions in Malawi. Although Malawi opted for industrial union structure, Section 16 (1-3) of Labour Relations Act 54.1 provides for formation of general unions through the process of amalgamation or merger for the purpose of strengthening membership and boosting the unions' financial status.

In conclusion, trade unions can be structured in various ways such as crafts unions, general unions, industrial unions and open or closed unions depending upon the prevailing situations. In Malawi, ECAM, MCTU and the government agreed to adopt the industrial union structure. At the same time, the Labour Relations Act provides for the formation of general unions through amalgamation process.

2.4 Functions and Objectives of Trade Unions

In order to be able to clearly assess performance of trade unions, it is important to know how various writers describe functions and objectives of trade unions. This section will therefore attempt to articulate functions and objectives of trade unions as covered in various industrial relations literature. These will also be related and compared to the general description of functions and objectives of Malawi trade unions.

Salamon (1992 : 96) defines an organisation's function as the role or task it is required to perform and the means to carry it out. In this case, if the organization is a trade union, its functions will refer to the roles or tasks it is required to perform and how it will perform the tasks.

He describes the roles of trade union through a theory where there are various players on a spectrum. He explains that at one end of the spectrum there is Marxist approach. This approach assumes that the primary role of trade unions plays in developing a socialist society is an expression of class consciousness which requires to be mobilized within a revolutionary political party if the full potential of the trade union has to be achieved. A relevant illustration of this in Malawi trade union is a situation where the MCTU warned government that they would be compelled to turn themselves into a political party if Members of Parliament (MPs) continued to misbehave in Parliament. *The Daily Times* (5th April 2005) quotes one of the union leaders as saying "Labour movement is an agent of change. Revolutions, that sometimes bring war, start with labour movements. Fortunately, there has never been war in Malawi. We warn MPs we represent the poor. We have the right to point out anomalies." The article further quotes the Deputy Secretary General of MCTU as saying, "We (MCTU officials) are political animals and we can become politicians."

At the other end of the spectrum there are those whose approach assume the function of trade union is to conduct its activities in a socially responsible manner by discouraging its members from demanding high wage increases and discouraging them from resorting to

industrial action and encourage them to co-operate with management in improving productivity. Within the spectrum, those who assume the functions of the trade unions should concentrate on the process of collective bargaining, job regulating and rule making in negotiation of terms and conditions of employment for their membership.

Salamon (1992:97) draws a comparison between the general approach of British trade unions in the manner they perform their role to other countries. The British trade unions are usually referred to as having welfare orientation. They look beyond the narrow economic and industrial interests of their immediate members. They are concerned with general social, economic and political matters. The MCTU seem to fit well with the welfare orientation role of British trade unions.

On the other hand, trade unions in USA are perceived to adopt a more business orientation and are reluctant to question or seek to change the economic, social or political system within which they operate. This is manifested in their dependence on collective bargaining process for the achievement of improved health and welfare provisions for their members from their employer instead of seeking general improvement through political system. As it has already been demonstrated in trade union structures, Malawi trade unions follow under industrial structure. They promote and protect the interests and rights of their workers within their industry. This structure reflects the USA business orientation role where the unions only concentrate in fighting for the rights of the workers within the industry they are operating.

Most trade unions in Malawi operate within the business orientation parameters. The European Unions appear to have a more political orientation. This is attributed to the vital role political parties played in the early part of their development. For example, in Britain trade unions developed first and they were instrumental in establishing political parties. But in Europe the process was the reverse. Political parties developed first and they were instrumental in establishing trade unions. This is why trade unions are often regarded as an industrial wing of the political parties. As the case is in USA, the general

position of European trade unions is reflected in the means adopted in improvements for their membership that has great reliance on regulations.

While the overall role of trade unions may be seen as representing the sectional needs and interest of its membership, there are five distinct aspects of functions of trade unions. The first aspect of functions is power. The unions are there to protect and support the individuals by providing a collective strength to act. They act as a countervailing force to the employer. They operate as pressure groups within a society. Salamon (1992:98) argues that a trade union is first and foremost an agency and medium of power. Without an organization representing them, individual employees are at a serious power disadvantage in their relationship with management. He further argues that not only do they lack resources in terms of knowledge and expertise to negotiate their terms and conditions of employment on an equal terms but also the individual is one out of the many potential employees who may, as a source of labour, be more easily substituted by management than he may substitute the employer as the source of wage.

When employees act together, management is less likely to treat them as individual replaceable units of commodity but rather regard them as one collective strength of its membership that to a large extent determine the success of the trade unions in carrying out its functions.

Salamon (1992:99) quotes Perlman that trade unionism is both individualistic in the sense that it aims to satisfy the individual aspirations for decent livelihood, for economic security and for freedom from tyranny on the part of the boss and collectivistic to subordinate his own interests to the superior interests of the collectivity. While most of the employees join trade union for protection and improved terms and conditions of employment, this can only be achieved through the power the trade union derives from collective strength and solidarity of its members. Salamon quotes Bain & Price that in examining level of union membership as indicators of union power suggested that trade unions seek to exercise power influence in three directions. The first direction is within the labour movement. In this case, the main process may be related to its size relative to

other unions and other factors such as leadership quality and alliance between unions are also important. The second direction is towards government. Here government depends on union power to assist it achieve its policies. The third direction is towards employers. In this case union density provides the basis of union power but this may be enhanced or weakened by economic, technological and political factors.

The second aspect of trade union functions is economic regulation. It is pointed out that most rank and file members emphasise that collective negotiations of wages and other monetary terms of employment as the major function of trade unions. For example, the level of wages and other rewards negotiated in the areas where unionism is strong often become, through the process of comparison, benchmarks for wage in areas where unionism is weak. Again the levels of wages resulting directly or indirectly from collective bargaining is a major input into the economic system and may be significant in determining not only employment levels and production costs but also overall demand in the economy, inflation, the balance of payment and economic growth. However, in carrying out its economic regulation function, is seeking to behave in a rational economic manner by maximizing some aspects of the wage/employment relationship Mulvey (1976:35)

The third aspect of functions of trade union is job regulation. The emphasis given to the definitions of trade union to their regulatory functions covers much more than purely economic matters. The function also includes the creation of the social order in industry embodied in a code of industrial rights Flanders (1970:43). Within these job regulatory functions, the trade union is principally concerned with protection of its members in the employment relationship. It is pointed out that while management wishes to retain the maximum degree of power, authority and decision making in managing the business, employees wish to protect themselves against adverse effects of such decision. The trade unions seek, on behalf of its members, to limit management power by not only challenging their decision and actions but also where possible, establishing joint regulations. As a result of this, the power and authority structure within the organization based on managerial prerogative is replaced by a system of jointly determined rules and

procedures which regulate not only the employer / employee relationship but also the organizational relationship between the company and the trade union. Trade unions involvement in job regulation, in most organizations, become codified in a range of jointly agreed procedures covering regulation, including provisions of shop stewards facilities, provision and scope of consultation and negotiating machinery; grievance handling procedures; disciplinary procedures; redundancy procedures; introduction of work study and work changes and safety. Flanders believes that a worker through his union has more direct influence in what rules are made and how they are applied than he can exercise by his vote over the laws made by parliament.

Although job regulation is one of the important functions of trade unions, it has come under pressure during the 1980s. Management has become increasingly concerned to re-exert its authority within the organization. It has decided to do this not only by adopting a tough stance in negotiating with trade unions but also by bypassing union representatives and appealing directly to its employees. This happens when management has not been able to reach a satisfactory conclusion to negotiate over pay or work changes and by stabilizing greater employee involvement as opposed to trade union participation.

This is being achieved through strengthened communication and joint consultation arrangements and introducing direct focus of employee involvements. The trade union as the representation of employees jointly regulating the employment relationship is being challenged by management attempts to establish direct links between management and employees.

According to what is known as the New Bargaining Agenda for Unions, as a way of counteracting management against job regulation function, trade unions have resorted to expanding the scope of job regulation in areas of training in order to ensure that their members are equipped to meet the changes in work and also increase their efforts in recruitment appeal amongst women and equal opportunity.

The fourth aspect of trade unions function is influencing social or political change. In United Kingdom, the trade union movement came into existence and experienced its initial phase of development at the time when there was segregation of society between 'capital' and 'labour' and when political aspiration of working class was first exhibited through the newly won rights to participate in the political system. Van de Vall (1970:54) believes that political action in the class war has always provided the unions with latent macro-social function and that trade unions aim to change or help to change the nature of society. It has been pointed out that changes in society have modified the trade union social function. It is further argued that even if trade unions wished to stay out of politics, political parties do not want to stay out of trade unions.

The fifth aspect of trade union function is provision of membership services. The union provides a range of benefits or services to the individual members. Some of these services are mutual insurance benefits not only to cover loss of the members' unemployment services, injuries or death. These benefits are provided from subscriptions from the members themselves and unions may often call for an increase in the levy from working members to support others involved in the strike during a period of continued unemployment. These benefits help to strengthen the unions' collective role by making members less dependant on their employers. Towers (1989:25) says that these services have long been a feature of professionals, managerial and white-collar unions. He also states that the recent survey found that two-thirds of the seventeen unions surveyed provided a package or discounted financial services, including insurance, mortgage and personal loans and 70% provided legal assistance for non-work related matters. The offer of credit cards by some unions as part of the packages has given rise to what is called "plastic cards unionism." Some unions that have adopted these strategies believe it is easier to appeal to potential members self-interest than to explain the more traditional industrial relations benefits associated with unions. Unless the unions can continue to affectively assert and extend their essential roles as successful wage bargainers, credit cards, and videos are unlikely to reverse their present decline McIlroy (1988:220 – 1). If people join unions primarily for personal benefits they gain from these services as opposed to instrumental reasons of gaining protection in the

workplace, they are likely to weaken the basis of the unions 'fraternalistic' ideals and 'collective consciousness' and their ability to perform its economic and job regulation functions.

The sixth aspect of trade union function is self-fulfillment of individual members. The unions provide a mechanism individual members may develop on their jobs and participate in decision-making processes. The union member is encouraged to attend branch meetings and become involved in administration of the union as well as participate in the discussion and decision-making in development of various union policies. The member may be involved in collective bargaining system, making decisions that affect the members' terms and conditions of employment. The members may also be involved in participating in political representational system in order to influence government policies and action.

The MCTU Organiser Education Material (1990:2) list out trade unions functions as carrying out checks and balances through monitoring the activities of employers and government in the management of national development; negotiating for healthy and safe working environment for their members; promoting, defending and protecting their workers rights against capitalist exploitation by their employers; handling of their members grievances with the employers; negotiating for fair labour policies and labour laws with the government; influencing government decisions and policies on matters affecting the workers; educating members about their rights and freedoms; facilitating the participation of members in decision making and ensure that there is implementation of freedom of expression, freedom of association and freedom of assembly and finally establishing and maintaining dialogue between trade unions on one part and employers, government and various organs on the other hand. The MCTU perception of trade unions' functions in Malawi largely fall within the other authors' descriptions of trade unions functions.

In summary, this section of the study has described how various authors including the MCTU have described what union functions are. It has further explained in brief how the

Marxist theory perceives the trade union function in comparison to other theorists. The section has also listed six aspects of functions of trade unions. Trade unions functions in Malawi fall within the parameters of what various authors feel.

2.5 Assessment of Trade Unions and Challenges Facing Trade Unions

This section of the study attempts to explain what determines power and influence of trade unions. In the process of explaining factors that influence trade union membership and density, the section will also articulate some of the challenges unions face as they perform their functions.

Farnham and Pimlott (1995: 112 - 141) explain that trade union power and influence are largely determined by their size in terms of their membership and union density. Union density is the ratio of existing union membership over the potential union membership. They further explain that the factors that influence trade union membership and decline are classified into four categories and these categories are:- structural change in pattern on national employment, growth and decline in national economy; the political, legal and social climate to industrial relations; trade union image, appeal and leadership and also employers attitude towards unionism.

The changing pattern of national employment in the country may either adversely or positively affect trade union membership. This refers to a situation where old industries, occupations and skills decline and new ones emerge or replaces them. In United Kingdom, due to substantial growth in the public sector employment after 1945 trade unions also grew.

The second factor that influences trade union membership and density is the growth or decline in the national economy. Fluctuations in national economic activity or the business cycles affect levels of union membership and density. In Malawi, one observes that the process of privatization and commercialization of companies affects trade union membership. A good example of this experience is the then once powerful Customs and

Excise Workers Union. This union membership completely dissolved when Malawi Government commercialized Customs and Excise Department by merging it with Malawi Revenue Authority (MRA). The process ended up with most union leaders and members being retrenched. Since the time the exercise was done, the union has never been re-established. Farnham and Pimlott report that due to trade depression between the two world wars, the trade union membership, power and influence greatly reduced. In 1933 trade union membership or density of workplace had declined from 48% to 23%. The gradual expansion of the economy in the late 1930s and full employment policies followed after 1945 resulted in the rise of union density to 45%. During 1970s, union membership rose to a high-density point of 50% and its powers increased. This was reflected through trade unions ability to raise wages, improve working conditions, influence decisions and legislation of government policies on unionism.

Inflation constitutes a threat to employees' standard of living and this may encourage them to join trade unions in order to defend the purchasing power of their incomes Farnham and Pimlott (1995:116). But the prices generally have a positive impact upon union growth because of the 'threat effect' – this is the tendency of workers to unionise in an attempt to defend their standard of living against the threat posed by the rising prices and the wages rise will have similar effect because of the 'credit effect.' (Price and Bain (Vol. 19, 1983 : 53). That is, workers tend to credit wage rises to unions and to support them in the hope of doing as well or even better in the future. Thus economic factors such as inflation, recession and upward swing of the economy affect union membership and power.

The third factor that influences union membership and density of trade unions is political, legal and social climate. It is said that the attitude of government towards trade union and the degree of public approval unions enjoy are important for their membership appeal Farnham & Pimlott (1995:116-117). For example in Britain, favourable government attitudes in the nineteenth century towards responsible and constitutionally minded trade unions were essential for their early survival and growth. Again the Whitley reports after the First World War favored trade union growth, the same was with the nationalization

and welfare state legislation after the Second World War. This greatly expanded the public sector and brought in recognition and approval of the union. As from 1979, the role of the trade unions and the Trade Union Congress (TUC) in relation to government was greatly reduced. During the period between the end of the Second World War and the election of the first Thatcher Conservative Government in 1979, trade unions exercised over greater power at national level. Trade unions were consulted by both Labour and Conservative Governments on matters relating to national economy, public expenditure, taxation, the welfare state, industrial policies, inflation and all forms of operations of prices and income policies.

After 1979, the unions were openly and deliberately excluded from all major processes of Government. They were not consulted and their leaders were not appointed to prominent public bodies. The abrupt change on the public perception of the national role of the Trade Union Congress, plus the disapproval of a majority of the British people of the unions conduct during the Winter of Discontent 1978-9 led to a sharp decline in the trade union popularity and moral standing. During the 1980s, there were two other factors that changed the climate for trade unionism and industrial relations. The first one was the emergence of more confident managers determined to exercise greater authority over workplace. The second one was the extensive and comprehensive range of legislation relating to trade unions and employment enacted during the 1980s. The economic and political climate of the 1980s encouraged many organizations and their managers to establish a greater degree of influence over their workplaces. For example, changes in the workplace included changes in working practices such as staffing levels, hours of work, multiple skilling and labour flexibility, performance appraisals and performance related pay systems and the introduction of new technology. This was further enforced with team working supervised by hands-on managers. This reduced the scope and depth of collective bargaining in the final analysis. The collective appeal of trade unionism was weakened through individualizing the relationship between manager and employee. The employee was encouraged to identify himself with the objectives and mission of the company. Farnhan and Pimlott (1995:117) quote Kessler and Bayliss that during the

1980s, management operated in an environment of increased competition in product markets and greatly reduced union bargaining power.

An example is where legal climate affected the powers and influence of the trade union in United Kingdom during the 1980s. During this period, there was a great change in the legislative climate with the passing of the Employment Acts 1980, 1982, 1988 and 1990 and the Trade Union Act 1984. All these have now been consolidated into the Trade Union and Labour Relations (Consolidation) Act (TULRCA) 1992. The new legal climate relating to industrial action, closed shops, picketing, trade union ballots, the political levy and union membership rights had been established. This legislation was clearly intended to weaken trade unionism and collective bargaining. It also intended to abolish the closed shop, give a moderate trade unionist a voice through the secret ballot and making industrial action difficult, protracted and expensive. A similar experience occurred in Malawi during the 1990s to 2000 when all labour legislations were reviewed. As opposed to the structure in UK, the legislations were clearly intended to strengthen trade unionism and collective bargaining. Until today, employers strongly feel the labour laws favour the workers than employers. As one of the many examples, at the Industrial Relations Court, the law prohibits the employer legal representation except when the worker is legally represented. This law denies the employer his right to legal representation on the basis that the worker is not legally represented.

In United Kingdom, the empowerment and trade union legislation of the 1980s marked a clear departure from the tradition of voluntarism, which prevailed in the late nineteenth century. The voluntary approach required minimum legal regulation of trade unions, employers, collective bargaining, wage and industrial action. During this period, the state and the law merely guided the participants to resolve through negotiation of their differences. This tradition of voluntarism broke down in 1960s and 1970s. This broke down due to the growth of highly disruptive and damaging strikes, the abuse of individual rights by closed shop, inflationary impact of high wage settlements, the power of the trade unions and the Trade Union Congress to determine the policies and legislation of democratically elected governments and the brake placed on economic

growth, productivity and efficiency imposed by trade union practices. The experiences damaged trade union image in the public opinion. As a result, public opinion including the majority of trade unions themselves moved firmly in favour of limiting powers of unions. The first of the four Conservative Governments in 1979 pledged to reduce the powers of the unions by enactment of legal constraints that enjoyed large degree of popular support.

It is against this background of public opinions, the doubts by trade unionists themselves and the election of successive Conservative Governments with large majority that trade unions membership began to decline. However, Farnham & Pimlott (1995:117) argue that though it can not be empirically proven, it is not improbable that the general climate of disapproval of current trade unionism, which also coupled to the clear helplessness of trade unions to prevent massive job losses, discouraged employees from joining trade unions and possibly led to many dropping out of membership. Management took advantage of their new political, economic and legal climate to discourage trade union membership to re-asses managerial controls and reduce the role of collective bargaining. As the result many employees found trade unions membership less appealing.

The fourth factor that influences membership and density of trade unions is trade union image and leadership. The study of trade union history suggests that the image of an individual trade union(s) collectively can influence membership levels by attracting new members and retaining existing members.

The major component of trade union image are trade union leadership; union perceived power; union size and its ability to secure high wage increase, improvements in working conditions and job security; scope of collective bargaining; success in imposing job regulation on management; successful industrial action; a high public and media profile; and the ability to influence national politics and governments.

Farnham & Pimlott (1995:118) give an example of the periods 1960 to 1970s and 1980s to 1990s by both Labour and Conservative Governments in Britain. During the 1960s

and 1970s, there were relatively low levels of unemployment. There was also steady economic growth. Both the Labour and Conservative Governments involved trade unions in national economic policy making, and the unions were perceived to possess considerable power. During this period, membership and density increased substantially. Conversely during the period 1980s and 1990s, unemployment levels remained very high and government actions were very anti-trade unionism. The Trade Union Congress was excluded from most of the government processes. As a result, the power of trade unions tremendously reduced and the union membership also declined. This indeed shows that the image of individual trade unions could influence membership levels by attracting new members and retaining existing members or by not attracting new members and finally lose existing members.

Basing on the factors that influence membership and density of trade unions, one finds that the following pose as some challenges facing trade unions: adverse structural changes in the pattern of national employment; decline in national economy; unfavourable political, legal and social climate, industrial relations; poor trade union image, leadership and appeal; and harsh and unfavourable attitude of employers towards unionism.

In conclusion, this section of the study has examined major factors that influence level and density of trade union with reference to British Trade Unions. The section has demonstrated that increases and decreases in trade union membership can be closely linked with structural changes in national employment, the level of unemployment, the state of national economy, occupational changes, industrial restructuring and labour market movements. Other factors that influence union membership and density are the size of the employing company, size of the public sector. Again, public opinion, government's attitude towards trade unions, management policies and attitudes towards trade unions, trade union image and leadership have high influence on union membership and density.

2.6 Strategies to Overcome Trade Unions Challenges

This section attempts to describe some of the challenges trade unions in UK and other countries such as USA, Japan and other European countries faced. Most of the challenges are similar to the ones that have already been articulated. The section also attempts to demonstrate with examples how these challenges have been handled in these countries. In the process of this literature review on challenges facing trade union in other countries, comparison and similarities will be drawn to experiences of trade unions in Malawi.

Farnham and Pimlott (1995:139 – 141) point out that after 14 years of adverse circumstances for the British trade unions, there has been an emergence of two different views regarding their present conditions and their future prospects.

The first view perceived the union to be: crippled by irredeemable membership loss; despairing of seeing a Labour Government elected; scorned at the work place by managers; bewildered by the speed and breadth of industrial restructuring; unable to grapple with the consequences; subject to internal conflicts and unable or unwilling to come to terms with economic realities facing Britain in the twentieth century. It is further observed that similar experiences were happening to trade unions in other countries including USA, Japan and other European countries. In 1990, the National Survey Workplace Industrial Relations empirically confirmed in its findings the view that trade unions had declined in union power, influence and authority.

Contrary to what some have claimed, there were major changes in employee relations during the 1980s (Milward et.al in Farnham and Pimlott (1995: 139). Some of the most important changes were the decline in the representation of workers by trade unions and decline in coverage of collective bargaining. The changes were so great that, to a certain extent, it was not wrong to conclude that traditional, distinct system of British Industrial Relations no longer characterized the economy as a whole.

The second view of the state of trade unions was a more positive one. It was further argued that although the trade unions lost members and were suffering structurally from

the effects of economic changes and labour market problems, this has happened many times in the past in history of trade unionism. It was argued that despite this, the unions had ended up recovering later on. For example in Britain in 1920 trade union density was 48% but due to depression and economic change, it declined to 20%. In 1970s during economy recovery, the trade union density went up to 50%. It is, therefore, concluded that surviving hostile employers, severe adverse economic conditions, restrictive labour laws and hostile governments are not new experiences for trade unions. After such problems, they recover and survive and become stronger and more united. Kelly (1988: 268) said despite eight years of recession, British trade union movement and many of its European counterparts are in remarkably good shape.

Farnham and Pimlott (1995:139-140) argue that unions will respond to their severe problems depending on many factors. There are three broad strategies to be followed in order to overcome most of these challenges. The first strategy is for the trade unions to refuse to yield to the economic and social changes created by severe market forces and the ideologies and policies of what is called “New Rights” government. This is whereby the unions seek to defend their position. The union leaders should urge their members to be patient and wait for change in political climate. In this case, the unions will stay faithful to their social and political beliefs.

The second strategy is that the unions should accept change as permanent and should adapt their organizations and policies to be in line with the changes. This strategy is called the ‘new realism’ or the ‘new industrial relations.’ In this case the unions should be more business-like and efficient in representing the interests of their members and recruiting new ones. The union should accept the need to adjust to the requirements of employers by negotiating single union, no strike agreements and by recruiting workers in comparatively well-paid skilled and secure occupations. They should provide a range of individual services to their members. The ‘new realism’ strategy argues that if the unions are to survive, they have very little choice but to adapt to the world in which they have to live. This means that for some trade unions to survive, they have to accept dominant employer ideologies. But Brown (1986: 164 – 5) feels that perhaps more than at anytime

this century the union role depends upon the use the employers choose to make of them in the management of labour. This depends on the conduct of collective bargaining. It is hard to avoid the conclusion that structure of trade unionism originally developed for the needs of employee solidarity is increasingly being shaped to the needs of employers. Farnham and Pimlott (1995:141) point out that the disadvantages of business unionism or the new realism are that some unions are losing their identity as they adjust closer to the ideological needs of free-market economies and the labour needs of employers.

The third strategy for unions to form handful neutral and very large and powerful super trade unions encompassing all the sectors of the economy. These few but large and neutral unions will embrace every type of employee and will negotiate from position of numerical, financial and organizational power with employers. These super unions should be willing to negotiate with the Government of the day in politically neutral manner on matters of direct practical and financial concern to their members. This is the strategy being practised by recent union amalgamations and mergers. The process is increasing as more unions small and large see the advantages of being part of a larger and more powerful organization. The number of very large unions also reduces a growing union weakness of inter-union disputes related to new style single union bargaining.

Farnham and Pimlott (1995:141) reports that in Britain, the Trade Union Congress at its annual conference in 1992 came up with additional strategies to enable the unions adapt themselves to the challenges they faced during the 1990s. The first of these strategies was that trade unions should strive to improve the industrial relations with employers and employers' organizations. They should improve their communication with professional organizations such as Institute of Personnel Management – (Institute of People Management - for Malawi situation). Union discussions with employers should dwell much on practical issues such as new technology, national and local bargaining options, and training of employees, productivity improvement and bargaining structures at company and plant levels.

Again, such big and powerful unions could well be in direct competition with each other for members and employers' recognition. One trend of major importance is towards the creation of more general unions (that is, multi-industry, multi-occupational) prepared to organize in many sectors of the economy.

The second recommended strategy by the Trade Unions Congress is that unions should greatly improve their labour market intelligence. This will enable them to understand better what is happening in terms of how and where jobs are being lost and created. This includes greater regional knowledge about the expansion and contraction of employment.

The third strategy is that unions should improve their services to members. Some of these services are financial services such as personal pension arrangements, loans, mortgages and insurances. The fourth strategy is that unions should increase their influence on Government to improve on health services, state education, youth training and social security.

The fifth strategy is that unions should find ways of improving their public image. This can be achieved through persistent use of the media and professionally persuading the public on the legitimate concerns of the unions. The unions, through the media, should convince the public that they intend to resolve differences and conflicts. The unions should show the public that they are highly relevant to modern society.

Finally for the unions to facilitate growth, they should target union recruitment more on women workers and young people.

In summary, various writers have suggested various strategies to be pursued by trade unions in order to overcome most of their challenges. These strategies range from union's refusal to yield to adverse affects of economic and social changes. Unions should accept change and adapt themselves to the world in which they operate; unions should strengthen themselves through mergers and amalgamations; they have to improve industrial relations with employers; they should improve their labour market intelligence;

improve service delivery to their members; unions should increase influence on government to improve on health services, education, training and social security; unions should improve their public image; and in order to facilitate union growth, they should target union recruitment more on women workers and young people

In conclusion, the chapter has attempted to describe in broad terms what various authors have written on trade unions with reference to experiences of trade unionism in other countries. The knowledge of these experiences has assisted in analyzing performance of trade unions in Malawi. The chapter has covered a number of areas on how various Industrial Relations experts perceive trade unions through definition; structures of trade unions; function and objectives of trade unions; assessment of trade unions and challenges facing unions; and suggested strategies pursued to overcome challenges facing trade unions.

2.7 Chapter Summary

This chapter has attempted to demonstrate views and ideas of various authors on industrial relation on the following areas:- definitions of trade unions, structures of trade unions, functions and objectives of trade unions, how trade unions are assessed and what challenges trade unions face and what strategies are taken to overcome the challenges. The chapter further explains various situations in which trade unions operate and how various company authorities treat them as employment organizations. The chapter makes reference to some theories which illustrate different scenarios trade unions are found in and why they are treated differently. It is believed that this literature is very important in bringing a broad understanding of trade unions in other countries in general and in Malawi in particular.

Chapter Three: Findings and Discussions

3.0 Introduction

This chapter outlines and discusses the findings of the study in respect of performance of trade unions in Malawi. It specifically analyses and identifies the roles of trade unions in Malawi as perceived by workers (unions), employers and other stakeholders such as Labour Commissioner, Registrar of Trade Unions, Ombudsman, Chairman of Industrial Relations Court and Executive Director (Employers Consultative Association of Malawi (ECAM)). The chapter discusses how these perceived roles are met. It also articulates the factors that influence performance of trade unions in Malawi. Finally it recommends strategies on how to improve the performance of trade unions. Throughout, the chapter includes discussions of the findings with reference to relevant literature as cited in chapter two.

3.1 Trade Union Roles and the Process of Achieving them

Consultations on the roles of trade unions in Malawi involved various stakeholders including employers, union leadership and other individual stakeholders like Ombudsman, Registrar of Trade Unions, Labour Commissioner, Industrial Relations Court Chairman, and Employers' Consultative Association of Malawi (ECAM).

The study revealed that trade unions are expected to fulfill various roles in order to perform well (See Table 1 below). The analysis of the data shows that some roles are rated more important than others as perceived by the various stakeholders. This study attempts to discuss each role to see why and how it affects the performance of trade unions in Malawi.

Table 1: Summary of Perceived Roles of Trade Unions By Various Stakeholders

PERCEIVED ROLES	FREQUENCY	PERCENTAGE	RANKING
Advocating for improved conditions of service	5	16.1	(1)
Act as democratic leader and participate in national development	3	9.7	(2)
To look at the welfare of workers at workplace	3	9.7	(2)
Serve as mouth piece and intermediary of all members of the union with management	3	9.7	(2)
Protecting interests and rights of workers at workplace.	2	6.5	(3)
Promotion of justice and equality among workers	2	6.5	(3)
Promote understanding and better industrial peace between workers and employers	2	6.5	(3)
Bargaining with employers on behalf of employees	2	6.5	(3)
Join other interest groups on advancement of democratic ideals and values	1	3.2	(4)
Organize and build effective trade unions as democratic organization of workers	1	3.2	(4)
Uniting workers and enhancing their professional development	1	3.2	(4)
Providing checks and balances to management through regulations of relationship between employer and workers.	1	3.2	(4)
Enhancing productivity of companies	1	3.2	(4)
Representing employees in their labour cases with the employers	1	3.2	(4)
Assisting in settlement of labour cases out of court	1	3.2	(4)
Representing interests of employed citizens	1	3.2	(4)
Ensuring that the 8 core ILO conventions are complied with	1	3.2	(4)
Total	31	100%	

Source: Study Survey Results

3.1.1 Advocating for Improvement of Conditions of Service

Analysis of the roles of trade unions has shown that 5 out of 31 stakeholders consider advocating for improvement of conditions of services as one of the major roles of trade unions in Malawi. The results show that 16.1% of unions and stakeholders responses support this assertion. According to MCTU (1990:1) a trade union is defined as democratic, independent and systematic organization formed by workers to protect and improve their working conditions of services through collective bargaining and other forms.

Similarly, Salamon (1992:77) describes trade unions as organizations of workers, set up to improve the status, pay and conditions of employment of their members. Towers (in Salamon 1992:79) further defines trade unions as much more than engines for converting bargaining power into improved pay and conditions of their members.

On the other hand, Coates and Topham (1988:1) define trade unions as a continuous association of wage earners for the purpose of maintaining and improving the conditions of employment. These definitions clearly confirm why improvement of conditions of service is considered as one of the major roles of trade unions. They reflect on what is expected of trade unions by union members themselves and the other stakeholders.

3.1.2 Act as Democratic Leader and Participate in National Development

The analysis of the responses has shown that 9.7% of the respondents consider the role of democratic leader and participation in national development as also a very important one. Again, MCTU (1990:1) defined a trade union as a voluntary, democratic, independent and sustainable organization by workers. The definition has further put emphasis on the fact that it is created to facilitate workers' participation in national development.

It appears that emphasis on participation in national development of workers is historical and a postmortem of one party leadership ideology. As argued by Manda (2000:8-14) on the role of the state and labour movement in Malawi, the state in various forms sought to control labour movement and its activities in order to protect the interests of the capitalists and its own credibility mainly during the one party political era after independence from colonialists. Before independence, unions were a major force in the fight against colonialism and later on labour movements were seen as dangerous and threat to national security and a deterrent to investment. In order to regulate the operations of the unions, like in most independent African states, the unions were incorporated as wings of ruling parties. Under this arrangement, one of the unions' roles

was to assist government in national development. This role deterred unions from asking for higher wages and better conditions of services.

According to the analysis made on the roles of trade unions in Malawi, participation in national development still remains an important role even during the multiparty era. Although the role of national development is still seen as important, it appears the original meaning has since been lost.

According to the current trade union practices, the role of participation in national development is advocated through trade union contributions to national development discussions. For example, on 15 November 2006, the Daily Times Newspaper carried an article where the Secretary General of the Malawi Congress of Trade Union was quoted as saying “while the ruling of the courts on Section 65 of the Constitution regarding crossing the floor was welcome, there was need to bring back the senate in order to consolidate Malawi’s young democracy.” Again trade unions in Malawi have been heard urging parliamentarians to prioritise the budget as opposed to Section 65 during the last ended parliament session.

As an observation, the current meaning of participation in national development by trade unions in Malawi has no direct benefits to the immediate beneficiaries of trade unions (the workers). However, the workers may benefit in the long run. By rating this role as second important on the list of roles, trade unions may wish to be cautious because they may be concentrating on national development agenda issues at the expense of their immediate roles that directly affect the worker at workplace.

3.1.3 Promotion of Workers Welfare at Workplace

Like the role of democratic leader and participation in national development the analysis has shown that the respondents rate this role 9.7%. This role has a direct impact on the beneficiaries. Salamon (1992:97) categorises the roles of trade unions into two different approaches. He compares and contrasts the approaches by British trade unions in the manner they perform their roles to those of trade unions in general social economic and

political matters. On the contrary, trade unions in America pursue a business orientation approach. They are not concerned with questioning or seeking to change economic, social or political systems within the society they operate in.

The role of promoting welfare of workers seems to fall under business orientation. This confirms why one of the major roles of trade unions in Malawi is to improve conditions of services. At branch and enterprise levels, one observes that trade unions in Malawi are mainly more concerned with business orientation matters than welfare orientation. On the other hand, one also observes that at trade union federation level, the unions pursue both welfare and business orientation in Malawi. An example of welfare orientations in Malawi is reflected in a *Daily Times* article of 5 April 2005 MCTU warned that they would be forced to turn the union into a political party if the members of parliament continued to misbehave in Parliament. In the same newspaper, one of the unionists was quoted as saying “Labour movement is an agent of change. Revolutions that sometimes bring wars start with labour movements. Fortunately, there has never been war in Malawi. We warn MPs we represent the poor. We have the right to point out at anomalies.”

van de Vall (1970:54) believes that political action in the class war has always provided the unions with macro-social function and that trade unions aim to change or help to change the nature of society.

3.1.4 Serving as Mouthpiece and Intermediary of Union Members with Management

The respondents also rate this role second in order of preference. It was rated 9.7%, as was the case with roles 3.1.2 and 3.1.3. Unions are expected to speak for or on behalf of union members. Salamon (1992:98) argues that a trade union is first and foremost an agency and medium of power. Without an organization representing them, individual employees are at a serious power disadvantage in their relationship with management. When employees act together, management is less likely to exploit them.

3.1.5 *Protecting Interests and Rights of Workers at Workplace*

Protection of interests and rights of workers was rated 6.5% and position number three on the perceived roles by unions and other stakeholders. MCTU Organizers Education Material (1990:1) describes trade unions as custodians of human rights, in particular, workers rights. As previously alluded to, MCTU warning of members of parliament in respect of confirmation of the Inspector General of Police was an attempt to protect her right to employment. According to the former and first chairman of Industrial Relations Court, he felt, in terms of representation of their members in courts, the trade unions have been very focused. They have assisted in cultivating a culture of freedom of association and have contributed significantly in eliminating the spirit of discrimination at workplaces. He emphasized that trade unions in the country have assisted in enforcement of labour rights through court cases. The following cases were cited as some of the many where trade unions have fought for protection of interests and rights of workers.

- i. Trade Union Members versus National Seed Company Malawi (NSCM) Milling Division – (Matter Number IRC of 1999 (unreported) – Right to Employment).
128 trade union members were applicants to the case and NSCM Milling Division were respondents. The union members were dismissed by the respondents because of protesting against the dismissal of their leader. They challenged their dismissal as unfair and unlawful and they prayed for re-instatement to their respective positions. After a lengthy legal battle, the applicants won the case. The courts agreed that the strike by the applicants was legal. On re-instatement, the courts felt that due to time lapse, 1996 to 2001, it was appropriate to compensate them rather than re-instatement
- ii. University Workers Trade Union versus Council of the University of Malawi The (Matter Number IRC 46 of 2003 (unreported) IRC.

In this case, the courts ruled in favour of the union. It was pointed out that there was no legal requirement that you can only consult a trade union once there is a collective agreement or recognition agreement. It was held that once a union is legally constituted, the employer has to recognize it.

iii. 128 Trade Union Members versus National Seed Company of Malawi (NSCM) Milling Division – (Matter Number IRC 8 of 1999 (unreported) IRC. (Right to strike and right to lockout). The details are similar to those in (i).

iv. MTL versus MPT Workers Union – Civil Cause No. 2721 of 2001 [2001] MW IRC 11 (16 October 2001)

MTL were the Plaintiff and Telecommunication Workers Union were defendants. The union requested the High Courts to decide that MTL action to take the labour matter to High Court was irregular because under Section 54 and 64 of Labour Relations Act, the case should have commenced in the Industrial Relations Court. The union therefore sought an injunction against MTL to stop them from proceeding with the case in High Court. After a lengthy legal wrangle, the defendants (trade union) lost the case. The court ruled in favour of MTL that the High Court had jurisdiction to hear the case.

v. The Ombudsman too gave the case below as an example of fighting for workers rights by labour movements in Malawi. In The Matter Between Public Service Pensioners Association (PUSEPA) ... Complainants and Secretary to the Treasury – Respondents. Inquiry Number –160/200, file number – OMB/C/469/2000.

The case was determined in favour of the Public Service Pensioners Association (PUSEPA) that the pensioners were entitled to pension increase as from 1st July 1999. It was noted that pension was a right that accrues upon successful completion of one's service with government.

3.1.6 *Promotion of Justice and Equality Among Workers*

This role was rated 6.5% and position number three on the perceived roles by unions and other stakeholders. Again, the issues of justice and equality fall within the ambit of rights. As explained in 3.1.5 the Industrial Relations Court Chairman confirmed on the trade unions contribution in eliminating the spirit of discrimination at the workplace. This discrimination ranges from discrimination against race, marital status, polygamy, religion and against HIV/AIDS status. Some of labour cases for reference in Malawi are:

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- i. Banda versus Dimon (Malawi) Ltd – [(Civil Cause Number 1304 of 1996 (unreported))]. HC – discrimination against race.

Mr Banda, the Plaintiff and Dimon the defendant company agreed that Mr Banda would be engaged as an Assistant Sales Administration / Information Systems Manager with effect from 1st September 1995, until such employment was terminated by notice or retirement as provided in the agreement.

The plaintiff alleged that the defendant company by constructive breach unlawfully and summarily dismissed him, by its prohibitive conduct and very unfair statements made by the defendant company to the plaintiff.

When the case was called on, only the plaintiff appeared and the defendant company did not turn up for the court hearing. The court proceedings went ahead in the absence of the defendant company.

It was alleged during the hearing, that for no apparent reason, the company employed a new South African boss for Mr Banda's section. The boss moved Mr Banda from his office without any reasons given. He was unbearably harassed by being moved from office to office. He was finally put in an office that had neither computer nor printer. The new boss succeeded in frustrating him. It transpired that the white South Africans did not want Africanisation of

the company. It was alleged that the whole scenario was full of racism or apartheid.

It was noted that the company forced the plaintiff out of his job by taking away his office, accommodation, computer hardware and files. In this pathetic case where greed and racism were very clear, the plaintiff was entitled to exemplary damages to the tune of three years salary

- ii. Banda versus Lekha [Matter Number IRC 277 of 2004 (Unreported)] IRC – All Forms of Discrimination Including HIV/AIDS Status.
- iii. Mwanamanga versus Malamulo Mission Hospital [Matter Number IRC 124 of 2003 (unreported)] – This was Discrimination Against Polygamous Marriage Status.

The respondent discriminated against the applicant on the basis of her marital status. It was a legitimate defence that the respondent's conditions of service prohibited polygamous marriages among its workers. This condition is inconsistent with the Malawi Constitution and therefore invalid.

3.1.7 Promote Understanding and Better Industrial Peace Between Workers and Employers

The unions and other stakeholders perceive promotion of understanding and industrial peace as one of the roles of trade unions in Malawi. This role has been rated 6.5% and position three. As a nation, every year the Government facilitates tripartite meetings among the three social partners to discuss various labour issues that affect them. The three social partners are the Government through Ministry of Labour, the employers through ECAM and the workers through MCTU and COMATU.

At first, these tripartite conferences were conducted once a year but this has been improved. In order to ensure that discussions cover the grassroots, issues that form the agenda for the annual national tripartite conference are discussed at regional level. Every region, that is, Central, South and Northern Regions of Malawi host regional tripartite

conferences. The issues raised and agreed in these three regions form the national tripartite agenda. These conferences manage to bring the three social partners together and improve the relationships between them.

Some of the issues that have been discussed at tripartite meetings are: -

- i. Proposed severance allowance amendment.
- ii. Proposed amendment of employment bill.
- iii. Proposed pension fund scheme for civil servants.
- iv. The discussions on the reviews of various labour legislations such as
 - a. Employment Act Cap.55:01
 - b. Labour Relations Act Cap. 54:01
 - c. Workman's Compensation Act Cap 55:03
 - d. Occupation, Safety and Health Act Cap55:07

3.1.8 Collective Bargaining With Employers on Behalf of Employees

This perceived role like roles 3.1.5, 3.1.6 and 3.1.7 has been rated 6.5% and position three. Trade unions in Malawi are expected to perform the role of collective bargaining and negotiate with employers on various labour issues on behalf of employees or their members.

Records from Registrar of Trade Unions registry reveal that out of 21 registered trade unions, 15 of them (75%) signed collective bargaining agreements (CBAs) with various companies. And out of the 15 trade unions that signed the CBAs, 7 of them (50%) signed the agreements with more than two companies and two trade unions signed with four and six companies respectively. The above data implies that 75% of trade unions in Malawi indeed engage in collective bargaining and negotiations with employers on behalf of their members (See Table 2 below).

Table 2: Collective Bargaining Agreement and Affiliation to Local and International Congress of Trade Unions

Name of The Union	Date of Registration	Date of Last Congress Meeting	No. of CA's Signed	Local Congress of Trade Unions Affiliated to	International Congress of Trade Union Affiliated to
General Industrial And Allied Workers Union (CIAWU)	6/5/98	1999	3	MCTU	Union Network International and Textile Garment and Leather Workers Federation
Malawi Union for Informal Sector	29/06/04	Not held any congress	-	Applied for alteration but not yet. MCTU reluctant to accept them.	Street Net International of South Africa
TEXTILE GARMENT Leather & Security Services Workers Union (TGLSWU)	14.02.95	March 2004	4	MCTU	International Textile Garment and Leather Workers Federation (ITGLWF)
Railways Workers Union	24/02/95	December 2004	1	MCTU	International Transport Workers Federation
Quarries, Mines and Infrastructural Workers Union (QUAMIWGU)	18/02/2000	Dec 2000	-	COMATU	DOAWTU) Democratic Organisation of African Winers Trade union, based in Lome, Togo
Communications Workers Union	1/11/2002	Not Yet	1	MCTU	Union Network International Based in Geneva
Malawi Housing Corporation Workers Union	9/11/98	December 2003	2	COMATU	None
Plantation and Agricultural Workers Union	14/02/95	Nov 2004	2	MCTU	International Food Union of Food (IUF)
Tea, Coffee, Macadamia and General Workers, Union (TECOMA)	12/02/2003	2003	2	COMATU	None
Sugar Plantation and Allied Workers Union of Malawi (SPAWUM)	1/02/1995	Aug 2003	1	MCTU	International Union of Food
Malawi	12/02/2003	2003	1	None	* Union Networks

Telecommunication Workers Union					International (UNI) * LOTCO * Noway
Tobacco Tenants and Allied Workers Union	21/05/1998	May 2004	1	MCTU	International Union of Food (IUF)
Malawi Municipal Workers' Union	14/02/2000	September 1999	-	COMATU	Public Service International
University Workers' Trade Union	23/09/2002	2002	-	COMATU	None
Teachers Union of Malawi	1/02/1995	January 2004	1	MCTU	*Pan African Teachers Organisation *Education International (EI) * Public Service International
Transport & General Workers Union	1/02/1995	Nov 2003	6	MCTU	International Transport Workers Federation (ITF)
Private School Employees Union of Malawi (PSEU)	1/06/2001	-	-	MCTU	Education International
Water Employees Trade Union of Malawi (WETUM)	18/02/2000	August 2003	3	MCTU	* Public Service International
Civil Service Trade Union (CSTU)	23/01/95	1999	1	COMATU	* Public Service International * International Federation of Building and Wood Workers (FBWW) – UNISON – UIL
Carlsberg and Southern Bottlers Trade Union	21/04/1998	2003	-	-	-
Building Construction on Civil Engineering and Allied Workers Union (BCCEAWU)	17/03/1995	-	3	MCTU	International Federation of Building and Wood Workers (FBWW) –

Source: Data Extracted From Registrar of Trade Unions Registry

Through collective bargaining and negotiation, trade unions are also able to carry out their job regulation function. Flanders (1970:43-48) argues that the function also includes the creation of social order in industry embodied in a code of industrial rights. Whatever is agreed during collective bargaining becomes codified in a range of jointly

agreed procedures. These may cover agreed procedures on scope of consultation and negotiating machinery; grievance handling procedures, redundancy procedures, introduction of work study and work changes and safety procedures. Flanders believes that a worker through his unions has more direct influence in what the rules are made and how they are applied than he can exercise by his vote over the laws made by Parliament.

On the other hand, it is argued that although job regulations are one of the important functions of trade unions, it has come under pressure during the 1980s. Management has become increasingly concerned to re-exert its authority within the organization. It has adopted a hard line stance in negotiating with trade unions. In some cases, it has even decided to bypass union representatives and negotiate directly with the workers.

3.1.9 Building Alliance and Work in Solidarity With The Other Trade Unions With Similar Roles and Interests

Trade unions need to work in co-operation with other trade unions. They need to support each other in order to be strong. On a number of occasions, unions and their leaders in Malawi have been seen fighting against each other. This has greatly affected the collective bargaining power of trade unions in Malawi. Some cases of this weakness are:-

- i. The Civil Servants Trade Union situation where mass action organized by the union failed due to conflicts within the union. Members of Civil Service Trade Union in Mzuzu with their Vice President challenged the Civil Servants Trade Union President and his executive that they were operating unconstitutionally after their term of office expired many years ago. They threatened to drag CSTU President to court for acting unconstitutionally.
- ii. ESCOM Workers Union ended up with splinter group forming their own union due to conflict among themselves on leadership of the union. This weakened the bargaining power of the union because management was at liberty to choose which union to negotiate with in their own favour

- iii. The fight for power between the Secretary General of COMATU and the President that resulted in QUAMIWU threatening to withdraw its affiliate membership to COMATU.
- iv. The fight within the leadership of Malawi Congress of Trade Union that led to the breakaway group to form Congress of Malawi Trade Union (COMATU).

Salamon (1992:98) argues that trade union is first and foremost an agency and medium of power. It is further argued that when employees act together, management is less likely to treat them as individual replaceable units of commodities. It is therefore important that trade unions in Malawi operate in solidarity and build alliances with each other so that they remain strong from tyranny on the part of the employer.

3.1.10 Uniting Workers and Enhancing their Professional Development

According to Salamon (1992:98) one of the important functions of trade unions is self-fulfillment of individual members. The unions provide a mechanism so that individual members may develop on their jobs and participate in decision-making process.

The data analysis shows that the respondents rated this role 3.2% and position four. This rating may imply that trade unions in Malawi do not value this role much.

Lack of consideration for this role may explain the problem of poor leadership quality in Malawi trade unions. According to Salamon, through this role, union members are encouraged to attend union branch meetings and become involved in administration of the unions as well as participate in the discussion and decision-making in development of various union policies. The members get involved in collective bargaining systems, making decisions that affect the members' terms and conditions of employment. The members may also be involved in political representational systems, in order to influence government policies and actions.

Although this role is not given much emphasis in Malawi, there are some trade unions that have taken professional development of their members seriously. For example, the Teachers Union of Malawi has taken the role of professional development of its members seriously. It has developed what is called TUM in Service Training Programmes intended to upgrade teachers' academic and professional competencies.

Under this programme each year TUM trains 1000 teachers. In 2004 out of 1000 teachers, 51 teachers went for University training at Mzuzu University, University of Malawi and African Bible College (ABC). The programme has been operational since 1986. Teachers with Junior Certificates upgrade to MSCE and acquire T2 teachers' certificates.

Possibly, this explains why TUM is more developed and prosperous than the other unions. The quality of leadership is good and the union is better organized than the other unions. It has full time secretariat and it owns office buildings and a number of properties that include a rest house and dwelling houses for letting out. Teachers Union of Malawi would be an ideal role model on how a trade union should operate as an organization. It has the highest union density of 87.8% (See Table 5).

As part of professional development, TUM in consultations with other stakeholders such as Ministry of Education, Teacher Commission Services, MANEB, University of Malawi, Domasi Teacher's Institute, Mzuzu University and Civil Society for Quality Education developed code of conduct and professional ethics for teachers. This document was developed to monitor and maintain high standards of discipline of teachers in schools.

3.1.11 Organize and Build Effective Trade Unions as Democratic Organization of Workers

The role of organizing and building effective trade unions has been rated 3.2% and position four. Again, like role 3.1.10, the rating may imply that the perception of this role is very low in Malawi.

Trade unions in Malawi need to be organized like any other organization. A disorganized and ineffective organization cannot perform its roles to the satisfaction of its beneficiaries and masters. According to the records at the Registrar of Trade Unions, all registered trade unions have constitutions. This appears to be a good starting point for trade unions as organizations. Although the unions have constitutions, there is still a lot to be done to organize them to operate as other organizations. Majority of the unions in Malawi operate as charitable organizations. The leaders work on voluntary basis and already this makes it difficult for the leaders to devote all their time to run trade unions.

Out of the 16 affiliate trade union members of Malawi Congress of Trade Unions; none of them has a strategic plan as management tool to guide the direction of union activities.

A strategic plan is only available at MCTU as a federation. This means that affiliate unions of MCTU do not have vision and mission statements. They are not able to come up with SWOT analysis of their status in order to identify their strengths, weaknesses, opportunities and threats. In this scenario, it is difficult for the trade unions to develop proper strategies to assist them achieve their overall objectives.

The low rating of this role may explain the reasons trade unions in Malawi are not well organized and focused as other organizations. The role of organizing and building an effective organization is one of the most crucial ones if trade unions have to perform to the satisfaction of their members.

3.1.12 Providing Checks and Balances to Management Through Regulation of Relationship Between Employer and Workers

The role of providing checks and balances to management has been rated 3.2% and position four by the respondents. This rating may be interpreted that this perceived role is of lower priority to unions and the other stakeholders. According to the study, it appears that very few trade unions in Malawi have been involved in assisting

management by pointing out areas companies need to improve. For example, most of the trade unions do not propose alternative solutions on how to minimize expenses for the company to perform well.

Despite this revelation, there are a few trade unions in Malawi that have developed mutual understanding with the employers in monitoring expenditure for the mutual benefit of the employer and the workers.

Lilongwe Water Board and Central Region Water Board are branches of Water Employees Trade Union of Malawi (WETUM). Trade union members at these companies assist management by making suggestions on better use of company resources. For example, when company vehicles are being abused or when employees misuse resources such as telephones, water, electricity, stationery and other expenses, the unions draw the attention of management and they also propose means and ways of controlling these expenses.

At one of the collective bargaining meetings, members of union at Lilongwe Water Board requested management to be providing transport for workers to and fro work. Management was not agreeable to this proposal because it was felt that it was a very expensive arrangement. The unionists explained that since the water board vehicles are kept in most of the areas the workers dwell, the vehicles should be giving lifts to the members to and fro work without making special arrangements to provide transport. Management found this arrangement feasible. In turn, the union leaders also offered to take responsibility to discipline any worker who reported for duties late since the worker is deemed to have no excuse for reporting for duties late. Transport is readily available for the workers and incidents of late coming to work drastically reduced.

Because of this mutual relationship between the worker and employer, the union leaders also take further initiatives of controlling any workers found abusing company resources such as phones, water, electricity, stationery and other similar expenses.

As opposed to militant approach to labour matters, as is the case with most of the trade unions in Malawi, Lilongwe and Central Region Water Boards trade unions appear to adapt their unions and policies in line with the needs of their employers. They are taking the realism or the new industrial relations approach to labour matters in a workplace. According to Farnham and Pimlott (1995:139-140), they feel unions should be more business-like and efficient in representing the interests of their members. Unions should accept the need to adjust to the requirements of employers by negotiating single union, no strike agreements and recruit workers in comparatively well-paid and secure occupations. New realism approach argues that if unions are to survive, they have very little choice but to adapt to the world in which they operate. This means that if trade unions have to survive, they have to accept dominant employer ideologies. Brown (1986: 164 – 165) feels that the union's role depends upon the use the employers choose to make them in the management of labour. Brown concludes that structure of trade unionism originally developed for the needs of employee solidarity is now increasingly shaped to the needs of employers. On the other hand Farnham and Pimlott (1995:141) warn that the disadvantages of business unionism or new realism is that some unions are losing their identity as they adjust closer to the ideological needs of free-market economies and the labour needs of employers, than those of their union members. It is therefore important that the unions balance between satisfying the needs of the employer and the needs of their members.

3.2 Factors Influencing Performance of Trade Unions in Malawi

The research has revealed that the unions perception of their roles is similar to the perception of the other stakeholders such as the Labour Commissioner, Registrar of Trade Unions, Ombudsman, Employers Consultation Association of Malawi (ECAM) and Chairperson of Industrial Relations Court. Out of the ten unions interviewed on whether the unions are achieving their set roles, six unions (60%) felt that they were not fully achieving the roles. The other stakeholders also shared this view.

Although the unions and the other stakeholders were of the view that they were not fully achieving their perceived roles, their explanations for these failures differed. According

to the unions, they felt that 50% of the reasons for failure were external and 50% were internal. On the other hand, the other stakeholders felt that 68.2% of trade unions failures to achieve their roles were due to internal reasons within unions themselves and 31.8% were due to external factors. On the average, the overall response from both unions and other stakeholders show that 59.1% of unions' failures are due to internal factors and 40.9% are due to external factors (See Appendix 6.1).

Data in Table 3 shows the summary of perceived factors influencing the performance of trade unions in Malawi. The rankings in the table reflect level of influence on the performance of trade unions. Again, the study attempts to discuss each factor to see why and how it affects the performance of trade unions in Malawi (See Table 3 below).

Table 3 : Factors Influencing Performance of Trade Unions as Perceived by Unions and Other Stakeholders in Malawi

PERCEIVED CHALLENGE / FACTOR	FREQUENCY	PERCENTAGE	RANKING
Financial limitations	13	15.3	(1)
Negative and hostile attitude by employers towards unions	13	15.3	(1)
Failure to market union activities for more membership.	10	11.8	(2)
Poor quality of union leadership due to low education and low positions at work.	7	8.2	(3)
Political interference in union activities	6	7.1	(4)
Lack of continuous training for union leadership and union members	6	7.1	(4)
Fighting among union leaders for power.	5	5.9	(5)
Lack of capacity – lack of full time personnel to run the union.	5	5.9	(5)
Lack of political will by Government to support union activities.	4	4.7	(6)
Bad governance by unions (i.e. failure to hold annual general meetings, lack of transparency, mismanagement of union resources).	3	3.5	(7)
Lack of labour laws knowledge by some employers	3	3.5	(7)
Negative attitude by unionists (i.e. they pose bossy to employers, and form parallel management).	2	2.4	(8)
Some unions lack international co-operating partners and have not established working common ground with Ombudsman.	2	2.4	(8)
HIV/AIDS claiming lives of many union members and leaders.	2	2.4	(8)

Threats from privatization and corporate restructuring	2	2.4	(8)
Lack of creativity to seek knowledge by union leaders and members	1	1.2	(9)
Fear for loss of jobs by potential and registered union members and leadership.	1	1.2	(9)
Total	85	100%	

Source: Study Survey Results

3.2.1 Financial Limitations

The results show that respondents have rated financial limitation 15.3% as a major factor affecting performance of trade unions in Malawi. Financial limitations hinder trade unions from carrying out most of their planned programmes. However, on activities pursued by trade unions to achieve their roles, fundraising is poorly rated 2.2% and on position six by stakeholders and the trade unions themselves. This implies that it is obvious that financial limitation is one of the major factors because the unions themselves do not consider fundraising as an important role compared to other roles such as advocating for improved conditions of services, participation in national development, welfare of workers and serving as mouthpiece and intermediaries of all members of the union with management (See Table 1).

Table 4: Summary of Activities Pursued by Trade Unions in Malawi In Order to Achieve Their Roles

TYPE OF ACTIVITY	FREQUENCY	PERCENTAGE	RANKING
Negotiating for improved conditions of services	10	22.2	(1)
Creation of industrial peace and harmony through social dialogue	6	13.3	(2)
Training and education of union members and union leaders	4	8.9	(3)
Participation in collective bargaining and negotiations with management	4	8.9	(3)
Fighting for labour or workers' rights and interests	4	8.9	(3)
Installation of discipline and understanding among union members through establishment of code of conduct	3	6.7	(4)
Participating in improving productivity in the company	3	6.7	(4)
Influencing better labour laws and policies	3	6.7	(4)

Building alliance and work in solidarity with other trade unions with similar roles and interests	3	6.7	(4)
Conducting recruitment campaigns for increased membership	2	4.4	(5)
Assisting management in monitoring and controlling of expenditures	2	4.4	(5)
Conducting fundraising for the union	1	2.2	(6)
Total	45	100%	

Source: Study Survey Results

The data analysis shows that trade unions in Malawi completely abandoned the role of fundraising. As commented elsewhere in this study, it appears trade unions in Malawi have in a number of cases devoted most of their energy on carrying out roles that do not directly and immediately benefit their members such as acting as democratic leaders and participation in national development agendas.

3.2.2 Negative and Hostile Attitude by Employers Towards Trade Unions

Like financial limitations, employer negative and hostile attitude towards trade unions has been rated 15.3% and position one. The study has revealed that most of the employers resist trade unions fearing that they might take over management powers in a workplace. This is reflected in majority of the companies in Malawi without trade union movements. Most of the companies have preferred having Joint Consultative Committees (JCCs) to having trade unions. The behaviour illustrates unitary approach by management in handling trade unions as explained by Farnham and Pimlott (1995: 44 – 58).

Possibly this also shows what type of image trade unions have portrayed to most of the employers in Malawi. This is an area where social dialogue can play a major role to improve the relationship between trade unions and employers in Malawi.

3.2.3 Failure to Market Union Activities for More Membership

Results have shown that failure to market union activities for more membership has been rated 11.8% and position two. In Table 5 below, it is noted that out of 21 registered

trade unions, 11 (50%) do not qualify for the 20% threshold for recognition for collective bargaining as required by Section 25(1) of the Labour Relations Act, Cap 54:1. On the other hand, 50% qualify for the 20% threshold as required by the law in Malawi. Although the law provides for 20% threshold, it is observed that in absolute terms, other unions despite their low threshold percentages, they have high union membership than those with high density such as Railways Workers' Union. Thus just relying on 20% threshold only, may result in denying representation those unions with more members but have low density such as Malawi Union for Informal Sector. This necessitates reviewing the provision on threshold in the Act to include absolute figures.

Table 5: Analysis of Trade Union Density and Eligibility for Recognition for Collective Bargaining

Union Name	Registered Members	Potential Members	% Union Density	%Threshold for Recognition for Collective Bargain	Remarks
Teachers Union of Malawi	47,413	54,000	87.8	20	Qualified
Sugar Plantation and Allied Workers Union of Malawi	5,000	6,000	83.3	20	Qualified
Water Employees Trade Union of Malawi	1,600	2,500	64	20	Qualified
Malawi Telecommunication Workers Union	1,200	2,400	50	20	Qualified
University Workers Trade Union	1,460	3,000	48.7	20	Not qualified
Malawi Housing Corporation Workers Union	129	300	43	20	Qualified
Communications Workers Union	1,632	5,000	32.6	20	Qualified
Railways Workers Union	431	1,500	28.7	20	Qualified
Civil Servants Trade Union of Malawi	12,000	45,000	26.7	20	Qualified
Building Construction Civil Engineering and Allied Workers	7,500	35,000	21.5	20	Qualifies for recognition
Plantation and Agricultural Workers Union	1,915	10,000	19.2	20	Not qualified
Municipal Workers Union	1,000	6,000	16.7	20	Not qualified
Textile Garment Leather and Security Services Workers Union	4,130	25,000	16.5	20	Not qualified
Carlsberg and Southern Bottlers Trade Union	195	1,500	13.3	20	Not qualified
Transport and General Workers Union of Malawi	2,600	25,000	10.4	20	Not qualified
Tea, Coffee, Macadamia and	5,000	87,000	5.7	20	Not

General Workers Union					qualified
Private School Employees Workers Union of Malawi	921	21,000	4.4	20	Not qualified
Tobacco Tenants and Allied Workers Union	14,172	500,000	2.8	20	Not qualified
General Industrial and Allied Workers Union	1038	10,000	1.4	20	Not qualified
Malawi Union for Informal Sector	5,000	500,000	1	20	Not qualified
Quarry, Mines and Infrastructural Workers Union	1,118	15,000	.75	20	Not qualified

Source: Compiled from survey material from Registrar of Trade Unions

The implication of this is that 50% of 21 registered trade unions have failed to market their unions to the potential members to achieve the legal requirement for recognition and collective bargaining. This also implies that in the event of a dispute arising between the unions and their employers, legally the unions can be challenged that management does not recognize them to represent the workers to conduct some activities to achieve their set plans such as bargaining and organizing a strike. This stance weakens the bargaining power of unions.

Again, low membership affects unions adversely because it affects the level of fundraising through reduction in membership fee collection. The lower the membership the lower the fee collection and the lower the level of union activities. Failure to market the unions to potential members may also be an explanation why most of the unions in Malawi cite financial limitations as one of the major factors affecting performance of trade unions. According to Pascoe, “the life blood of a trade union is its fee paying membership. In this country, legislation requiring compulsory membership of a union has often meant that the question of how we attract and retain members has not received the attention that it should have.” According to Table 4, unions have rated marketing union activities 4.4% and on position five. This confirms that unions do not put much effort on the role of marketing union activities.

3.2.4 *Quality of Union Leadership*

The study has shown that one of main challenges unions face in Malawi is poor quality leadership due to low education and low rank at work. This factor has been rated 8.2% and position three. The study has revealed that there is a big knowledge gap between union leadership and management. Most union leaders have low-level education and are junior in position at work compared to management.

An example of this set up is the comparison between the Government Negotiating Team and the Civil Servant Trade Union executive. The Government Negotiation Team is comprised of Principal Secretaries where as the union is composed of junior officers and clerical staff. This puts the trade union in negotiating power disadvantage.

3.2.5 Political Interference in Union Activities

Political interference in trade union activities is one of the major factors influencing or affecting performance of trade unions in Malawi. Trade unions themselves and stakeholders have rated this factor 7.1% and position four.

It has been observed that in Malawi, Government does divide and rule tactics on the union leadership. In some cases, Government uses some union leaders to work against their colleagues to frustrate trade union efforts in favour of politicians such as ministers.

Failure of mass action strike organized by Civil Servants Trade Union (CSTU) was an ideal illustration of this factor. On 13 September 2005, the Nation Newspaper carried an article “Civil servants divided over strike.” The article stated that some members of the Civil Servants Trade Union executive committee had distanced themselves from the ongoing strike over the calculation of terminal benefits because they were not consulted. The paper further stated that the members did not see any proper justification over the issue and that technically their union leaders had no mandate to organize or call for a strike as their term of office expired in 2003. The Vice President of the CSTU made these remarks.

On 14 September 2005, the same newspaper carried another article saying the State President during a rally-cum-press briefing addressed in Lilongwe said CSTU had no mandate to call for a strike because its office bearers were holding their positions illegally. This was the same view expressed by the CSTU Vice President against his own union executive committee.

As seen in the case of CSTU, this had a lot of impact on its performance. The union was completely paralysed to carry out its planned activity of pressuring the Government through a strike.

Another form of political interference is when the Government promotes or transfers outspoken union leaders to silence them. For example, the UDF Government posted the former president of Teachers' Union of Malawi, Mr Ndalama, who was very vocal to foreign services to work at the embassy. Again the former outspoken Civil Servants Trade Union President Mr Mwapasa was also sent to foreign services to work at the embassy in Mozambique.

The former MCTU President Mr S Madise was also promised to be sent to ILO Headquarters Geneva to work as labour attaché by the UDF Government. This did not materialise and eventually Mr Madise ceased to be the President of MCTU due to this political maneuvering. These types of transfers and promotions weaken labour movements in Malawi.

From this example, one sees two factors influencing performance of trade unions in Malawi. The first factor is the political interference as explained above. The second factor is the element of bad governance by the trade union for not complying with the requirements of their constitution to conduct elections for the leadership to seek fresh mandate. As it will be demonstrated later, most of the trade unions in Malawi breach their supreme law by failing to comply with the requirements of the constitutions.

3.2.6 Lack of Continuous Training for Union Leadership and Union Members

Lack of continuous training for both union leaders and members has been rated 7.1% and position four as one of the main factors influencing performance of trade unions. Possibly this factor may be linked to the factor of financial limitation. The study has clearly revealed that most of the union leaders have low level of education and they also are in lower ranks in the employment hierarchy. This is a very big deterrent to their capacity to effectively bargain with highly qualified and trained management.

As explained before, TUM is an excellent example of a union with well-trained leaders and members. Its performance stands out and outshines the majority of the unions in Malawi. Most of the unions in the country do not have a well-organized training and professional development programme such as the TUM programmes.

3.2.7 Fighting Among Union Leaders for Power

The study has revealed that indeed union members and leaders have been fighting for power among themselves. These conflicts have derailed the progress of the unions in achieving their objectives. For example, at its quadrennial congress, members of ESCOM Workers Union elected a convicted person as their president. The other members felt that it was illegal to elect someone who was convicted. The Government also advised the members not to elect anyone who was convicted because this was not in line with Section 20 of the Labour Relations Act Cap 54:1. The members at the conference disregarded the advice and went ahead to elect him.

Some members of the union tried their best to remove him as president of the union. After a long battle to remove him, the president with his new executive dismissed 150 disgruntled members from the union. The disgruntled workers decided to form their own parallel trade union within ESCOM. This conflict weakened the union power of ESCOM Workers Union. Management was at liberty to choose which union to negotiate and

bargain with at the expense of the other. Again, the union members lost confidence in activity of trade union at ESCOM.

Another example was the conflict and tension that arose between COMATU leadership. Both the president of COMATU and General Secretary of Quarry, Mines and Infrastructural Workers Union (QUAMIWU) an affiliate member of COMATU alleged that the General Secretary of COMATU was flouting principles of COMATU constitution. As such, QUAMIWU threatened to pull out as an affiliate member of COMATU. The president of COMATU issued a letter to Ministry of Labour decreeing lack of co-operation between the Secretary General and the President of COMATU.

The struggles for leadership have had a lot of negative repercussions on the performance of most of trade unions in Malawi.

3.2.8 Lack of Political Will by the Government to Support Trade Union Activities

According to the former Labour Commissioner Late Kambuto, the Government was blamed by various stakeholders including the trade unions for not creating enabling environment for formation and operations of trade unions in Malawi. It is expected that Government should support trade unions to form enterprises or companies in order to establish sustainable financial base. He cited an example of the Egyptian government that gave land, built houses, formed companies, hotels, recreation centers, and classrooms for college for labour studies for unions' income generation. Such type of political will lacks in Malawi. This may also be an explanation why trade unions in Malawi fail to implement their programmes due to financial limitation. The Government has not created a conducive environment for the trade unions to venture into income generating activities for sustainable financial base.

3.2.9 *Bad Governance by Union Leaders*

As it has already been pointed out, there have been conflicts in some trade unions due to failure by the unions to conduct general elections as per unions' constitution. This is a good example of bad governance. The unions are expected to abide by their supreme law of governance. Most of the constitutions of the affiliate unions of COMATU and MCTU require the unions to hold congress meetings every four years. Any failure to conduct the conferences within this period is tantamount to breach of constitution that is a reflection of bad governance.

Table 6 below shows number of years taken by 21 trade unions in Malawi to hold congress meetings from the date of the unions' registration.

Table 6: Years Taken to Hold Congress Meetings

NUMBER OF UNIONS	NUMBER OF YEARS TAKEN TO HOLD CONGRESS MEETINGS SINCE THE DATE OF REGISTRATION
1	11
4	9
2	8
1	6
2	5
1	4
1	3
5	>0 – 1
4	No congress at all

Source: Data Extracted From Registrar of Trade Union's Registry

From the table above, out of 21 registered trade unions, 33.3% took between 8 to 11 years to hold congress meetings after registration; 14.4% took between 5 to 6 years before holding congress meetings after registration. 33.3% took between 1 to 4 years (complied with their constitutions) before holding congress meetings after registration; and 19.1% never held any congress meetings since registration.

The study has shown that only 33.3% of registered trade unions complied with their constitutional requirements. Again, the study has also revealed that 57.7% of trade unions held their congress meetings long after the 4 years constitutional requirements had expired. The study further revealed that 19.1% of the registered trade unions did not even comply with their own constitutions to hold the congress meetings since the dates of their registrations.

Failure to comply with constitutional requirement by not holding or excessively delaying to organize congress meetings is a good example of bad governance. It is important that union leaders seek fresh mandate from their members through general elections. Failure to conduct general elections at such meetings may result in frustrating union members and discourage potential members from joining the unions. Some registered members may end up resigning from unions resulting in reduction in subscription fees and consequently reduction in finances of the unions. Again, reduction in membership may result in reduction in bargaining power. If the union density is below 20% threshold, the unions may not qualify for recognition by employers for collective bargaining purposes. In the event of any dispute between the unions and the employers, the union may be challenged that it has no mandate or it is not recognized to act on behalf of the workers in the company. This was manifested by CSTU when the state president challenged them that they had no mandate to organize a strike.

Another example of bad governance by trade unions in Malawi is when the unions fail to file financial reports, statistics of various activities of the unions such as list of registered members to Registrar of Trade Unions. This is also part of trade unions constitutional requirements. According to the Registrar of Trade Unions, in year 2005 out of 27 registered trade unions, only 7 unions managed to submit financial reports and statistics of union members to his office. This reflects lack of transparency on the part of trade unions in Malawi. The Government is empowered to monitor financial mismanagement of trade unions through their financial reports.

This bad governance and lack of transparency affect performance of trade unions in Malawi. It is very impossible for such trade unions to get funds from various donors including their international co-operating federations. This may also explain unions failure to raise funds for their activities.

3.2.10 Lack of Labour Laws Knowledge by Some Employers

This factor has been rated 3.5% and position seven. In some companies some senior managers are either ignorant of labour laws or they do not have interest in labour laws. As a result of this, they flout the labour laws and do unfair labour practices. These companies have ended up to be victims of court cases. For example, the case in the High Court of Malawi, Lilongwe District Registry – Civil Cause No. 548 of 2004 between Hodges and Six Others versus Lilongwe City Assembly – Respondents. The Respondents lost the case because of management lack of interest or ignorance of labour laws.

3.2.11 Negative Image by Unionists Towards Employers

Negative image by unionists towards employers has been rated 2.4% and position eight by trade unions and other stakeholders. The study has also revealed that some union members and leaders have negative attitude towards their employers. They always think of fighting management instead of negotiating and having meaningful dialogue with management. Possibly this might be the reason why some employers show hostile attitude towards unions as explained before.

According to Farnham and Pimlott (1995:112 – 141) they pointed out that among the four factors that influence trade union membership and decline, one of them is trade union image. It was further explained that the major component of trade union image were union leadership, union perceived power, union size and its ability to carry out various union activities such as collective bargaining, job regulation, industrial action and ability to influence national policies and governments. As it has been illustrated before in

Malawi, most of the unions have not performed well in fundraising, have displayed poor quality of leadership, have suffered political interferences and have lacked continuous training for its members. These have not portrayed a good image of the unions to employers, its members and the general public.

3.2.12 Relations with Local and International Cooperating Partners

In Malawi, some of the unions are not affiliated to any international federations. This factor has been lowly rated 2.4% and position 8 by the trade unions and other stakeholders. According to the study, out of 21 trade unions, 18 (85.7%) are affiliated to local congress of trade unions and 3 (14.3%) are not. The study also has revealed that out of the 18 affiliate unions, 13 are affiliated to Malawi Congress of Trade Unions and 5 are affiliated to Congress of Malawi Trade Union (COMATU) (See Table 2)

Again, out of the 21 registered trade unions, 17 (81%) are affiliated to international trade unions and 4 (19%) are not affiliated to any international trade unions congresses. This shows that the majority of the trade unions in Malawi are affiliated to both local and international trade union congresses.

Affiliation to both local and international trade unions offers the affiliate unions both chances for accessing training, exposure and capacity building for union members and their leadership.

International trade union congress also assists in funding some programmes of the local affiliated trade unions. From the study, it appears that local trade unions in Malawi have not taken advantage of this opportunity. Despite the fact that the level of affiliation to foreign unions is very high, the analysis reflects that fundraising, training of union leaders and members, poor quality of leaders, low level marketing of union activities and bad governance are still major factors affecting performance of trade unions in Malawi.

Within the local scene, it was also learnt that trade unions have not interacted with the office of the Ombudsman. According to the Ombudsman none of the labour cases he has discharged were represented by trade unions except one on pensioners that was represented by the Public Service Pensioners Association (PUSEPA). PUSEPA won the case. Despite the fact that they know of existence of office of Ombudsman, trade unions in Malawi have not established a common working ground with the office of the Ombudsman and they have not taken advantage of his constitutional backing in handling labour matters.

Considering the fact that Industrial Relations Court is poorly funded and that it is flooded with a lot of cases which take longer time to be discharged, trade unions would be referring some of the labour cases, especially those from the civil service and public service, to the office of the Ombudsman for determination to assist the members.

3.2.13 Impact of HIV/AIDS on Union Activities

The study has revealed that HIV/AIDS has claimed many lives of both union members and union leaders. The effect of this is far-reaching in the sense that union membership reduces, cost of training new union leaders increases, union subscription declines and in the final analysis union programmes are affected adversely.

3.2.14 Impact of Corporate Restructuring (Privatisation and Commercialisation) of Various Public Companies

This factor has been rated 2.4% and position 8 by the unions and the stakeholders. In line with the International Monetary Fund and World Bank conditions, Malawi embarked on programme of privatization and commercialization of state owned companies in order to improve their performances. Some of the companies affected by these programmes are ADMARC, ESCOM, Malawi Revenue Authority (MRA), Press Corporation and other various publicly owned companies.

During the process of these programmes, there have been a lot of right sizing and downsizing exercises that have adversely affected workers and union leaders. A good number of workers have lost their jobs through retrenchments. Some unions even died in the process. A good example of this is the once famous Customs and Excise Workers Union. When the Customs & Excise Department was commercialized and reconstituted to Malawi Revenue Authority, majority of union members and leaders lost their jobs. The union itself ended. Up to date, the Malawi Revenue Authority has not established another union. Another example is the Malawi Railways Workers Union. It used to have one of the highest union membership. After the privatisation of Malawi Railways the union membership drastically reduced. Currently the membership is at 431 members.

According to Farnham and Pimlott (1995:112-141) growth or decline in national economy is one of the factors influencing union membership and density. Fluctuations in national economic activities or business and cycles affect union membership and density. Farnham and Pimlott gave an example of the effect of the trade depression between the two world wars. The trade union membership, power and influence reduced. In 1933 the trade union membership or density reduced from 48% to 23%. The gradual expansion of the economy in the 1930s and full employment policies of 1945 resulted in increase of union density to 45%. These national economic fluctuations have similar effects on performance of trade unions in Malawi as illustrated above.

3.2.15 Lack of Solidarity Among Union Members

There is lack of solidarity among union members in some of the trade unions in Malawi. An example of such cases is the time the Chancellor College Academic Staff Union were challenging the arrogance of the Executive Management in handling their grievances, instead of the College Administration Support Service Trade Union supporting the Academic Staff Union, they fought against them in support of the Executive Management. The effects of such behaviour by unions are adverse and detrimental to effective performance of trade unions in Malawi.

3.3 Proposed Strategies to Improve Performance of Trade Unions in Malawi

The study has shown the perceived roles of trade unions and explained how these roles are achieved. It has further revealed some of the factors that affect the performance of trade unions in Malawi.

This section of the chapter will explain some of the proposed strategies to be pursued by trade unions in order to improve their performance. These proposed strategies were derived from responses from trade unions themselves and other stakeholders as shown in Table 7 below).

Table 7 : Summary of Strategies Proposed by Trade unions and Other Stakeholders to Improve Performance of Trade Unions in Malawi

PROPOSED STRATEGY	FREQUENCY OF APPEARANCE	RANKING PERCENTAGE	RANKING
Improving fundraising activities to establish sustainable financial base	9	17.6	(1)
Increased marketing of unions for more membership	8	15.6	(2)
Need for training and capacity building for union leaders and union members	8	15.6	(2)
Improve quality of union leadership	5	9.8	(3)
Lobbying local and international organizations to put pressure on Government which does not support unions	4	7.8	(4)
Need to improve social dialogue between partners for improved industrial peace and harmony	3	5.8	(5)
Need for networking with other unions locally and internationally for information, expertise and exposure	2	3.9	(6)
Conduct awareness programmes and campaign on prevention of HIV/AIDS	2	3.9	(6)
Employers should be well trained in unionism	2	3.9	(6)
Unions should represent their members during hearings with Ombudsman. They should establish common grounds with Ombudsman	2	3.9	(6)
Need for permanent secretariat for unions – permanent staff	1	1.9	(7)
Courts to give stiffer penalties to employers who violate labour laws deliberately	1	1.9	(7)
Industrial Relations Court to be upgraded to High Court status	1	1.9	(7)
Unions should properly organize themselves	1	1.9	(7)
Unions should re-adjust their approach towards	1	1.9	(7)

employers. They should stop to be confrontational			
Unions should work hand in hand with Labour Advisory Council	1	1.9	(7)
Government should have a deliberate policy to unionise all employers	1	1.9	(7)
Total	51	100%	

Source: Study Survey Results

3.3.1 *Improving Fundraising Activities to Establish Sustainable Financial Base*

As it has been explained before, the study revealed that financial limitations were rated highly (15.3%) as a factor affecting performance of trade unions in Malawi (See Table 3). At the same time, it was also observed that fundraising as an activity pursued by trade unions was lowly rated 2.2% and position 6 (See Table 4). This result shows that trade unions in Malawi do not take fundraising as a major and important activity on their programme. The results of the study show that fundraising is supposed to be considered as the most important activity and must be prioritized. This implies that there is need for trade unions to review their activities and refocus their attention to those activities that will enable them achieve their performance.

It is therefore recommended that trade unions in Malawi should consider fundraising as one of their main functions. As already explained, Teachers Union of Malawi has taken fundraising seriously. The union has established sustainable financial base by implementing a lot of fundraising programmes. TUM has the highest union density of 87.8%. This means that TUM has managed to market the union to its potential members. The effect of this is high level of subscription fee collection and improved financial status. In addition to high density, TUM has several sustainable sources of income such as two houses for rent, rest house and conference center for letting out for various conferences and wedding celebration functions; they have maintained very good relationship with international congress trade unions such as Pan African Teachers Organisation, Education International (EI) and Public Service International. Currently, TUM is in the process of building three private secondary schools in the three regions of Malawi for the purpose of fundraising.

It is being recommended that trade unions in Malawi should take fundraising seriously and emulate the approach taken by Teachers Union of Malawi in order to establish a sustainable financial base.

3.3.2 Increased Marketing of Trade Union Activities for Increased Membership

The analysis of trade unions and stakeholders proposed strategies has rated marketing of trade unions 15.5% and position two. On the other hand Table 5 shows that as activities pursued by trade unions in Malawi, marketing the trade union activities is rated 4.4% and position 5. Again this shows that the unions in Malawi do not consider marketing of trade unions as one of their major roles. The effect of not taking marketing of unions seriously is that membership of the unions suffers and in turn it affects fundraising due to low membership.

Table 6 shows that 50% of the 21 registered unions have failed to market the unions to their potential members. Their unions' densities were below the recommended 20% threshold by the laws of Malawi. This implies that the levels of subscription fees for these trade unions are very low. Again, since their union densities are below 20%, their employers cannot recognize them for collective bargaining purposes. This puts the unions in weaker bargaining status with management. They may not be recognized as representative trade unions to conduct some of union activities such as calling for a strike, collective bargaining and negotiating for better conditions of services for their members.

The stakeholders therefore suggest that trade unions should consider marketing of the unions as one of their major functions. They need to refocus their roles to include marketing and recruitment of new members as one of the major strategy to improve union performance.

In order to improve on union membership, Farnham and Pimlott (1995:141) suggested that unions should form handful neutral and very large and powerful super unions encompassing all the sectors of the economy. These few and large unions will cover every type of employee and will negotiate from position of numerical, financial and organizational power with employers. Trade unions in Malawi may wish to merge and amalgamate in order to strengthen themselves financially and operationally. Farnham and Pimlott further recommended that trade unions should greatly improve their labour market intelligence. This will enable the unions to understand better what is happening in terms of how and where jobs are lost and created. This will include greater regional knowledge about the expansion and contraction of employment that directly affect union membership and union density.

In order to attract more members, unions need to offer services to their members. In Malawi, none of the trade unions interviewed indicated that they provide services such as personal pension arrangements, loans, mortgages and insurances. In other countries, trade unions provide the above services including payment of salaries and wages at the time their members are out of employment. If union members are assured of benefiting from these facilities it will be easy for trade unions to attract many members.

It is therefore being recommended that trade unions should introduce services that will directly benefit their members in order to increase their membership. The unions should also intensify recruitment of young workers and women as their members.

3.3.3 Training and Capacity Building for Union Leaders and Members

The analysis has revealed that improved training and capacity building of union leaders and members has been rated 15.6% and position two as a strategy for improving trade unions performance in Malawi. Again in Table 4 as an activity pursued by trade unions, training and education of union leaders and members was rated 8.9% and position three. This implies that trade unions in Malawi consider training of their members as important although not the most important one.

It is important for trade unions in Malawi to devote their efforts to train and develop both capabilities and professional competencies of their members. Training and professional development will also improve the quality of union leadership and performance of the unions in general. As already explained, trade unions in Malawi should learn from the experiences of Teachers Union of Malawi where there is a specific deliberate programme set for the development of professional and academic competencies of teachers. Unions should specifically have training programmes for union leaders and other members. This will assist in narrowing the knowledge gap that exists between union leaders and management in various institutions. The union leaders will bargain and negotiate genuinely at par with management as opposed to the current situation.

3.3.4 Improve Quality of Union Leadership

This proposed strategy has been rated 9.8% and position three. Table 3 shows that poor leadership quality has been rated 8.2% and position three. This confirms that both trade unions and other stakeholders realize that the quality of trade union leadership is poor in Malawi.

As explained in 3.3.3, trade unions need to develop their members and leaders through training to improve their performance. Again Table 4 shows that training of union members is rated 8.9% and position three as one of activities pursued by trade unions. This implies that trade unions value training of their leaders.

As a way of improving quality of leadership for trade unions, it is recommended that the unions should set basic qualifications for the contestants during the election of leaders. This is to ensure that high standards are maintained for election of good quality union leaders.

3.3.5 Lobbying Local And International Organisations to Pressurize Government

Political interference and lack of political will by the Government to support union activities have been rated 7.1%, 4.7% and positions four and six respectively as challenges facing trade unions in Table 3. These two factors signify that the relationship between Government and trade unions is not favourable. In order to improve on this relationship it is important that the social partners should initiate social dialogue with the Government. This social dialogue may be conducted in bipartite or tripartite manner. The social partners need to iron out their differences and improve the understanding of each other.

In the event that social dialogue is not yielding any results, the social partners may seek the support of international organizations such as International Labour Organizations (ILO), World Bank, International Monetary Fund (IMF) and other International Trade Union Congresses to exert pressure on the Government to provide conducive environment for trade unions and employers to operate in. For example, International Labour Organizations has a Committee of Experts on the Application of International Labour Standards. It is a technical committee made up of highly qualified and trained experts in ILO standards. This is the committee that follows up on issues such as ratification, implementation and application of ILO conventions and standards in member states. The committee also follows-up on non-compliance of ILO standards in member states.

This committee, every year, compiles a progress report on the application of ILO Labour Standards for all member states. This report forms a major agenda item at every session of International Labour Organization conference in Geneva. If a Government is not complying with ILO standards or is not providing conducive environment for the operation of trade unions and employers, the social partners may report to the Committee of Experts for summoning the Government at the ILO Conference.

At the International Labour Conference, 96th Session held from 30th May 2007 to 15th June 2007 the Malawi Congress of Trade Unions reported to the Committee of Experts

several violations of ILO Conventions by Malawi Government. The following were some of the conventions violated and reported to ILO conference as listed on page 109 of Report of the Committee of Experts On the Application Of Convention, and Recommendations, 96th Session, 2007: -

- i. Freedom of Association and Protection of Right to Organize Convention 1948 (No 87) (ratification: 1999). The International Confederation of Free Trade Unions (ICFTU) submitted a complaint to the Committee of Experts on 10th August 2006 that the Government of Malawi was violating the right to strike and was committing acts of violence against trade union organizers. The ILO Committee of Experts summoned Malawi Government to comment on these allegations.
- ii. The Committee noted that section 45(3) and 47(2) of Labour Relations Act of 1996 empower the parties concerned to apply to the Industrial Relations Court for determination as to whether a particular strike involves essential service. The Committee of Experts requested Malawi Government to provide Information on any stance declared illegal and reasons as well as any decisions rendered by the Industrial Relations Court under Section 45(3) and 47(2) of the Labour Relations Act.

Section 36 and page 14 of the Committee of Experts report shows that Malawi was one of the countries that did not respond on the progress covered in implementation of the following ILO Conventions 19, 87, 100, 111, 144 and 158.

Another case the Malawi Congress of Trade Unions reported to the Committee of Experts was Governments failure to implement labour inspection in Malawi on the basis of limited resources.

In the event that the Government is exhibiting signs of lack of political will and political interference, the social partners can lodge a complaint with the International Organizations such as ILO to assist in pressurizing the Government in implementing ILO conventions and ILO Standards as has been explained above.

3.3.6 Networking with Other Local and International Trade Unions

Regarding affiliation to local and international trade unions, Malawi trade unions have performed well. As shown in Table 2, out of 21 registered trade unions, 18 are affiliated to local congress of trade unions and three are not; and out of 18 affiliate unions 13 were affiliated to the MCTU and five are affiliated to COMATU.

Again out of the 21 registered trade unions 17 of them are affiliated to international trade unions and four are not. Out of 17 affiliate unions three of them are affiliated to more than two international trade union congresses.

Although the unions are doing well in terms of affiliation it is yet to be seen as to whether the unions are benefiting from these relationships in terms of exposure, training and financial support. The study has revealed poor quality of union leadership, high financial limitations and lack of training as some of stumbling blocks for successful performance by Unions in Malawi.

It is therefore recommendable for unions to take advantage of the current smooth relations with local and international trade union congress for increasing of knowledge, improved exposure and expertise.

3.3.7 Awareness Programmes and Campaign on Prevention of HIV/AIDS

The study has revealed that HIV/AIDS is one of the factors affecting performance of trade unions through loss of lives for union members and leaders.

It is a given fact that HIV/AIDS cannot be cured once a person has contracted it. The only opportunity that is available for persons with HIV/AIDS is the use of ARVs that extend one's life if properly used and administered. For those who do not have HIV/AIDS, there is no vaccine to prevent a person from contracting the virus. The only most reliable way is abstinence from any behaviour that can lead a person into contracting HIV/AIDS. For this to be successful there is need for trade unions to sensitize their members on the effects of HIV/AIDS and how they can avoid it. Trade Unions should intensify awareness programmes and campaign on prevention of HIV/AIDS at workplace.

The Trade Unions should also bargain and negotiate for HIV/AIDS policies at workplace by employers. The policies will guide both the companies and trade unions in handling issues on HIV/AIDS at workplace. The policies may include various programmes such as:-

- i. Provision of ARVs to workers with HIV/AIDS.
- ii. Awareness programmes and campaign on the effects of HIV/AIDS.
- iii. Counseling Programmes to people with HIV/AIDS.
- iv. Provision of condoms to workers at work place.
- v. Voluntary Counselling and Testing Programmes (VCT).

Trade Unions should be in the forefront campaigning and sensitizing employees on issues regarding HIV/AIDS at workplace.

3.3.8 Trade Union Relationship with Ombudsman

According to the Ombudsman, his office handled approximately 6000 labour cases since its conception. 75% of the cases were discharged. Almost 99% of these cases were from the Civil Service mainstream. None of the discharged cases were represented or assisted by trade unions except one case where the Public Services Pensioners Association (PUSEPA) represented the Pensioners. PUSEPA won the case.

The Ombudsman observed that the unions have not interacted with his office despite the fact that they know of its existence thorough mass media. He feels that unions have not established common working ground with his office. They have not taken advantage of his constitutional backing in handling labour matters.

Considering the fact that Industrial Relations Court takes too long to process cases due to several reasons such as limited finances, human resources and large volume of cases, the trade unions would reduce the delays by channeling some of the cases, especially from the civil service and public sector to the Ombudsman for processing.

Trade Unions should be proactive enough in maximizing their opportunities to process their members' labour cases through the office of the Ombudsman rather than solely depending on Industrial Relations Courts that is facing many obstacles in discharging its duties. Recently the parliament approved inadequate funds for Industrial Relations Court budget.

3.3.9 Permanent Secretariat for Trade Unions

As it has been pointed out before, trade unions in Malawi do not have permanent secretariat except for Teachers Unions of Malawi (TUM) and Civil Servants Trade Unions (CSTU). They operate as charitable organizations. The workers run the union as volunteers.

For trade unions to discharge their duties effectively, they should have permanent secretariat. The workers should be employees of the trade unions. This will give the workers chance to fully devote their effort and time on running the unions.

As previously mentioned, majority of the trade unions in Malawi do not have a strategic plan to guide them in running the affairs of the unions. This is so because they lack permanent trained personnel to manage trade unions. Trade unions like any other

organization need to have a manager, accountant and other professional workers to handle union matters.

A good example is the Employers' Consultative Organization of Malawi (ECAM). It has a structure that comprises of the following permanent personnel, Executive Director who is the Chief Executive of the Organization, Deputy Executive Director, Administration Assistant, Senior Industrial Relations Officers, Research and Information Officer, two Industrial Relations Officers and an Office Assistant. The Executive Director reports to the Executive Council that comprises of Counselors who are board directors.

Again ECAM has five-year strategic plan that runs from 2005 – 2010. The Strategic Plan contains Missions, Vision, Core Values and Strategic Goals of the organization.

If trade unions have to successfully perform their roles, they need to operate like any other organization such as ECAM. Already the performance at TUM is far much advanced and excellent because of its organizational structure. It is therefore recommended that trade unions need to be properly organized to perform their roles effectively.

3.4 Conclusion

The chapter has analyzed and identified the roles of trade unions and how these are achieved in Malawi. It has further articulated challenges faced by Trade Unions and has recommended how these challenge can be overcome in order for them to perform well.

Chapter Four: Conclusion and Recommendations

4.0 Conclusion

From the results of this study as presented and discussed in chapter three, the following conclusions are drawn:

In order to perform well, trade unions in Malawi are expected to fulfill unions' roles as shown in Table 1. The study revealed that some roles are rated more than others. Although some of the perceived roles are ranked highly, for example the role of acting as democratic leader and participating in national development, they do not directly benefit the beneficiaries (the workers). It is therefore important that trade unions should be cautious of such revelations by the study so that this is not done at the expense of roles that directly and immediately benefit the worker at workplace.

The study has revealed that trade unions are not fully achieving their perceived roles. Although they are achieving some of the roles, the results show that the roles are not being fully realized. It has also been found that performance of trade unions in Malawi is affected by a number of factors. These factors or challenges are both internal as well as external. The study has revealed that on average, 59.1% of trade unions failure to fully achieve their roles is due to internal problems as reflected in Appendix 6.1. This implies that most of the reasons for failure are within the control of the unions themselves.

On the other hand, trade unions pursue various activities as shown in Table 4 in order to achieve their perceived roles. The results show that activities such as fundraising, marketing of trade unions, building alliance and work in solidarity with other unions; influencing labour laws and policies; participating in improving productivity in companies, though very important, are lowly rated by unions.

Whilst trade unions are aware of the roles they are supposed to play, and that these roles generally agree with the roles played by trade unions internationally, the study has

revealed that the trade unions in Malawi were not fully realizing their own objectives. Many challenges were responsible for this situation, including those cited before.

The study has identified some of the strategies to be pursued to solve some of the problems facing trade unions as shown in Table 7. It is therefore important that trade unions should critically review the major factors that heavily and adversely affect their performance and refocus their efforts and strategies to deal with these problems.

The study has also shown that on affiliation to local and international federations, trade unions in Malawi have done very well. On the other hand, the unions' failure to raise funds; poor quality leadership, lack of training and development of professional competencies of the members and leaders, lack of recruitment drive of new members may imply that trade unions are not benefiting much or not maximizing the opportunity of the cordial relationship which exists between them and the federations. Both national and international federations may provide technical and financial support to local trade unions.

It has also been found out that there is infighting among union leaders and members. These conflicts derail the progress of trade unions in achieving their objectives. In addition, the study has revealed that there exists bad governance in most of the trade unions in Malawi. Union leaders have been violating the supreme law of governance in many ways. This has also adversely affected performance of trade unions in Malawi.

4.1 Recommendations

As discussed in the preceding chapters and sections, this study has revealed a number of shortfalls in the operation of trade unions in Malawi. In order to improve the situation, the author would like to make the following recommendations for possible adoption by the trade unions.

4.1.1 Improving Fundraising Activities to Establish Sustainable Financial Base

The study has shown that trade unions in Malawi do not take fundraising as a major and important activity on their programme. It is, therefore, recommended that trade unions in Malawi should take fundraising seriously and emulate the approach taken by Teachers Union of Malawi in order to establish a sustainable financial base. Trade unions should thus review their activities and refocus attention on those activities that will enable them achieve their performance.

4.1.2 Increased Marketing of Trade Unions for Increased Membership

Membership to Trade Unions is an important aspect to increasing density and relevant for increased funds available to the unions. It is strongly recommended that marketing of unions should be a priority function for Trade Unions in order to sustain increased membership that is critical for improved fund raising. Merging unions to make them bigger and stronger may be one way in adding to membership. Innovative ideas for increasing membership may be tried such as offering services such as loans, mortgages and the like to members.

4.1.3 Training and Capacity Building for Union Leaders and Members

In order to narrow the knowledge gap which exists between union leadership and management in various institutions, it is recommended that trade unions should put extra effort to develop professional competencies of their members in general but also more importantly of their leadership. This may in part, enhance leaders capacity to bargain and negotiate genuinely at par with managements as opposed to the current situation. Furthermore, it is recommended that the unions should set basic qualifications for the contestants during the election of leaders as a way of improving quality of trade unions leadership. This is to ensure that high standards are maintained for election of good quality union leaders in the first place.

4.1.4 Lobbying Local and International Organizations to Pressurize Government

Political interference and lack of political will by the Government to support union activities was rated highly in this study, signifying that the relationship between Government and trade unions is not favourable. In order to improve this relationship it is recommended that the social partners should initiate social dialogue with the Government.

In the event that social dialogue is not yielding any results, the social partners may seek the support of international organizations such as International Labour Organizations (ILO), and other International Trade Union Congresses to exert pressure on the Government to provide conducive environment for trade unions and employers to operate in.

4.1.5 Networking with Other Local and International Trade Unions

Regarding affiliation to local and international trade unions, Malawi trade unions have performed well. Although this is the case it is yet to be seen as to whether the unions are benefiting from these relationships in terms of exposure, training and financial support.

It is therefore recommended that trade unions in Malawi should take advantage of the current smooth relations with local and international trade union congress to increase their knowledge, and expertise and improve exposure.

4.1.6 Awareness Programmes and Campaign on Prevention of HIV/AIDS

The study has revealed that HIV/AIDS is one of the factors affecting performance of trade unions through loss of lives for union members and leaders. It is therefore recommended that trade unions sensitize their members on the effects of HIV/AIDS and how they can avoid it. Trade Unions should intensify awareness programmes and campaigns on

prevention of HIV/AIDS at workplace. They should also bargain and negotiate for HIV/AIDS policies at workplace by employers. The policies will guide both the companies and trade unions in handling issues on HIV/AIDS at workplace.

Trade Unions should be in the forefront campaigning and sensitizing employees on issues regarding HIV/AIDS at workplace.

4.1.7 Trade Union Relationship with Ombudsman

This study has shown that the trade unions have not used the Ombudsman in settling cases for their members. Considering the fact that Industrial Relations Court takes too long to process cases due to several reasons such as limited finances, human resources and large volume of cases, the trade unions would reduce the delays by channeling some of the cases, especially from the civil service and public sector to the Ombudsman for processing. Trade Unions should be proactive enough in maximizing their opportunities to process their members' labour cases through the office of the Ombudsman rather than solely depending on Industrial Relations Courts that is facing many obstacles in discharging its duties.

4.1.8 Permanent Secretariat for Trade Unions

Trade unions in Malawi do not have permanent secretariats except for Teachers Unions of Malawi (TUM) and Civil Servants Trade Unions (CSTU).

For trade unions to discharge their duties effectively, they require to have permanent secretariat. The workers should be employees of the trade unions. This will give the workers chance to fully devote their effort and time on running the unions. It is therefore recommended that some permanent secretariats should be out in place.

4.1.9 Improvement of Relationship Among Union Leaders and Members

The study has revealed that there has been fighting for power in some of the trade unions in Malawi. These conflicts among union leadership weaken the union performance. It is recommended that trade unions' leaders should develop grievance and conflict handling machinery. They should solve their conflicts amicably rather than fighting each other as it has been cited in chapter three.

4.1.10 Governance of Trade Unions

Trade unions should always abide by and comply with the provisions of their Constitutions and labour laws in order to improve on governance.

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5.2 List of Newspaper Articles

- The Nation* – Supplement “Divided Workers Lose Out” 30 April 2004
- The Daily Times* “MCTU in Fix Over Muluzi’s K10 million” 10 November 2004
- The Daily Times* “ESCOM Union Reverses Decision to Change Name” 15 December 2004
- The Nation* “Trade Unions in Africa: Past & Present by D D Phiri” 10 January 2005
- The Daily Times* “Chanco Workers Union Differs with Lecturers” 23 February 2005
- The Nation* “University Union Behind Principal” 23 January 2005
- The Daily Times* “MCTU May Evolve Into Political Party” 5 April 2005

The Nation “Chanco Lecturers Divided Over Moto” 22 August 2005
The Daily Times “Unionists to Drag CSTU President to Court” 13 September 2005
The Daily Times “CSTU Vows to Take Bingu Head On” 14 September 2005
The Nation “Civil Servants Divided Over Strike” 13 September 2005
The Daily Times “MCTU wants recall of Senate” 15 November 2006
 Teachers Union Newsletter, Nov 2007 Edition

5.3 List of People Interviewed

5.3.1 Employers’ Representatives

Mr Nyemba - Clerk to the Board, Lilongwe Water Board
 Mr Mbunju - Administration Manager – Central Regions Water Board
 Mr Mbweza - Human Resources & Admin Manager – Lilongwe City Assembly
 Mr Kwalimba - Human Resources Manager – Mount Soche Hotel
 Mr M Mwenye - Assistant Registrar – Chancellor College
 Mr V Sinjani - Executive Director, Employers’ Consultative Association of Malawi

5.3.2 List of Other Stakeholders

Late Z Kumbuto - Labour Commissioner – Ministry of Labour and Vocational Training
 Mr Chirwa - Registrar of Trade Unions – Ministry of Labour
 Mr Chibwana - Ombudsman
 Mr F Kalawe - Executive Director, Office of Ombudsman
 Hon C Mkandawire - Former Chairperson – Industrial Relations Court (now High Court Judge)

5.3.3 Trade Unions Consulted

Secretary General – M/s O Kunje: Central Region Water Board
 President – Mr Nkosi: Lilongwe Water Board
 Treasurer General – Mr Chimbalu: Lilongwe City Assembly

Secretary General – Mr P Kalichero: Civil Servants Trade Union

1st Regional Representative – Mr Phwirima: Hotels and Catering Workers Union –
Mount Soche Hotel

President – Mr Francis Antonyo: Transport and General Workers’ Union

Secretary General – Mr Chikadza and Executive Secretary (TUM): Teachers Union of
Malawi

President – Mrs Jessie Kapasula: Chancellor College Academic Staff Union

Secretary General – Mr M Chiphwanya: ESCOM Workers Union.

Secretary General – Mr George Chumachiyenda: Congress of Malawi Trade Union

6.0 Appendices

Appendix 6.1 Reasons for Trade Unions’ Failure to Perform Well – Unions and
Other Stakeholders’ Perspective

Appendix 6.2 List of Various Questionnaires Used

Questionnaires to:

6.2.1 Trade Union Leaders,

6.2.2 Registrar of Trade Unions/Labour Commissioner,

6.2.3 Ombudsman/Industrial Relation Court chairman,

6.2.4 Employers.

APPENDIX 6.1

Reasons for Trade Unions' Failure to Perform Well – Unions and Other Stakeholders Perspectives:

UNION'S PERSPECTIVE	OTHER STAKEHOLDERS PERSPECTIVE
1. Employers' failure to meet or honour agreements after successful negotiations e.g. Chatsika Report and New Pension Scheme for Civil Servants (External). 2. Political interference. Government does divide and rule on union leadership. Government uses some union leaders to work against their colleagues to please politicians such as Ministers, e.g. the failure of mass action by Civil Service Trade Union was a result of this. The Union Vice President challenged the Union President that the union executive had no mandate to call for mass action because their term of office has expired two years ago. (External). 3. Negative Attitude by Employers Towards Unionism. Some employers resist unions fearing that unions will take over their powers. This is also reflected in the majority of companies in Malawi without unions. Most of the companies have preferred having Joint Consultative Committees (JCCs) to having trade unions. (External). 4. Some senior managers do not have interest in knowing labour legislations. A good example where companies have failed to win labour cases against employees e.g. in case of Hodges and Six Others versus Lilongwe City Assembly. The City Assembly lost this case due to Senior Manager's failure to know labour laws. (External) 5. Some companies do not have well trained Human Resources Personnel to effectively handle labour matters. The unions gave GDC as one of such companies. (External). 6. Victimization of union members by some employers. In such cases, workers fear to	1. Unions fail to properly organize themselves. They have not marketed themselves to their prospective members and other stakeholders. For example, unions have not interacted with the Office of the Ombudsman. Out of 21 trade unions, 11 of them have not attained the 20% threshold to be recognized by the employers for collective bargaining. The union density are lower than 20%. Only 10 unions qualify to be recognized for collective bargaining (Internal). 2. Most of the unions lack funding or financial resources to implement most of their planned programmes. Members are unwilling to contribute subscription fees due to lack of motivation, or lack of publicity by unions themselves. They fail to market themselves for higher membership. (Internal) 3. Unions are threatened by management because of a confrontational relationship between management and unions. (External). 4. Most of the unions are more reactive than proactive. (Internal). 5. There is a big knowledge gap between unions leadership and management. Most union leaders have low level education compared to management (Internal). 6. Some union leaders are greedy. They use the unions as income generating activities for themselves (Internal) 7. Unions leaders fight each other for power within the union. (Internal). 8. Government has not been able to create enabling environment for operations of trade unions. For example, Government does not fund activities of other unions as other Governments do in other countries such as Egypt and Venezuela (External) 9. Union leadership lack creativity in seeking

join unions fearing to lose their jobs. The threats also affect the existing union members from doing their work effectively. (External). 7. Government fails to promote social dialogue for the three social partners. (External) 8. Lack of solidarity among the union members themselves, e.g. Chancellor College Academic Staff versus Chancellor College Admin. Support Service Workers union. The two unions crashed each other at the time CCASU were fighting their management for justice and fairness. This was also an example of divide and rule by the employer i.e. the College Principal. (Internal). 9. Lack of resources by Unions (Internal) e.g ☐ Lack of training ☐ Lack of finances 10. Unions are associated with activities for junior employees by most of the employers. (Internal). 11. There is fighting for power among union leaders within the unions (Internal) e.g. ☐ The Civil Service Trade Union situation on mass action ☐ ESCOM Workers Union which ended in splinter group forming their own union. ☐ President of Civil Service Trade Union against his Secretary General which resulted in QUAMIWU threatening to withdraw its affiliate membership. 12. Most of union leadership have low-level education and they hold low positions in the organizations, e.g. most of CSTU leaders have low-level education and positions but they negotiate with their bosses most of whom have degrees and are PSs. This may make it difficult for them to understand and appreciate issues. (Internal). 13. Most of the workers/union members do not understand much about unionism. Most of the workers are ignorant about unionism and merits of unions. (Internal).	advice from knowledgeable people such as the professionals, universities and researchers. (Internal). 10. Political interferences (External). 11. Failure to comply with legal requirements i.e. not all unions submit financial reports and statistics to the Registrar of Trade Unions. This may be a sign of lack of transparency and an example of bad governance. For example, in 2005 out of 26 registered trade unions, only submitted this information to the Registrar of Trade Unions. Again most trade unions are operating below the legal requirement of 20% threshold for recognition and bargaining on behalf of workers. (Internal). 12. Most of the unions do not follow their constitutional requirements and obligations of holding conventions and congress every year. For example, 57.7% of the unions held their congress meetings long after the four years constitutional period had expired from the date of their establishment. This is a good example of bad governance (Internal). 13. Poor marketing and organization by union leaders (Internal). 14. Some union leaders are easily bribed by employers through promotions or transferring them to places where they will not be active in union work. For example, ex-President of TUM Mr Ndalama was sent to the Embassy by the Government; Mr Thomas Banda was given a good house in Nyambadwe; the former President of MCTU was promised to be sent to Geneva Switzerland as trade attaché by the former State President – the trip failed (Internal). 15. The union leaders have not taken advantage of the climate change from colonial, one party to multiparty politics to strengthen unionism (Internal). 16. Most union leaders mismanage union funds e.g. ESCOM workers situation where most of the funds were spent on paying legal bills during the time there was conflict among union leaders. The conflict also resulted in donors freezing their aid to ESCOM Workers Union. (Internal). 17. Most of the unions lack outreach capacity
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14. Some union members and leaders have a negative attitude problem. They always think of fighting management instead of negotiating and having meaningful dialogue with management (Internal).	(Internal). 18. Unions have good objectives but lack capacity to implement them (Internal) 19. Employers have negative perception about unions (External). 20. The legal framework in some cases is vague and has gaps. (External). 21. The union potential members lack real knowledge about unions (Internal).
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Source: Study Survey Results

APPENDIX 6.2.1

Questionnaire for Data Collection on Assessment of the Performance of Trade Unions in Malawi

Schedule for Union Leaders

Name of Interviewer

Name of Interviewee

Position of Interviewee

Date of Interview

Section A: Demographic Information

- 1) Gender Male Female
- 2) Period of Service in Employment
 - a) Below 10
 - b) 11 - 20
 - c) 21 - 30
 - d) 31 - 40
 - e) Above 40
- 3) Education
 - a) Certificate
 - b) Diploma
 - c) Bachelors Degree
 - d) Masters Degree
 - e) Doctorate Degree
 - f) Others (specify)

Section B: Union Objectives

- 4) What are the objectives of your union?
- 5) Do you think the union is meeting its objectives? Explain your responses
- 6) What activities have been initiated by the union in your organization in order to achieve the set objectives?
- 7) What do you see as problems affecting the union to achieve the objectives?

Section C: Participation in Union Activities

- 8) Does your trade union have a constitution? How is compliance to the constitution achieved in the trade union? (Request copy of the constitution).
- 9) How are the workers involved in:
 - a) Constitution development
 - b) Other agreements
- 10) How much and how often is the information communicated to union members, employers from the unions and to union members, union leadership from the employers? Please explain your response.
- 11) How is the relationship between your union and the management? Please explain your response.
- 12) Does management have meetings with union leaders? If yes, how often? If no, why not?

Section D: Performance of the Union

- 13) What is your assessment of the performance of your trade union in meeting your objectives?
- 14) How do you assess the performance of your union? What are the indicators of the union's successes and failures?
- 15) What role has your union played to improve the standard of living of your members and performance of the company as a whole?

Section E: Conditions of Service

- 16) Has your union signed any recognition agreement with management of the company? (Ask for a copy of the agreement). If not, why?
- 17) To what extent have agreed conditions been implemented by the concerned parties?
- 18) If some of the conditions have not been met, which ones and why?
- 19) What is the reaction of the union to the non-implemented conditions?
- 20) Were your conditions of service negotiated with management? Explain your response.

- 21) Do you have discipline hearing sessions in your company? Explain your response.
- 22) Has your company ever experienced labour unrests?
- 23) If yes, what are the causes of the unrests? If not, why?
- 24) What has been the frequency of labour unrests before and after unionizing?

Section G: Union Membership

- 25) Is your membership gender sensitive? How many of the members are male and how many are female?
- 26) What is the current staff turnover in your company? Explain your response.
- 27) How does the union collect membership fees? How much is the fee? What are the other sources of funding you have?
- 28) How many are registered union members in your company?
- 29) Do you think the size of your membership is changing? Please explain.
- 30) What is the ratio of male to female members in the leadership of the union? Explain why this ratio.

Section H: Capacity Building

- 31) Do union members receive training as capacity building for your union? Explain your response.
- 32) Is the training adequate?

Section I: Others

- 33) Which of the following documents do you file to the Registrar of Trade Unions? (tick).
- a. Union membership data
 - b. Financial reports
 - c. Recognition agreements
 - d. Registration certificates
(ask for copies of these)
- 34) What do you think are the challenges affecting the operations of your union?

- 35) Have you contributed to these challenges? Explain.
- 36) How do you think these challenges can be overcome? (list down).

Section K: Recommendation for Improvement of Union Performance

- 37) What do you think should be done differently to improve union performance? Justify your recommendations.

THANK YOU FOR YOUR RESPONSE

APPENDIX 6.2.2

Questionnaire for Data Collection of Assessment of the Performance of Trade Unions in Malawi

Schedule for Registrar of Trade Unions / Labour Commissioner

Name of Interviewer

Name of Interviewee

Position of Interviewee

Date of Interview

Gender Male Female

- 1) What do you think are the objectives of unions in Malawi?
- 2) Do you think the objectives are achieved by the unions?
- 3) How many registered and non-registered unions are in Malawi?
- 4) What are the conditions for registering a trade union?
- 5) What are the differences between a registered and a non-registered trade union?
- 6) What are the legal requirements governing the operations of trade unions in Malawi?
- 7) Do all unions meet the legal requirements for the unions? Explain the response.
- 8) How do you enforce the legal requirements for the unions?
- 9) Which unions are common in Malawi between Sectoral and Enterprise unions? Explain your response.
- 10) What have been the trends of both union and memberships numbers in Malawi for the past ten years? Explain the trends.

- 11) How do you assess the performance of unions?
- 12) What do you think are the major challenges facing unions in the country?
- 13) How can these challenges be overcome?
- 14) What is the role of the state in operations of unions in Malawi?
- 15) What in your view have been the major achievements of trade unions in Malawi?
- 16) What other comments do you have about trade unions in Malawi?

APPENDIX 6.2.3

Questionnaire for Data Collection on Assessment of the Performance of Trade Unions in Malawi

Schedule for Ombudsman / Industrial Court Chairman or Representative

Name of Interviewer

Name of Interviewee

Position of Interviewee

Date of Interview

- 1) For how long has your office been in operation?
- 2) Since the inception of your office, how may labour related cases have you handled?
- 3) How many cases do you discharge per year for the past ten years? (1995 – 2005).
- 4) What is your assessment of the level of volume of labour cases every year? Are the labour cases increasing or decreasing? Explain your response.
- 5) Are you able to know which labour case is coming from a unionized company? If yes, how do you know? If no, why not?
- 6) How have the unions contributed to the current volume of labour cases as stated in 3.0 above?
- 7) What do you see as the role of unions as far as your work is concerned?
- 8) How do you assess the performance of the unions in Malawi? Explain your response.
- 9) What do you think are the major challenges affecting unions in Malawi?
- 10) How can these challenges be overcome?
- 11) What in your view have been the major achievements of trade unions in Malawi?

- 12) In the course of your work, have you had any cases where a union representation has assisted an employee during a court / case hearing? In what ways?
- 13) How many cases of these have you had and what were the outcomes of the cases?
- 14) Does your office interact with unions in Malawi? Explain your response.
- 15) Do you think the unions are aware of the role of your organization / office? Explain your answer.

APPENDIX 6.2.4

**Questionnaire for Data Collection on Assessment of the Performance of Trade
Unions in Malawi**

Schedule for Employers

Name of Interviewer

Name of Interviewee

Position of Interviewee

Date of Interview

1) Gender Male Female

2) Period of Service in Employment

- a) Below 10
- b) 11 - 20
- c) 21 - 30
- d) 31 - 40
- e) Above 40

3) Education

- a) Certificate
- b) Diploma
- c) Bachelors Degree
- d) Masters Degree
- e) Doctorate Degree
- f) Others (specify)

Section B: Union Objectives

4) What are the objectives of your company union?

5) Do you think you are benefiting from the activities of the union? If yes, explain
your responses

- 6) What activities have been initiated by the union in order to achieve the union's set objectives?
- 7) Do you think you are benefiting from the activities of the union? If yes, explain your response.
- 8) What has been achieved so far?
- 9) What do you see as problems affecting the union to achieve the objectives?

Section C: Participation in Union Activities

- 10) Does your company trade union have a constitution? Are the employees involved in:
 - a) Constitution Development? Explain your response.
 - b) Other agreements?
- 11) Do you think the company union comply with the requirements of the union's constitution? How is the compliance achieved?
- 12) Is there smooth flow of information between the employer (i.e. the company) union leaders and the union members (i.e. employees)? Please explain your response.
- 13) How many employees are registered members of your union?
- 14) Do you think the size of the union membership is changing in your company? Please explain.
- 15) Does management have meetings with union leaders? If yes, how often? If no, why not?

Section D: Performance of the Union

- 16) What is your assessment of the performance of your company's union in meeting the objectives?
- 17) How do you assess the performance of your union? What are the indicators of your union's successes and failures?
- 18) What role has your union played to improve the standards of living of your members and performance of the company as a whole?

Section E: Conditions of Service

- 19) Has your company signed any recognition agreement with the union?(Request copy of the agreement).
- 20) To what extent have the agreed conditions been implemented by the parties?
- 21) If some of the conditions have not been met, which ones have been implemented and why?
- 22) What is the reaction of the union to the non-implemented conditions?
- 23) Were your conditions of services negotiated with the union leaders? Explain your response.
- 24) Do you have disciplinary hearing sessions in your company? Explain your response.

Section F: Labour Unrests

- 25) Has your company ever experienced labour unrests?
- 26) If yes, what are the causes of the unrests? If not, why?
- 27) What has been the frequency of labour unrests before and after unionizing your Company?
- 28) What is the current turnover in your company?

Section G: Union Membership

- 29) Is the membership of your company union gender sensitive? How many of the members are male and how many are female employees? Explain your response. What is the ration of male to female members in the leadership of the Union? Explain.
- 30) How does the union collect membership fees?
- 31) Does the company contribute towards finances for running the union? Explain your response.

Section H: Capacity Building

- 32) Do union members receive training as capacity building for the union? Explain your Response.

33) Is the training adequate? Explain.

Section I Challenges Facing the Union

34) What factors and challenges do you think affect the operations of the trade unions in Malawi?

35) How can such challenges be overcome?

Section J: Recommendations for Improvement of Union Performances

36) What should be done to improve the performance of the unions? Justify your recommendations.