

**LABOUR POLICY IN NAMIBIA: ASSESSING ITS  
IMPLEMENTATION WITH REGARD TO  
AGRICULTURAL WAGE LABOURERS**

**A RESEARCH PAPER SUBMITTED IN PARTIAL  
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**BY**

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## **ABSTRACT**

Immediately after independence the Namibian government adopted a National Policy on Labour and “Manpower” Development. In terms of this policy trade unions were prioritised as main stakeholders for change in labour matters. Furthermore all labour matters were to be dealt with on a tri-partite basis.

To realise the policy objectives of the Labour Policy the government enacted the Labour Act (1992), the Social Security Act (1994) and the Affirmative Action Act (1998). The implications of the latter Act will not be explored in this paper, as its definition of a “relevant employer” which is defined as employing a minimum of fifty employees does not apply to the majority of farmers in Namibia who by average employ only eight permanent workers.

This study will examine the implementation of the objectives of the Labour Policy as encapsulated in both the Labour Act and the Social Security Act in order to discover reasons why the various provisions aimed at protecting the most marginal group in the labour market, that is agricultural wage labourers, are not being enforced. Secondary analysis of the available data will be conducted for this purpose.

The paper will examine the factors that prevent the agricultural labourers and their representative organisation NAFWU from taking full advantage of the operation of a progressive collective bargaining framework in Namibia. After an examination of the implementation dilemmas, the paper will endeavour to advance recommendations with a view to eliminating identified shortcomings.

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## **DEDICATION**

I dedicate this research paper to my late mother Sarafia Tuauanomeho Ngarizemo and my father Hans Katjuanjo who have raised me and instilled into me the virtue of perseverance. I also dedicate it to my wife Mbakumua and my son Tjiruripo who encouraged me to finalise the research paper against all odds.



## DECLARATIONS

I hereby declare that this work entitled “Labour Policy in Namibia: Assessing its Implementation with Regard to Agricultural Wage Labourers” is my own independent work except where it is stated otherwise in the acknowledgements or the text, that is not been previously submitted in whole or in part for an award at any institution.

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Signed: .....  
Steve Vemunavi Katjuanja

**LIST OF ABBREVIATIONS**

<b>CSO</b>	Central Statistical Office
<b>DTA</b>	Democratic Turnhalle Alliance
<b>ILO</b>	International Labour office
<b>LAC</b>	Legal Assistance Centre
<b>MAG</b>	Monitor Action Group
<b>MANWU</b>	Metal and Allied Namibian Workers Union
<b>MLHRD</b>	Ministry of Labour and Human Resource Development
<b>MUN</b>	Mineworkers Union of Namibia
<b>NAFAU</b>	Namibia Food and Allied Workers Union
<b>NAFWU</b>	Namibia Farm Workers Union
<b>NAMDEB</b>	Namibia De Beers (Pty) Ltd.
<b>NANTU</b>	Namibia National Teachers Union
<b>NAPWU</b>	Namibia Public Workers Union
<b>NATAU</b>	Namibia Transport and Allied Union
<b>NAU</b>	Namibia Agricultural Union

<b>NDAWU</b>	Namibia Domestic and Allied Workers Union
<b>NEF</b>	Namibia Employers Federation
<b>NISER</b>	Namibia Institute for Social and Economic Research
<b>NUNW</b>	National Union of Namibian Workers
<b>OAU</b>	Organisation of African Unity
<b>SADC</b>	Southern African Development Community
<b>SSC</b>	Social Security Commission
<b>SSD</b>	Social Science Division
<b>SWAPO</b>	South West Africa Peoples Organisation
<b>TCL</b>	Tsumeb Corporation Limited
<b>UNAM</b>	University of Namibia
<b>WASCOM</b>	Wages and Salaries Commission

## **CHAPTER ONE: INTRODUCTION AND OBJECTIVES OF THE STUDY**

### **1.1 General Introduction**

In its first year of independence, the Namibian government adopted a National Policy on Labour and “Manpower” Development. The main thrust of this policy was the choice of trade unions as the instruments for change in labour matters (Wascom Report 1995: 25). In terms of this policy all labour matters were to be dealt with on a tripartite basis involving government, employees and employers. To give effect to the objectives contained in the said policy, the government passed the Labour Act (1992), the Social Security Act (1994) and the Affirmative Action Act (1998).

Before coming to power, SWAPO had a Marxist-Leninist philosophical outlook, but at independence in March 1990, Namibia’s government placed large emphasis on the pivotal role of the private sector in promoting economic growth and the critical role to be played by government in creating an enabling environment for foreign investment (Dobell 1995: 171; Sycholt & Klerck 1997: 94). Therefore, the government pursued conservative policies in key economic areas, such as land reform, labour law, and budgeting, in order to attract investment. Additionally, the government pursued a policy of “National Reconciliation” aimed at creating and sustaining a diverse but united nation (Dobell 1995: 196-7).

Furthermore, SWAPO and the Trade Union Movement have maintained a close association with each other for many years as historically labour oppression has played an important role in the political economy of pre-independence Namibia. The central characteristics of colonial labour policy were the denial of basic rights of African workers and right to bargain collectively over their conditions of service (SWAPO 1981: 83-84).

According to Klerck, Murray and Sycholt (1997: viii) the electoral victory of SWAPO and its close association with the Namibian labour movement “contained the seeds for a mutually-reinforcing system of political emancipation and economic democracy”. Hence, they argued, independence brought with a “promise of a watershed in the history of labour relations” in Namibia.

There are different types of labourers in Namibia who work in different sectors of the economy, e.g., manufacturing, mining, households, and agriculture. Labourers in Namibia are organised in trade unions and, from time to time, some workers have been effective in achieving their objectives. However, agricultural wage labourers are weakly organised and hence have been unable to achieve many of their objectives. As a result, agricultural wage labourers have the lowest and worst conditions of service in Namibia (Hubbard and Katjjuanjo 1997: 200).

For example, the annual average wages of permanent agricultural labourers were N\$166 during 1996. About 16% of agricultural wage labourers’ households live in absolute poverty, which is nearly twice the national average of 9%. About two-thirds of agricultural wage labourers work a long working week, i.e., 47 hours per week. In terms of unionisation rates, only 12% of all agricultural wage labourers are members of the Namibia Farm Workers Union (NAFWU) (Hubbard and Katjjuanjo 1997: 224-229).

By 1995 it was clear that the provisions of the Labour Act were not able to tackle the peculiar labour situation of agricultural and domestic wage labourers effectively. Therefore, in January 1995, the President of the Republic of Namibia appointed a Commission of Inquiry to “inquire into, report and make recommendations on the prevailing practices applying to employees” in the agricultural and domestic work sectors.

## **1.2 Research Problem**

Since its formulation the labour policy has not been effective in addressing the plight of agricultural wage labourers. The study will thus examine the implementation of the labour policy with regard to agricultural wage labourers in order to discover reasons why the various provisions aimed at protecting them are not being enforced. The study will also endeavour to discover the reasons why agricultural wage labourers and their purported union have not been effective in defending their interests and achieving their objectives.

## **1.3 Objectives of the Study**

The purpose of the study is as follows:

- (a) To examine the implementation of the objectives of the Labour Policy with regard to agricultural wage labourers;
- (b) To find reasons why the various provisions of the Labour Policy aimed at the protection of agricultural wage labourers are not being enforced;
- (c) To examine the range of factors that prevent agricultural wage labourers and the employee organisation, NAFWU, from utilising the collective bargaining system; and
- (e) To advance recommendations aimed at addressing possible shortcomings with regard to the implementation of the Labour Policy.

## **1.4 Research Questions**

The following sets of questions will guide the research:

Why have the objectives of the Labour Policy with regard to agricultural labourers not been fully implemented?

Why is there a lack of proper collective bargaining system within the agricultural sector?

Why are agricultural labourers largely unorganised?

### **1.5 Significance of the Study**

Since there is little systematic analysis of the situation of agricultural wage labourers in Namibia, my paper will add to our knowledge about them. This endeavour will generate practical recommendations to address problems with regard to the implementation of labour policy in this sector.

### **1.6 Organisation of the Paper**

This research paper is divided into five chapters.

**Chapter one** provides background information on the topic under discussion. The objectives of the study have been provided, whilst the main research questions in need of investigations have been posed.

**Chapter two** develops a conceptual and analytical framework for the study. This endeavour is aimed at exploring appropriate theoretical hunches to guide the interpretations of the available information. A review of the existing literature on agricultural labour in Namibia has been succinctly performed. A number of hypotheses have been formulated to aid the interpretations of data.

**Chapter three** documents the environment of the labour policy. The various labour related policies, laws and their attendant institutional arrangements have been described. A stakeholders' analysis has also been conducted to ascertain the roles played by each party in the formulation and implementation of the policy.

**Chapter four** presents the data gathered. A succinct discussion of the findings of the study has been achieved. The policy outcome has been analysed utilising the various hypotheses developed for this purpose.

**Chapter five** provides the conclusion. Recommendations on a range of matters aimed at eliminating the identified shortcomings of the Labour Policy have been proposed.



## **CHAPTER TWO: THEORETICAL CONCEPTUALISATION OF THE STUDY**

### **2.1 Introduction**

According to Sycholt and Klerck (1997:79) the state in any given society, including Namibia, exerts a great deal of influence on labour relations. There is a close association between the nature of labour institutions and the political, social and economic orientation of the state. Hence, there is a need to look at the broader context within which labour institutions operate in order to understand better the development of labour relations, its impact on attitudes as well as the behaviours of parties in a country (Klerck, Murray and Sycholt 1997: 1).

In this chapter a conceptual framework and analytical model for the study will be developed with a view to exploring appropriate theoretical hunches to aid the analysis and interpretation of the available data. In accomplishing this task a number of tasks will be performed. Firstly, the various theories of implementation will be succinctly reviewed. Secondly, an analytical model for policy implementation as articulated by Thomas and Grindle (1990) and Grindle and Thomas (1991) will be developed. Thirdly, a review of the existing literature on the living and working conditions of agricultural labourers in Namibia, Botswana, South Africa and Zimbabwe will be carried out. Lastly, following from Thomas and Grindle (1990) and Grindle and Thomas (1991) a number of hypotheses will be formulated to interpret the collected data.

### **2.2 Theories of Implementation**

Bjorkman (1995) reviews the emergent “universals” of the implementation process and the problematic features of the centre/periphery relations within the context of the Sri Lankan health system. He argues that it is very difficult to find an effective way of implementing development objectives with regard to improving the life chances and human conditions. In this respect, implementation problems are complex and intractable, and are in part due to limitations of state intervention. There are also limitations arising as

the result of resource constraints and population pressures. Other problems arise out of the difficulties to link the design of the objectives with the implementation thereof (Bjorkman 1995: 133).

Implementation is a part of a large process of policymaking and involves the carrying out of decisions by actors and organisations. As a result of external and internal pressures exerted at different levels of government, a range of public and private entities translate national objectives into concrete goods and services. The various activities carried out by the implementing agency are subjected to environmental stresses and internal strains. The mission of the organisation, its professional style as well as its bureaucratic nature in turn determines the outcome of activities (Bjorkman 1995: 134).

Furthermore, implementation designs and capabilities should not be assumed; hence the need to map empirically the arrangements and the interdependencies of public bureaucracies, the relationships between the private and public bureaucracies, as well as the nature of these relations at different levels of government. Due to changes in policy goals and means, these interdependencies may become highly stable and exclusive or relatively unstable and inclusive. Therefore, the implementation process is characterised by interactive co-existence among multiple actors and organisations (Bjorkman 1995: 134-135). Bjorkman argues that it is useful to start conducting an implementation analysis by mapping actors, structures and contextual environments before embarking on generalisations. It is also important to describe the basic features of the political system and the policy issue (Bjorkman 1995: 135).

It is difficult to study social policy implementation because social services are delivered by diverse local entities, such as clinics and hospitals that are relatively independent of central authority. This situation leads to both a macro and micro implementation problem. In the case of a macro problem, a central government has to execute its policy by persuading an implementing agency to behave in a certain way. In the case of a micro-problem, an implementing agency has to devise ways and means to execute its internal policies (Bjorkman 1995: 135).

Delay encountered in the implementation process is attributed to the number of actors involved and the different views held by these many actors. The government sector is composed of numerous competing segments, bureaus and agencies. Therefore, it should be recognised that in the implementation process, a highly complex network of multiple and competing actors will emerge in order to translate policy demands into tangible benefits (Bjorkman 1995: 136-137).

The availability of economic resources, an administrative framework as well as skilled and experienced personnel are prerequisites for policy goals to be effectively, efficiently and equitably carried out. The absence of these requisites generates conflict within the inter-governmental system and this conflict in turn produces important governmental change (Bjorkman 1995: 138). In a nutshell, implementation problems are better addressed by the following measures: provision of simple but effective services, the presence of a supportive political climate, the existence of clear and well-coordinated intergovernmental linkages, and when information is abundant (Bjorkman 1995: 143).

According to Garcia-Zamor (1991: 435) the successful implementation of public policy is hampered by these factors: constraints that emanate from foreign aid, an overly centralised structure of administration, and a blind adherence to the Weberian bureaucratic model. Public policy implementation is primarily determined by the ability of public bureaucrats to identify all the relevant variables that affect the policy objectives (Garcia-Zamor 1991: 435). Due to the fact that policy objectives tend to be multiple, conflicting and vague and the unpredictable nature of the environment, it is very difficult to anticipate all the relevant constraints applicable to a policy issue at the adoption stage. Hence, these constraints are discovered during the implementation stage and changes in the policy occur as implementation proceeds (Garcia-Zamor 1991: 435,437).

The constraints that emanate from foreign aid to developing countries are mainly caused by the inability of public bureaucrats to formulate appropriate plans and to implement them effectively. These public servants lack administrative ability and managerial skill.

Furthermore, swollen bureaucracies encumbered by formalistic procedures that delay rather than expedite service delivery and program implementation accompany the inefficiencies of the administrative system. In developing countries development plans are inspired by foreign donors and their implementation are premised on expected technical assistance from abroad (Garcia-Zamor 1991: 436-437).

Garcia-Zamor (1991) maintains that policy implementation constraints that are related to the centralised structures of the bureaucracies are as a result of both the centralisation and the fragmentation of their administrative structures. Due to low level of formal education among public servants in developing countries and the perceived needs to control, government prefer to centralise authority in the top echelons of their administrative structures. As a consequence, all coordination, planning, supervision and decision-making is centralised in the senior civil servant of the administrative component. The over-centralised decision-making structures and processes delay official action and create extra trivial work (Garcia-Zamor 1991: 437-438).

Policy implementation constraints that are related to the distortion of the Weberian model of bureaucracy have to do with the fact that these countries tend to resist change. Due to far reaching changes taking place in the technological, cultural, social and the economic environment, the Weberian model is proving to be imperfect. For example, the Weberian model professes the necessity of the following values: ministerial responsibility, political neutrality and anonymity of public servants and the merit principles in the recruitment and the promotion of these administrators. In reality the bureaucracies in the developing world are not functioning in accordance with these values; they are viewed as counterproductive to the goal of an accelerated social and economic development. The result is that the Weberian model has been distorted in the developing world; hence is hampering policy implementation (Garcia-Zamor 1991: 440-442).

Moore (1992) reviews three public administration approaches to explain the implementation of public policies. The Weberian approach is the conventional model of public administration to study large-scale organisations. This approach is premised on the

concept of hierarchical control as the basic organising principle. Additionally, principles such as duty and authority are utilised to organise activities. A bureaucratic organisation is viewed as technically superior to any other organisation because it is purported to train its bureaucrats who act with precision, clarity, familiarity, uniformity and impersonality (Moore 1992: 65; 67). However, in reality the bureaucracy of a developing country does not effectively perform as:

Bureaucrats are not selected, promoted or rewarded on competence criteria; politicians become deeply involved in matters properly 'internal' to the bureaucracy; and bureaucrats face such personal and career insecurity that they sometimes adopt formalistic (and inefficient) procedures to protect themselves against possible allegations of wrongdoing or even of responsibility for particular events or outcomes (Moore 1992: 67).

It is only easy to coordinate the activities within an agency when utilising the Weberian hierarchical line-of-command. However, the converse is true with regard to the coordination of the activities of various agencies. This is so because subordinate agencies have plenty resources, such as exclusive control of information, with which to resist hierarchical control. Therefore, inter-agency relations are very complex and characterised by strategic behaviour and bargaining (Moore 1992: 68).

The solidarity model is premised on the importance of social links and moral attachments that bind participants together in organisations; hence participants draw meanings from these attachments. Organisations modelled on the notion of solidarity perform because they constitute communities where relationships of mutuality predominate. Therefore, actions of individuals within organisations are primarily determined by their perceived self-interest. In this respect, efforts are being undertaken to introduce material incentives, markets and competition into the public sector. The rationale is to get implementing agencies to perform by introducing competition between public sector organisations or between public and private sector organisations for funds and tenders from the central government (Moore 1992: 65).

Because direct and close supervision of work is inefficient and tends to discourage the creativity of and demotivate bureaucrats in large organisations, the latter will perform better if they have a sense of belonging to the organisation that employs them.

Furthermore, the importance of creativity and flexibility are becoming important requirements for organisations to succeed in their mission in an ever-changing external environment. The solidarity/community model assumes the following: that people prefer to work in unstructured and flexible organisational environments and that there is a competitive environment (Moore 1992: 69-70).

The neo-liberal model explains the implementation of public policy based on the assumption that social behaviour within organisation is determined primarily by the perceived self-interest of individual bureaucrats as opposed to being regulated by organisational goals and norms of procedures. The assumption is that the energy and resources utilised in organisations are primarily utilised to achieve personal goals rather than achieve organisational goals and mission (Moore 1992: 65, 70). In terms of this model the social behaviour and profile of a typical bureaucrat is summarised as follows: to seek a rapid rise in the organisation; to conceal or manipulate information to his/her advantage; to be ruthless and provide a positive image of his/her own performance; and he/she is inherently ineffective and inefficient. Hence, he/she is not in a position to fulfil his/her duties as expected (Moore 1992: 71).

The relationship between local administration and central authority is characterised as symbiotic because “each side needs the other”. The local administration needs to secure the necessary funds from the central government, whilst the latter needs to ensure that the former performs as per the mandate. This relationship has been characterised as bilateral autonomy that is seen as leading to a tortuous bargaining between the two organisations. This relationship is skewed to the advantage of the local level organisation as it has monopoly of information and concentrated capacity in relation to its area of operation. As a result the central government is not in a position to subject the local organisation to thorough scrutiny (Moore 1992: 71). To overcome this dilemma the New Public Management school advocates the introduction of competition and contracts.

Lester and Goggin (1998:5) define policy implementation as a process, a series of sub-national decisions and actions aimed at putting a prior authoritative central government decision into effect. The decision needs to be carried out in a timely and satisfactory manner. The authors argue that in the mid-1980s and late 1990s many scholars dismissed the study of policy implementation for various reasons. However, the authors want to advance the theoretical understanding of the concept of implementation. They acknowledged that the tension between theory and practice remains a perennial problem. Furthermore, public policy implementation remains a major stumbling block in the policy process (Lester and Goggin 1998:1).

A typology of scholarships consisting of four archetypes i.e., the reformers, the testers, the sceptics, and the terminators; has been developed. The reformers are positive about the need to continue implementation studies; the testers are comfortable with the manner, in which implementation studies have proceeded; the sceptics are negative about the continuation of implementation studies in its current form; and the terminators are eager to stop implementation studies (Lester and Goggin 1998: 2-3).

Lester and Goggin (1998) stress the importance of “communication theory” in understanding the relationships in inter-governmental policy implementation. State bureaucrats form the critical nexus via which implementation related messages are channelled between central to local administration. As recipients of a barrage of messages, state bureaucrats have to interpret the content and form thereof. Implementation variability exists because bureaucrats have to take into account the legitimacy and the reputation of the sender when interpreting these messages. As a result of this process, bargaining takes place among the various bureaucrats of the central government and between them and those of the implementing agency. Therefore, “communication theory” captures the essence of the “top-down” and “bottom-up” approaches to implementation studies (Lester and Goggin 1998: 4).

Following from Robert Stoker, a “regime theory” has been put forward as very helpful to understand problems of public policy implementation. This theory sees implementation

as a governance question; hence cooperation between independent authorities needs to be induced. Therefore, cooperation from the implementers is not likely if conflict exists over the objectives of national policy. In order to obtain cooperation of participating parties “one must either suppress conflict or surrender control of policy”. However, implementation regimes could be arranged in such a way as to induce more cooperation from the implementing agency (Lester and Goggin 1998: 4).

Lester and Goggin (1998: 5) stress that rational choice theory is an alternative way to carry out implementation analysis. It is a useful way to unify “bottom-up” and “top-down” approaches as well as to conceptualise interdependencies across strategies of actors and decisions. Other theoretical frameworks are based on contingencies. In this respect, Lester and Goggin (1998: 5) developed the following typology based on the nature of the state: “progressive states” (with high commitment and high capacity), “struggler states” (with high commitment and low capacity), “delayer states” (with low commitment and high capacity) and the “regressive states” (with low commitment and low capacity).

Based on the vertical involvement of the central state as well the horizontal potential for intergovernmental competition, William Lowry argues that intergovernmental relations affect the role of the leadership in the implementation of the policy. Public policy is not just implemented unquestionably by implementers, but is adjusted by them to suit “parochial circumstances” (Lester and Goggin 1998: 5). The “ambiguity-conflict model” developed by Richard Matland is seen by Lester and Goggin as a more comprehensive and coherent model of policy implementation. Four policy outcomes are envisaged in the model. They are: administrative implementation accompanied by low levels of conflict and ambiguity; political implementation accompanied by high conflict and low ambiguity; experimental implementation characterised by low conflict and high ambiguity; and symbolic implementation characterised by high conflict and ambiguity (Lester and Goggin 1998: 5).



The last model on policy implementation outcome is based on differing levels of “trust” among implementing officials and the involvement of central government officials. The following patterns are obtainable: “pulling together and synergistic” characterised by high trust and high involvement; “cooperative but autonomous” characterised by high trust and low involvement; “coming apart with avoidance” characterised by low trust and low involvement; and “coming apart and contentious” characterised by low trust and high involvement (Lester and Goggin 1998: 5).

Lester and Goggin (1998: 5) conclude by suggesting that all the above-mentioned models provide clear testimony to the existence of a range of variables that affect policy implementation. Furthermore, the authors see the need to identify the implementers and their respective roles in the political and administrative system. They argue that although conventional policy implementation is the domain of central government bureaucrats, in reality other policy actors constrain their choices during the implementation process.

### **2.3 Analytical Model**

Thomas and Grindle (1990: 1163) and Grindle and Thomas (1991: 21) developed an alternative model for policy implementation to contrast with the current dominant linear model. The proposed interactive model focuses on conflicts and reactions evoked by policy changes and institutional contexts for development as well as resources required by both policy makers and managers to sustain reforms. The authors assert that the characteristics of reforms being undertaken will largely determine the kind of conflict they engender.

The linear model conceptualises policy reform as consisting of three distinctive phases, i.e., agenda phase, decision phase, and an implementation phase. Additionally, the linear model is accused of paying too much attention to decision-making and not to agenda setting and implementation processes. The latter phase of policy reform is perceived as the responsibility of policy managers and not policy makers. As a result, policy implementation is seen as a domain of implementing agency. In terms of this model, a

proposed reform initiative is placed on the agenda for government action, a decision is made on the matter, and then the policy is implemented (Thomas and Grindle 1990: 1164; Grindle and Thomas 1991: 122-3).

Thomas and Grindle (1990: 1165; 1991: 124) argue that this approach, which expects the policy decision automatically to lead to implementation, is not desirable as "...even after the decision to adopt a new policy is made, considerable evidence suggests that real work of turning reform into reality is still ahead". In fact during implementation an implementing organisation can substantially alter a policy after a decision to pursue it has been made. A reform initiative can also be removed from the agenda when those responsible for its implementation are convinced that it is not sustainable. A policy can also be changed during the implementation process and may well produce results that are quite different from those anticipated by the policy makers. (Thomas and Grindle 1990: 1167-1168).

The interactive model developed by Thomas and Grindle and Grindle and Thomas is built on a political economy approach and is aimed at understanding the reform process. The model suggests that a state of equilibrium surrounds established policy set. Hence, existing policies or institutional arrangements are accepted by those who are affected negatively or positively by the reform, whilst attempts to alter existing policy upset that equilibrium and elicit some responses or reactions from persons affected by the change (1990: 1166; 1991: 125).

Reaction to policy change may come at any given point in the process of decision and implementation. However, reactions are more likely to occur further into the process since effects of change will become more visible as the nature and impact of the new policy become more evident. The nature, intensity and location of those reactions will determine whether the reform is implemented and sustained (Thomas and Grindle 1990: 1166).

The main thesis of the interactive model is that any policy reform initiative may be altered or reversed at any stage of its life cycle by the pressures and reaction of those who oppose it. Hence, there is a need to accept as a fact that decisions to change existing practice will generate opposition (Grindle and Thomas 1991: 126).

The ability to implement reforms has been elusive because opposition to change has emerged from many sides. Therefore, there is a need to focus on conflicts and issues surrounding efforts aimed at implementing initiatives. Furthermore there is a need to consider how reforms get on the agenda for government action, what factors influence decision makers and what linkages exist between agenda setting and decision making processes (Thomas and Grindle 1990: 1163; Grindle and Thomas 1991: 122).

Thomas and Grindle (1990: 1164-5) and Grindle and Thomas (1991: 125) suggest that a policy change is significantly shaped by the actions of individuals in strategic locations, such as decision-makers and policy managers. Both sets of policy actors face opposition in pursuit of reform initiatives. Hence, there is a need to consider the feasibility of reforms in terms of support and opposition to change and with regard to what stakes are being pursued by these actors for reform as well as the availability of resources necessary to implement them. Amongst those resources needed to sustain a reform initiative are political, financial, managerial, and technical resources.

Thomas and Grindle (1990: 1171) delineated two broad potential reactions or responses to policy change. A reaction or response to policy change can occur either in the public arena or within the administrative apparatus of the government. A public reaction occurs when stakes are high and considerable resources are required to sustain a reform initiative, whilst a bureaucratic response occurs when stakes are lower and substantial resources are also needed to sustain the reform initiative. The characteristics of the reform initiative determine which of the two scenarios will occur. Hence,

...the distribution of the costs and benefits of a policy or institutional change, its technical complexity, its administrative intensity, its short- or long-term impact, and the degree to which it encourages participation determine whether the reaction or response to the initiative will occur primarily in a public or bureaucratic arena (Thomas and Grindle 1990: 1166; 1991: 126).

Policy changes that occur in the public arena tend to have a direct impact on broad sectors of the population including the very important interest groups in society, and the changes brought about by the reforms are readily visible to the affected population. The stakes involved in the pursuance of such reforms tend to be high and even threaten the existence of the government. In the case of policy changes in the public domain, the converse is true. The following series of hypotheses with regard to the characteristics of reforms in the public arena has been proposed by Thomas and Grindle: dispersion of costs, concentration of benefits in government, low administrative or technical content, extensive participation, and short duration (1991: 136-137). Again the converse applies in the case of policy changes in the bureaucratic arena.

## **2.4 Review of Namibian Literature**

Most of the studies on labour in Namibia have focused on the situation of the Namibian worker in general terms. These studies concentrated mainly on the situation of contract migrant workers mainly covering the period between the late 1950s and the general strike of 1971-72. Few of these studies have presented scholarly analysis of the situation of the worker as the information gathered had been presented as historical treatises, autobiographical and fictional accounts, and propaganda materials for the liberation struggle (Bauer 1998: 9). There have been also few scholarly studies on the living and working conditions of agricultural wage labourers in Namibia. Hence, a balance account of the situation of agricultural wage labourers is needed. This study is aimed at closing this research gap by providing important insights with regard to issues affecting the labour situation of agricultural wage labourers in Namibia.

In the 1970s Gebhardt (1978) conducted a pioneering survey on the socio-economic situation of agricultural wage labourers on 200 commercial farms. Published as a journal

article in 1978, this pre-independence study examined the composition of the labour force, recruitment practices and employers' perception of different types of agricultural wage labourers, working conditions (length of working days and hours, wages and rations, etc.), and the living conditions (housing conditions, sanitation, transport provision, etc.). Gebhardt found that contract workers on farms were paid between R6 and R10 per month and foremen earned between R20 and R30 a month with food, accommodation, boots and overalls. This data indicates that the situation of the agricultural labourer has for years been marginal. These findings are only useful for reference purposes as it is close to thirty years old.

Eighteen years later, the Legal Assistance Centre and Social Sciences Divisions at UNAM conducted a comprehensive survey on the living and working conditions of agricultural wage labourers. Issues covered in this research report are recruitment strategies and source of agricultural labour, demographic profiles of agricultural wage labourers, living conditions of agricultural wage labourers (housing indicators, economic indicators, consumption expenditure, and poverty levels), and working days and hours, annual and sick leave, and remuneration and income in kind). There is also a special section on San and women workers (Devereux, Katjuango and Van Rooy 1996: 64-82).

Although the study by Devereux *et al* have provided up to date data on the living and working conditions of agricultural labourers in Namibia, the survey data has not been used to examine in detail why the labour policy has not been effective in addressing the plight of agricultural wage labourers. Therefore the current study used the available data in chapter four to examine the non-implementation of the objectives of the labour policy aimed at protecting the interest and rights of agricultural wage labourers.

As part of work done between 1995 and 1997 for his PhD, Suzman (1995 and 2000) conducted a qualitative examination of relations between agricultural employers and agricultural wage labourers in the Omaheke Region of Namibia for eighteen months. This study explores the impact of colonialism and agricultural labour on Ju/'hoansi (San group). Questions related to political and cultural processes, which resulted in the

marginalisation of this agricultural labour group, were explored. Within the context of agricultural labour, it examines the role of authority, power and ethnic stereotyping.

The study has found the existence of a hierarchy in worker discourse expressing their preference for different employers on ethnic grounds. Most workers express a preference for working for commercial farmers rather than communal farmers because pay, housing, food and sanitation are generally better. With respect to commercial farmers, Germans are regarded as less violent and abusive and Afrikaners as more authoritative but providing better pay and housing. Communal employers express a preference for Damara and Ju’hoan workers because they are well versed in all aspect of farm life in addition to being cheap workers. Payment practices on farms are highly variable – some workers receive only rations and others get as much as N\$400 per month. However, the mean range of wages among respondents was found to be between N\$100 and N\$200 per month (Suzman 1995: 8, 21, 22). With regard to the administration of post-independence labour relations on farms the study concluded as follows:

...[W]orkers have become aware that...the state is in a position to offer some sort of security and minimum conditions of employment, but beyond this people are unsure as to what rights they may have and what the necessary procedures might be to implement and administer these rights (Suzman 1995: 49).

These qualitative findings have generously benefited the current study. The strengths of the study lie in the interpretation of the San worker marginalisation as a consequence of their historical and contemporary relations with “others”. Because Suzman’s study used qualitative methods to gather information it has not generated sufficient data necessary to test the working hypotheses developed for the current study. Save for this shortcoming, the findings have aided data analysis and interpretations for the current study.

Published in 1996 by the Central Statistics Office, the “1993/94 Namibia Household Income and Expenditure Survey” carried a special chapter on the living conditions of agricultural wage labourers. Covering issues like demographic characteristics, housing, economic standard, consumption and expenditure patterns, poverty indicators, etc., this

study provides useful comparative data on the status of agricultural wage labourers. This survey data have been used to help analyse and interpret data generated by the survey conducted by Duvereux *et al.*

The survey found that more than ninety per cent of agricultural wage labourers' households have no electricity for cooking or lighting and seventy per cent make use of bush or bucket as toilet. The housing standard is generally better than the national average for rural areas. About thirty seven per cent of agricultural wage labourers' households own or have access to cattle. These households have also better access to income generating agricultural activities than the average for rural households. The per capita consumption of agricultural wage labourers households is far below the national average but close to the average for rural households which is N\$4 731. The food consumption rate of agricultural wage labourers' households, i.e. 52.8 per cent, is somewhat higher than that of rural households. About 55 per cent of agricultural wage labourers households live in poverty as their food consumption rate is sixty per cent or more (Central Statistics Office 1996: 260-262).

In 1995, the President of Namibia established a Commission of Inquiry into Labour-related Matters affecting Agricultural and Domestic Employees. After conducting public hearings countrywide, the Commission finalized its report during July 1997. The report of this enquiry was released for a wider circulation at the end of 2000. It covers a range of social, economic and legal issues affecting agricultural wage labourers on both the communal and commercial farms. Furthermore, the report attempts to compare the situation of agricultural wage labourers in Namibia with those of their counterparts in Botswana, Mauritius, South Africa and Zimbabwe.

The Commission found that the wages paid to agricultural employees are generally low and that the provisions of the Labour Act relating to the livestock-keeping and cultivation rights to them were not affected on farms. The Commission concluded that the types of housing provided to agricultural labourers were of a poor standard. It also discovered that there is a lack of proper collective bargaining within the agricultural sector due to the

weakness of both employees and employers organisations. This is because many agricultural employees are not members of trade unions. Trade unions were in most cases not permitted to enter farms to recruit members. Labour inspectors were permitted entrance to farms but they do not talk to workers on labour matters. Agricultural wage labourers are also landless as they do not have secured rights of tenure. The Commission discovered that 5 279 agricultural labourers were registered as members of the Social Security Commission. The low registration with the SSC is ascribed to the non-availability of its offices in remote areas (Government of the Republic of Namibia 1997: 213-229).

Again this information on the status of agricultural wage labourers has been useful to the current study especially with regard to the reasons for non-implementation of the labour policy. However, these findings cannot replace the need for a systematic analysis utilising quantitative data that can be generalised to all agricultural employees. This function has been performed by the current research project.

## **2.5 Literature Review on Selected SADC Region Countries**

A literature survey of the working and living conditions of agricultural labourers in the SADC region indicates that their conditions are not much better than those of their Namibian counterparts. Below a summary of the working and living conditions of agricultural labourers in Botswana, South Africa and Zimbabwe will be described. These findings have provided a basis to compare the status of agricultural employees in Namibia to that of their counterpart in selected SADC Region countries.

The Commission of Inquiry into Labour-related Matters affecting Agricultural and Domestic Employees in Namibia visited amongst other countries Botswana in order to familiarise itself with the living and working conditions in these part of the world. The Commission found that in Botswana agricultural labourers earned an average of P80.00 or N\$91.53 per month. In addition to the cash wage of N\$91.53, a ration pack valued at N\$40.05 was provided to the worker. The Labour Commissioner in Botswana discovered



that agricultural employees were not permitted to keep livestock on their employers' premises. The Commission was also told that in Botswana there was no minimum wages for this category of workers (Commission of Inquiry into Labour-related Matters 1997: 101). Trade unions were not operating on farms in Botswana in order to organise workers, whilst labour inspectors had difficulties in reaching these workers (Government of the Republic of Namibia 1997: 119).

In 1982 a survey of 61 maize farms conducted in the then Western Transvaal Province of South Africa revealed that the total cash wage plus ration and annual bonus paid to permanent employees was R148.00 per month. This survey further found that the majority of farm labourers were indebted to the farm stores or local cooperatives. In terms of cultivation rights the study found that vegetable growing was only allowed on 38% of those farms surveyed. Grazing rights were only permitted on 19% of the surveyed farms. Workers were provided with housing on 78% of the surveyed farms, whilst only 14% of these housing facilities were provided with ablution (Devereux et al 1996: 7-8).

A survey of living and working conditions of agricultural labourers in Zimbabwe conducted during 1995 revealed that the majority of these workers were living in "squalid conditions". Physical abuse and beatings were common occurrences that the labourers had to endure on these farms. The study further revealed that agricultural labourers were the lowest paid category in the formal sector and the majority lived below the poverty datum line of N\$1 500.00 per month. It was argued that the plight of these workers have been worsened by the economic reforms adopted in Zimbabwe on the instigation of the International Monetary Fund and the World Bank (Devereux et al 1996: 8-9). The National Employment Council for the Agricultural Industry in Zimbabwe independently fix employees' wages and other conditions of service (Commission of Inquiry into Labour-related Matters 1997: 101).

## 2.5 Hypotheses

Following from Thomas and Grindle (1990) and Grindle and Thomas (1991) a number of hypotheses have been formulated to explain why the introduction of the minimum conditions of employment provided for in the Labour Act to protect agricultural wage labourers against exploitation by their employers have not fully been implemented. The following five hypotheses have been formulated:

- Hypothesis 1:** The costs for the implementation of the labour policy narrowly affect the government and related institutions and the public does not directly feel their impact; hence resistance to the policy reform will arise in the bureaucracy.
- Hypothesis 2:** The costs for the implementation of the labour policy are primarily concentrated in the government budget, and their benefits are broadly dispersed; hence they will only become visible to the public in the long term. The direct impact is initially borne by public officials and institutions.
- Hypothesis 3:** The content of the labour policy is administratively demanding and technically complex, and requires coordinated efforts by public officials and institutions to implement it. Therefore, the public is not affected immediately by the implementation of the policy.
- Hypothesis 4:** Limited organized participation is required to implement the labour policy as participation is on an individual basis; therefore the response is likely to be confined to the bureaucracy. The fewer the bureaucratic actors involved, the higher the probability that the policy will be implemented.

**Hypothesis 5:** A longer time is needed to implement the labour policy; therefore conflict and resistance will not emerge immediately. Hence administrative capacity within the system will determine its implementability and sustainability.

## **CHAPTER THREE: POLICY CONTEXT AND INSTITUTIONAL ARRANGEMENTS**

### **3.1 The Socio-political Context**

Implementation takes place within a highly complex policy context; hence policy outcomes should be sensitive to political, economic and institutional considerations (Thomas and Grindle 1990: 1165). This section will attempt to analyse the impact of the policy context on the implementation of the labour policy. In this regard it will be useful to start by sketching the broader historical factors that continue to inform and shape labour relations on farms.

With the colonisation of Namibia, the indigenous population was dispossessed of large tract of land. This land was set aside for European settlement and the indigenous communities were confined to “native reserves”. During the colonial era both the land and labour policy were designed to reinforce each other. For example, the agricultural labour supply system and the resultant wage structure were developed to ensure super profits for white farmers at the expense of the African labourers (Hubbard and Katjiuanjo 1997: 216). Adams and Werner (1990: 7) summarised the outcome of the colonial land and labour policies in this manner:

[The] large scale dispossessions of black Namibians was as much intended to provide white settlers with land, as it was to deny black farmers access to commercial pastoral production and forcing them into wage labour.

There is a need to investigate the role played by the broader process of social reproduction, relations of domination and identity formation by groups within the course of their interaction with each in the labour market and how these processes shape the job structure and allocate labour. An investigation of these processes will enable us to better understand the marginality of agricultural labourers.

Historically, the colonial state has largely been responsible for shaping the political and economic processes that have rendered agricultural labourers marginal and vulnerable.

Over the years the state has not only passed labour legislation favourable to white farmers at the expense of African labourers, but has in fact devolved absolute authority to the former when it comes to the treatment of the latter. For instance, farmers exercise strict control over the movements of agricultural labourers via the enforcement of farm rules (Hubbard and Katjiuanjo 1997: 226). Suzman (1995: 59) has argued that this broader social process of colonial domination transformed white-owned farms into “authoritarian” and “paternalistic” institutions in which the farmer is the locus of all authority.

Therefore, farms are said to have assumed the characteristics of “total institutions” with little or no interference from outside; and hence the farmer has ultimate authority in almost all matters on the farm. This in part explains why trade unions find it difficult to organise farm labourers on farms. On the farm the farmer is not only the final arbiter of all, but his/her voice is dominant while that of the worker is muted. Farm labourers are thus recipients rather than participants in decision-making on a range of matters on the farm. Hence, the relationship between farmers and farm labourers is characterised by paternalism as the former see the latter as “childlike” so farmers need to educate, train and punish them (Suzman 2000: 57).

Additionally, the policies of the colonial state in Namibia had historically segmented the labour market along the lines of race, ethnicity and gender. Occupational distribution by race clearly shows that elementary workers are predominantly Africans whilst administrators and managers are primarily white persons (Klerck, Murray, and Sycholt 1997: 47). The segmentation has given rise to differentiation in employment conditions based on race, sex, and ethnicity. The relative position of various groups in the labour market is partly determined by the broader process of reproduction and domination which in turn legitimise the existing differential standards of living and pay (Klerck, Murray, and Sycholt 1997: 34 & 37).

For example, ethnic stereotyping and constructions play an important role in legitimating low wages for San workers. Amongst all agricultural wage labourers San workers are the

lowest paid as farmers legitimise this by stereotyping them as ill equipped to deal with money (Suzman 1995: 23). The San labourers have over generations developed low expectations of themselves. This low expectation of the San about themselves is bulwarked by their inability to have access to land and to accumulate wealth (Suzman 1995: 23). Therefore, it is difficult for this category of workers to enforce their rights by withdrawing their labour. Moving to the next farm or the nearby “communal area” remains the only viable option for this category of workers in order to escape the exploitation of their labour by farmers.

With regard to female wage labourers on farms a similar process is at work that ensure their marginality in the labour market. Since, farm labour discourse is male-oriented, gender issues are neglected in rural settings. Female farm labourers are often not hired in their own right as workers but only because their husbands/parents have been hired first. Their continued employment on the farm is thus largely linked to that of their husbands (Suzman 1995: 56-7). Because of the influence of broader social processes female workers occupy a marginal position in the labour market. This marginality is an outcome of existing discriminatory gender relations in society.

### **3.2 Labour Policies and Legislation**

One of the first priority areas for policy formulation of the SWAPO led government after independence was the creation of a new labour relation dispensation. It is not surprising as SWAPO's formation in the early 1960s was prompted by the workers' hatred of both the “migrant labour system” and the “compound system” (Leys & Saul 1995: 10; Bauer 1997: 74). After independence the new government commissioned the International Labour Organisation (ILO) to investigate labour relations in Namibia with a view to making recommendations for a new labour legislation (Bauer 1998: 102). Before independence, i.e., in September 1989, the ILO sent an exploratory mission to Namibia to identify possible projects for involvement (Van Rooyen 1996: 260).

Professor Hepple, Dean of the Faculty of Law of the University of London, was commissioned by the ILO to assist in drafting the “Labour Code”. By September 1990, he had compiled an initial draft document with technical input by ILO experts. This document was circulated to employers and employees organisations for comments (Van Rooyen 1996: 230; Bauer 1998: 105). The draft document revealed that in the past labour relations have been neglected in both the private and public sectors. It was proposed that the new labour dispensation be based on democratic principles in tandem with the ethos enshrined in the Namibian Constitution (Bauer 1998: 102).

Based on the report of the ILO, the Namibian government adopted the National Policy on Labour and ‘Manpower’ Development on 31 July 1990. The range of topics addressed in the policy document was based on the principles of the Namibian Constitution and the tenets of the different international labour standards of the ILO (Van Rooyen 1996: 250; Bauer 1998: 102). The Minister of Labour suggested that it was the Ministry’s intention to align the policy as closely as possible to international standards, whilst taking into account the practical and unique socio-economic and political situation in the country. He argued that the new labour dispensation was to be based on the following principles; equity, social justice, human development, and human rights as outlined in the Namibian Constitution (Van Rooyen 1996: 251).

The National Policy on Labour and ‘Manpower’ Development stressed the need to restructure labour and ‘manpower’ programmes and procedures to facilitate the elimination of the vestiges of apartheid, racism, and the colonial legacy. Being at a rate of over 30 percent, unemployment was emphasised as a scourge in need of eradication via affirmative action programmes and labour intensive projects. The notion of tripartism was to form the core of the labour relations, whilst collective bargaining was to be encouraged (Bauer 1998: 103).

The Constitution contains a number of important provisions for the regulation of labour relations. In terms of article 12(1) all persons shall have the right to: (i) freedom of speech and expression; (ii) freedom of association, which shall include freedom to form

and join associations or unions including trade unions; (iii) withhold their labour without being exposed to criminal penalties; and (iv) practise any profession, or carry on any occupation, trade or business (Constitution of Republic of Namibia).

To give effect to the labour policy, the government passed the Labour Act (1992), the Social Security Act (1994) and the Affirmative Action Act (1998). However, the latter is in the process of being implemented and hence its implications for labour relations cannot as yet be evaluated. The Labour Act constitutes the principal piece of legislation for the regulation of labour matters in Namibia. Hence it will be discussed in some greater detail in this research paper. The Labour Act was drafted to embody the various conventions and recommendations of the ILO.

The Act deals with issues such as basic conditions of employment, termination of contracts of employment, unfair disciplinary actions, and matters involving collective bargaining. In the area of collective labour relations the Act provides for matters to be resolved utilising principles of freedom and collective bargaining. A statutory framework thus exists for employers and employees organisations to bargain over issues of mutual concern. The Act is applicable to all economic sectors with the exception of the Namibia Defence Force and the Namibia Police (Van Rooyen: 231-232).

The Social Security Act (1994) is meant to complement the Labour Act. The Act is aimed at establishing a social security system applicable to all employees and employers. In terms of the Act, employees and employers are compelled to make contributions to the following funds administered by the Social Security Commission: Maternity, Sick Leave, Death Benefit Fund; National Medical Benefit Fund; National Pension Fund; and Development Fund. The Act is flexible as different sections are to be implemented on a piecemeal basis by the Minister of Labour (Van Rooyen 1996: 234).

Both Van Rooyen (1996: 250) and Bauer (1998: 103) have argued that the post-independence labour dispensation represent a marked degree of continuity with broader policy proposals formulated and adopted by the colonial regime on the eve of



independence. Thus the policy proposals articulated in the Report of the Wiehahn Commission of Inquiry into Labour Matters in Namibia appointed in 1987 served as an important source of the labour policy adopted after independence. The Wiehahn Report contained comprehensive recommendations on international labour standards, conditions of employment and labour relations, which were subsequently incorporated into the Labour Act (Act 6 of 1992).

The preceding discussion indicates that labour policy in Namibia has been informed by three primary sources. Firstly, it has been informed by the tenets of the Namibian Constitution, which in turn has been based on the tenets of the United Nations Universal Declaration of Human Rights. The second primary source of the labour policy is the various conventions and recommendations of the ILO. The third primary source of labour policy is the Report of the Wiehahn Commission.

### **3.3 Labour Policy Objectives**

The main objectives of the Namibian labour policy are: to improve the conditions of labour; to promote employment; to promote rights at work; to ensure basic security and employment; and to promote social dialogue (Office of Prime Minister 2000: 92-93; Van Rooyen 1996: 250; Bauer 1998: 102). In this regard it was envisaged that all labour and human resources programmes and procedures were to be restructured to ensure that apartheid, racism and the colonial past be eliminated. Furthermore, a labour dispensation guided by the following principles was to be developed: equality, justice, full potential development and the participation of all citizens.

Unemployment was to be tackled via affirmative action programmes and labour based projects. A new collective bargaining system for employer and employee organisations was proposed. Basic conditions of service, occupational health and international cooperation were also envisaged (Bauer 1998: 103).

### **3.4 Labour Administration and Institutions**

Policy implementation takes place within an organisational context. It has been suggested that the capabilities of administrative systems are critical in explaining the failures and or successes of policies (Iglesias 1976: xxxiv). Although implementation problems stem from a number of factors, the most important factor is the interaction between the policy change and its institutional setting (Thomas and Grindle 1990: 1163; Grindle and Thomas 1991: 2; Bjorkman 29.02.2000). In this regard a succinct evaluation of the most critical institutions that were established to facilitate the implementation of the Labour Policy will be carried out.

To this effect the following structures were envisaged and/or created: Labour Advisory Council, Labour Commissioner, Labour and District Labour Courts, Labour Inspectorate and Wages Commission (Van Rooyen 1996: 238-254; Klerck 1997: 280-281).

With the adoption of the new labour policy and its attendant acts, new labour administration institutions have been established to facilitate the implementation thereof. While it is the duty of the Ministry of Labour to coordinate the administrative, regulative and advisory functions of government on labour matters, other institutions have been founded to aid with the implementation of certain aspects of the labour policy. In this respect the following organisational structures have been created: Labour Commissioner, Labour Inspectorate, Labour Courts, Labour Advisory Council, Wages Commission, and the Social Security Commission (Van Rooyen 1996: 238-254; Klerck 1997: 280-281).

In this section the ability of both institutions and their contexts in facilitating the implementation of policy change will be explored. An attempt will be made to assess the organisational set-ups and substantial outcomes of each of the above-mentioned policy-implementing organisation with a view to determining their appropriateness, effectiveness and possible shortcomings.

### 3.4.1 Labour Commissioner

The Labour Commissioner is a Directorate within the Ministry of Labour and is headed by a senior government employee. It depends on government resources and standard operating procedures to execute its mandate.

The Office of the Labour Commissioner plays an important role in the sphere of collective labour relations. Amongst other assignments it is responsible for the registration of employers and employees organisations, registration and monitoring of collective agreements, the resolutions of collective disputes and overseeing of retrenchments (Van Rooyen 1996: 241; Klerck 1997: 280). Hence, the Labour Commissioner is very important structure established within the framework of the labour Act of 1992 to promote collective labour relations amongst employers and employees organisations.

By the year 2000, this institution had registered thirty-three trade unions and eight employers' organisations. Several recognition agreements, procedural and collective agreements were registered and a number of labour disputes were also amicably solved. For example, the following labour disputes<sup>1</sup> were successfully resolved: NAMDEB vs. MUN (1994), TCL vs. MUN (1996), and Hartlief vs. Nafau (1996) (Office of the Prime Minister 2000: 90). The Office of the Labour Commissioner has generally done well in facilitating the resolution of collective disputes between employer and employee organisations. However, its effectiveness have been curtailed by lack of well qualified staff and lack of statutory authority necessary to compel parties to disclose information during negotiation (Van Rooyen 1996: 241).

Because the Office of the Labour Commissioner has been established to deal with collective disputes between employer and employee organisations, it has not played a significant role in resolving labour disputes in the agricultural sector. Because farm

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<sup>1</sup> The importance of these strikes lies in the fact that they represented the first lawful strikes in the Namibian history as they have followed the statutory procedure (Van Rooyen 1996: 257).

labourers are not effectively organised into trade unions, there is no recognition agreement between employer and employee organisations. Most labour disputes in this sector are individual in nature and are therefore better dealt with by either the labour inspector or the district labour court.

### **3.4.2 Labour Inspectorate**

The Labour Inspectorate is a government directorate, which is part and parcel of the Ministry of Labour. The inspectorate has the authority to make arbitrary inspections and receive individual labour complaints aimed at enforcing the Labour Act. It is the duty of the inspectorate to investigate and determine complaints lodged in accordance with the relevant provisions of the Act (Van Rooyen 1996: 254; Klerck 1997: 280).

There are fifteen regional labour offices and twenty-seven factory and labour inspectors who carry out labour and factory inspections. Between 1990 and 1999 about 30 672 complaints were lodged countrywide and resolved, whilst labour inspectors visited 4807 business premises for routine inspections (Office of Prime Minister 2000: 90). The majority of complaints were reported by the construction sector (21%), agricultural and fishing sector (15%) and domestic service sector (13%) (Van Rooyen 1996: 254).

However, there are a number of weaknesses pertaining to the institution of the Labour Inspectorate. Trade unions and their members have little confidence in labour inspectors as they allege that the latter receive bribes from employers and favour employers. It is alleged that in rural areas and small towns inspectors force workers to accept unfair settlement offers from employers. Employers also feel that those labour inspectors with a trade union background favour workers (Katjiuanjo et al 1996: 6-7).

NAFWU has argued that labour inspectors are impeded in performing their duties by a lack of access to farms. This lack of access to farms is a result of the misuse of trespass laws by farmers. NAFWU has further suggested that labour inspectors need to be

properly trained and to adopt a Code of Conduct to guide them in carrying out their responsibilities (Commission of Inquiry into Labour Matters 1997: 205).

Other problems with regard to the operation of the labour inspectorate are: understaffing as there is one inspector per region, a large area in need of coverage by a single inspector, inspectors often do not speak to labourers but only to farmers, they are poorly trained, and they do not have access to a reliable means of transport (Government of the Republic of Namibia 1997: 79-82). Hence this institution has not been effective in resolving individual disputes on farms.

### **3.4.3 Labour Courts**

Both the Labour Court and the district labour courts were established to adjudicate on labour disputes. Unlike the colonial era when labour litigation was restricted to lawyers, after independence provision was made for the appointment of labour experts and assessors in court proceedings. The statutory law was also decriminalised and the concept of fairness was introduced as a norm in labour law adjudication (Van Rooyen 1996: 242).

District Labour Courts and a Labour Court have been established within the framework of the Labour Act. The former is concerned with the adjudication of disputes of interest and the latter is concerned with the adjudication of disputes of rights. The District Labour Court is in essence a Magistrate Court whereas the Labour Court is an equivalent of a High Court. Hence, these courts function like traditional courts.

A total of 2 859 cases were reported to the District Labour Courts countrywide since the establishment of these courts (Office of Prime Minister 2000: 90). During 1994 and 1995 the Labour Court heard four and nine cases, respectively (Van Rooyen 1996: 253).

Although the Labour Act was promulgated in 1992, labour courts only started to operate at the end of 1993 as the standard operating procedures were not yet in place. Since the operation of the district labour courts the following hiccups have been identified: insufficient court facilities, ignorance on the part of key stakeholders of the basic

procedures of the court, the non-availability of sufficiently trained staff, and the failure on the part of parties to the dispute to attend court proceedings (Van Rooyen 1996: 243). Hence the district labour courts have not been effective as intended by the policy makers.

#### **3.4.4 Labour Advisory Council**

This thirteen member tripartite body chaired by the Deputy Minister of Labour is tasked to deliberate on a range of labour related issues and to advise the Minister thereon. The Council has the authority to inquire into various issues, such as, formulation and implementation of national policy, promotion of collective bargaining, and the collection of and publication of labour related statistics (Klerck 1997: 281). Employers, employees and government organisations nominate the members of the Commission who are drawn from the relevant economic sectors. Seven standing committees, each responsible for a specific aspect of labour relations, have been established (Van Rooyen 1996: 240).

The Labour Advisory Council has dealt with a range of labour issues since its foundation. Amongst others the following matters were dealt with: drafting occupational health and safety regulations, conducting feasibility study on the possibility of establishing wage commissions, commenting on rules of district labour courts and Labour Court, and gathering labour statistics (Van Rooyen 1996: 241). However, to date the Labour Advisory Council has made little contributions to labour relations in the agricultural sector.

#### **3.4.5 Wages Commission**

A Wages Commission can be set up by the Minister of Labour to investigate the remuneration and other conditions of service of a specified employee group at the request of either the employer or employee organisation (Klerck 1997: 281). Both agricultural employers' and employees' organisations signed a collective agreement to introduce minimum wages in the industry at the end of 2002. This is a step in the right direction.

### **3.4.6 Social Security Commission**

The Social Security Commission was set by an act of Parliament, the Social Security Act (Act 34 of 1994) to complement the Labour Act of 1992. It commenced its operations in 1995. Its main objectives are administering multiple social security schemes applicable to all employees and employers in Namibia. Employers and employees are expected to contribute financially to a number of specified funds on a mandatory basis. These funds are Maternity Leave, Sick Leave and Death Benefit Fund (MSD); National Medical Fund; National Pension Fund, and the Development Fund. The last three funds are still outstanding. Additionally, the Commission is also responsible for running the Employees' Compensation Funds (EC), which is constituted of Accident Pension Fund and the Accident Reserve Fund.

A ten-member governing body is responsible for policy formulation of the commission. Three members represent employers and employees' organisations on the Commission, respectively. Similarly, three members on the Commission also represent the government. (Social Security Commission 1998: 3). Therefore, the structuring of the board is in keeping with the spirit of tripartism as contained in the labour policy. The Commission employed 114 staff members as at end February 1998 (Social Security Commission 1998: 15).

About 27 000 employers and 236 000 employees were members of the MSD Fund at the end of February 1998. This is an annual increase of about 9% and 27% for employers and employees, respectively. However, only about a third of the registered employees were female. On the other hand, about 12 000 employers and 101 000 employees were registered with the EC Fund (Social Security Commission 1998: 10). These figures indicate some reluctance on the part of both employers and employees to register with the EC Fund.

In respect of the MSD Fund a total of N\$18 million was paid out on claims. Maternity leave benefits took 80%; sick leave benefits took 4%; and death, disability and retirement

benefits took 16% of the total claims paid out by MSD. EC Fund claims payment totalled N\$12 million, which is an increase of 58% over the previous year payment (Social Security Commission 1998: 12-13).

The Commission of Inquiry into Labour Matters found that only 5 279 agricultural employees were registered with the SSC as at 1997. The above figure represents only sixteen percent of all agricultural labourers in Namibia (Devereux et al 1996: ix). The majority of farm labourers are thus not yet registered with the SSC. This poor registration is due to the attempt by farmers to avoid paying the mandatory contributions to the SSC and the fact that the latter has no offices in rural areas where the majority of farm labourers reside (Government of the Republic of Namibia 1997: 229).

Van Rooyen (1996: 234) has characterised the structure of the Social Security Act as ambiguous, sophisticated and administratively demanding. Hence he suggested that the implementation of the Act is likely to be problematic.

### **3.5 “The” stake-holders “at stake”**

The formulation of the labour policy has been characterised as having been accompanied by a “thorough consultative process” involving tripartite partnerships (Van Rooyen 1996: 230). This “thorough consultative process” is said to have contributed significantly to the “acceptability and perceived legitimacy amongst Namibians at large” (Van Rooyen 1996: 230).

The MLHRD issued a press release inviting trade unions and employers organisations to make their suggestions and comments on the proposed labour relations system for incorporation into a new Labour Code on 20 July 1990 (Van Rooyen 1996: 230). Subsequently a consultative meeting was held under the auspices of MLHRD and attended by employers and employees organisations on 30-31 July 1990.



Afterwards a consultative document outlining the government's proposals for new labour relations dispensation was compiled and circulated to trade unions and employers organisations for their comments in September 1990. Based on comments received from stakeholders, Professor Happle drafted an ILO technical document, which was discussed at a public seminar in April 1991 (Van Rooyen 1996: 230).

### **3.5.1 Cabinet**

Cabinet as the principal executive authority empowered to formulate government policy was fully involved in the formulation of the labour policy for Namibia. Indeed the Minister of Labour who is a full member of Cabinet and who in terms of Article 41 of the Namibian Constitution "shall be accountable individually for the administration of [his/her Ministry] and collectively for the administration of the work of the Cabinet, both to the President and to Parliament", played a major role in the enunciation and finalisation of the said policy.

Cabinet adopted the National Policy on Labour and "Manpower" Development, which is an initial policy statement on labour relations, in July 1990. Again after the first public seminar held in April 1991, a draft bill was finalized and submitted to cabinet for its consideration and approval on July 1991 (Bauer 1997: 105-106: Van Rooyen 1996: 230).

Cabinet then appointed a technical committee to iron out pending issues. Amendments were effected after consultation with relevant parties. Cabinet finally approved the bill on 17 September 1991. Thereafter, the Ministry of Justice revised the bill to comply with legal procedures and practices (Bauer 1997: 105-106: Van Rooyen 1996: 230). Then the Act was implemented. Realising that certain aspects of the Act were not being implemented successfully, the President of Namibia appointed a Presidential Commission of Inquiry into Labour Matters affecting Agricultural Employees and Domestic Employees during 1995. Subsequently, the recommendations of the report was endorsed by Cabinet and referred to the relevant Ministry to implement.

### **3.5.2 Senior Civil Servants**

It is widely accepted that senior civil servants (also referred to as public administrators) are deeply involved in policy making and implementation. There is also an agreement that politicians are also involved in the formulation of and implementation of public policy. (Wu 1978:345).

Senior civil servants have played a significant role at all stages of public policy making and implementation. They played an important role in contracting the ILO as the preferred “experts” in drafting the Labour Policy, thereby deciding in favour of a voluntarist collective bargaining system based on tripartitism. They furthermore served as advisors to political executives and hence played a critical role in shaping the policy arguments. Together with the ILO “experts” they identified key stakeholders, set the agenda and produced documents for consultative meetings, thus placing a limitation on policy alternatives. Aided primarily by the ILO “experts” and South African and Namibian labour lawyers, senior civil servants produced a Draft Labour Bill for Cabinet’s scrutiny and approval (Van Rooyen 1996: 230).

As custodians of the ministerial public funds, coordinators of departmental functions, and managers of other staff members, senior civil servants played a pivotal role in the implementation of the Labour Policy. However, at the implementation stage of the Labour policy, many organisations, i.e., the Ministry of Labour, Ministry of Justice, Ministry of Finance and the Social Security Commission, are involved. Hence, the need to confront issues such as coordination, institutional rivalry, capacity building, resource availability and even sabotage.

### **3.5.3 Parliament**

In terms of Article 44 of the Namibian Constitution legislative power is vested in the National Assembly. The National Assembly is authorised to pass laws subject to the powers and functions of the National Council. The latter have the power to consider and

review all the bills passed by the National Assembly. However, the National Council had played no role in the enactment of the Bill, as it was by then not yet in existence.

The bill was tabled in the National Assembly on the last day of its session for the year in December 1991. It was tabled again in the National Assembly on 4 March 1992 and passed by the said institution on 13 March 1992. The bill was finally enacted into law on 1 November 1992 (Bauer 1997: 106; Van Rooyen 1996: 231).

### **3.5.4 Employees Organisations - NAFWU**

NAFWU was founded to be the voice of the agricultural labourers. By the time of the formulation of the Labour Policy it was not as yet founded, hence its role was played by the NUNW, a federative union body. Efforts by NAFWU to mobilise agricultural labourers into its fold are hampered by the lack of access to commercial farms. In this regard, national laws regulating trespassing on farms impede its efforts.

As a result, NAFWU has only managed to recruit about 12 per cent of agricultural labourers as members. The union is thus not an equal partner in the collective bargaining system of the country. Given the lack of proper collective bargaining within the agricultural sector, the majority of agricultural labourers make use of the individual labour dispute resolution system.

The SWAPO-affiliated National Union of Namibian Workers (NUNW) and its member trade unions played a prominent role in the formulation of the new labour policy. The prominent role accorded to these trade unions is due to the recognition by SWAPO of their potential influence in society and the large worker constituency they represent (Van Rooyen 1996: 246).

From the start trade unions were involved in the drafting of the labour policy. Therefore, the drafting and enactment of the new labour policy has been a lengthy and involved process. As mentioned already trade unions together with employer's organisations were

invited for the first time by MLHRD to make their suggestions and comments on the proposed labour relations system on 20 July 1990. Subsequently, they attended a consultative meeting held under the auspices of the Ministry of Labour on 30-31 July 1990. Again, the trade unions were given an opportunity to comment and provide inputs into the revised consultative document in September 1990. Lately NAFWU and NAU signed a collective agreement to introduce minimum wages in the agricultural industry.

### **3.5.5 Employers Organisations - NAU**

At independence employers' organisations continued to be "few in numbers" and "lethargic in character" (Van Rooyen 1996: 249). During the formulation of the labour policy there was no national employers' organisation. Hence, it was difficult to ensure an effective tripartite consultation and liaison. The Namibia Employers Federation (NEF) was founded as a result of an ILO-assisted effort in 1992.

Despite the absence of a national employer body, individual employers' organisations such as NAU were equally involved in the drafting of the labour policy from the start. They were invited by the Ministry of Labour to comment on the proposed labour relations system on 20 July 1990. Thereafter, employers' organisations participated in the proceedings of a consultative meeting organised by the said ministry on 30-31 July 1990. The ministry sought their opinions on a revised consultative document again in September 1990.

Before independence, the colonial state had put in place a legislative and ideological framework to protect the interest of commercial farmers. In this respect, farmers established an authoritative regime that continue to render agricultural labourers vulnerable and without any rights. The enactment of the various labour related Acts after independence were meant to roll back the above-mentioned labour dispensation and practices. However, on the ground the situation has been different from the good intentions as encapsulated in the various provisions of the labour Acts.

This is so for a number of reasons that are to a large extent have to do with the strategic position NAU occupies in the political economy of labour in Namibia. Firstly, NAU has an extensive network of active members. About three-quarters of farmers are members of NAU. Secondly, farmers are well versed in the social, economic and legal set up in the country and use this to their advantage. For example, farmers use the moribund Trespass Ordinance to shield agricultural labourers from unionisation by NAFWU and from investigation of unfair labour practices by labour inspectors. Farmers are thus able to collude with each other against agricultural labourers because they are well organised and resourceful.

### **3.5.6 The “Experts” - ILO**

From the start the International Labour Organisation (ILO) was “intimately involved” in the drafting of the labour policy. In fact, the Labour Act was drafted to embody the various ILO standards, conventions and recommendations. Hence, the ILO has played an important role in the articulation and drafting of the labour policy. For example, in September 1989, the ILO sent an exploratory mission to Namibia to identify likely projects for its involvement at independence.

The ILO commissioned Professor Hepple to assist the Namibian government in drafting the Labour Act. As a result, Hepple compiled the initial draft with technical input by various ILO experts. During the entire period of the formulation of the labour policy the ILO remained closely involved with Ministry of Labour and Human Resources Development (MLHRD).

To cement the relationship between the MLHRD and ILO, the latter’s Director General invited the Minister of Labour to pay an official visit to the headquarters of the ILO in Geneva. The purpose of the visit was to familiarise the Minister with the workings of the ILO and to determine the type of assistance the ILO could render to Namibia with regard to labour administration. During May 1990 the Minister undertook his trip to the ILO

headquarters. During this visit tentative projects<sup>2</sup> for ILO technical input were identified (Van Rooyen 1996: 260).

As a full member of the ILO, Namibia has been attending the International Labour Conference since June 1990. By 1995, Namibia has ratified its first five international labour conventions. These conventions are: Convention No. 87 of 1948 (Freedom of Association and Protection of Right to Organise), Convention No. 98 of 1949 (Right to Organise and Collective Bargaining), Convention No. 144 of 1976 (Tripartite Consultation – International Labour Standards), Convention No. 150 of 1978 (Labour Administration), and Convention No. 158 of 1982 (Termination of Employment) (Van Rooyen 1996: 261).

In addition to ILO membership, Namibia is a member of and a full participant in the activities of the following regional and international bodies: OAU's Labour Commission, Non-Aligned Countries' Labour Ministers Conference, Southern African Labour Commission, and the African Regional Labour Administration Centre (Van Rooyen 1996: 261). However, Van Rooyen has argued that with the exception of the ILO, these organisations have contributed little to the development of a labour relations framework in Namibia.

### **3.5.7 Interest Groups - The LAC and SSD**

Since its inception in May 1994, the Farmworkers Project at the Legal Assistance Centre (LAC) has involved itself in many activities aimed at improving the living and working conditions of agricultural wage labourers in Namibia. The Project set itself the following objectives: conducting outreach workshops, producing educational materials, initiating

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<sup>2</sup> The following technical assistance projects were executed by the ILO in Namibia: strengthening labour administration, conducting labour market surveys and analyses, developing vocational training policy and institutions, enhancing employers' activities, worker education, employment, affirmative action, international labour standards, labour law adjudication, occupational health and safety, rehabilitation, gender issues, social security, small enterprise development, and population planning (Van Rooyen 1996: 268, endnote 158).

litigation work, lobbying on farmworker issues, advising NAFWU and conducting socio-economic research (Devereux S. et al 1996: 1).

A study titled “A Survey of Individual Labour Disputes at Selected District Labour Courts in Namibia in 1994” found that about 60 per cent of workers are not legally represented (Katjuwanjo V. *et al* 1997:vi; 13). With regard to the agricultural industry, about 72 per cent of agricultural labourers were not represented in 1994 (Ibid.: 23). It was further established that the LAC and its various regional offices represented about 11 per cent of all workers at district labour courts (Ibid.: 13). Out of these, about 8 per cent were agricultural labourers (Ibid.: 23).

The Farmworkers Project in association with the Social Science Division (SSD) at the University of Namibia (UNAM), published a report titled “The Living and Working Conditions of Farmworkers in Namibia” containing data and recommendations on all aspects of agricultural labourers’ living and working conditions in 1996. The research was initiated by the Project in response to the appointment of the Presidential Commission of Inquiry into Labour Related Matters Affecting Agricultural Employees and Domestic Employees.

### **3.5.8 Agricultural Labourers**

Agricultural labourers both in their individual and collective capacities are important stakeholders with regard to the objectives of the labour policy. They are the primary beneficiaries of the policy. The pre-independence labour dispensation did not protect their rights and interests. Because they were not organized into trade unions they were unable to collectively defend their interests and rights at work.

Despite these organizational limitations from time to time they were able to mount some resistance. After independence, they are increasingly using the district labour courts to redress their disputes with their employers.

Eight per cent of all labour disputes lodged at the district labour courts countrywide were done by agricultural labourers. These complaints were in relation to the following issues: dismissals (39 per cent), salary matters (32 per cent), overtime (7 per cent) and leave (5 per cent) (Katjiuanjo *et al* 1997: 13/19).

## **CHAPTER FOUR: EMPIRICAL CONCEPTUALISATION OF THE STUDY (CASE STUDY)**

### **4.1 Introduction**

In an effort to assess the implementation of the labour policy in relation to the agricultural wage labourers, this paper will draw primarily on the findings of a recent survey. The survey was initiated by the Farmworkers Project of the Legal Assistance Centre and was finalised on partnership with the Social Science Division of the University of Namibia. It was initiated as a response to the appointment by the President of Namibia of a Commission of Inquiry into Labour Related Matters affecting Agricultural Employees and Domestic Employees in January 1995. Data collection started on 15 June and ended on 30 June 1995. The results of this survey are contained in a report titled “The Living and Working Conditions of Farmworkers in Namibia” published during August 1996.

In accomplishing this task the work will be divided into two parts. Firstly, general information pertaining to the data material for documentary analysis will be provided by way of a brief description under the following themes: the research design, data collection methods, sampling procedures and analysis techniques. Secondly, a critical analysis of the survey data will be done under the “results/findings of the secondary analysis” topic.

### **4.2 Data Material for Documentary Analysis**

Four aims were set for the survey. Firstly, the aim was to update the existing baseline data on the living and working conditions of farm workers. Secondly, the need was



identified to assess the knowledge of farm workers in relation to the Labour Act and to ascertain their sources of information. Thirdly, it was felt necessary to avail the research findings to other social partners working on policy matters in the agricultural sector. Fourthly, it was the aim of the project to provide the research findings to the Commission of Inquiry into Labour Matters Affecting Agricultural and Domestic Employees. A reference group consisting of key stakeholders representing government institutions, research organisations mass organisations and donor agencies was established to discuss and advise on subject matter of the survey, its research design and comment on the findings of the survey. The group held two meetings to consider preliminary survey results and made useful inputs which enriched the content of the final report.

#### **4.2.1 Research Design**

According to Churchill (2001: 104) a research design is the framework for a study and guides the collection and analysis of data. Therefore, a descriptive research was chosen for this study because of its emphasis on finding out the frequency with which something occurs or the relationships between variables (Ibid.: 119). Descriptive research also reports averages and percentages (Glatthorn 1998: 36). On the other hand, exploratory and causal research designs were found not useful for the purpose of this study. Exploratory research is useful in clarifying concepts, developing hypotheses, and establishing priorities for further research. These issues were already well articulated for this study and an exploratory research was found not appropriate. Causal research is useful for determining cause-and-effect relationships. The frequency with which the various variables pertaining to the working and living conditions of agricultural labourers occur were not yet identified. For this reason, this research design was not chosen.

#### **4.2.2 Data Collection Methods**

Primary data was prioritised as the main information source. Primary data is very useful in identifying demographic and socio-economic characteristics of peoples, such as age, education, marital status, sex, income, social class and occupation (Churchill 2001: 238).

The study relied on communication method to obtain primary data. Unlike observation, the communication method of data collection involves questioning respondents to secure the requisite information, using a data collection instrument called a questionnaire. The questionnaire has advantages of versatility, speed and cost, while the observation method produces data that is more objective and accurate. The main drawback of the personal interview, which is closely associated with the questionnaire, is that the replies of the respondent are conditioned by individual's perception of the interviewer (Ibid.: 246-8).

Because of the advantages of versatility, speed, and cost a structured questionnaire to be administered by means of a personal interview was chosen as the data collection instrument for the study. The content of individual questions, the form of response to each question, the wording of each wording, the sequence of questions, were all carefully designed. To further improve its design the questionnaire was pilot-tested.

Thereafter, the reference group's advice was solicited to detect and remove possible ambiguities. The questionnaire was organised into seven sections, i.e. farm characteristics, respondent characteristics, working conditions, income and assets, expenditure, living conditions, and labour relations.

#### **4.2.3 Sampling Procedures**

A total of 186 farms were surveyed for this study in three study areas: the north (67 farms), central (57 farms) and south (62 farms), Thereafter, a survey sample was drawn up by dividing the country into three roughly equal parts, i.e. the south, central and north. Each part was then allocated an equal number of farms. The survey sample was further stratified to provide for farming activities such as cattle farming, small stock farming, mixed farming and guest farms. Interviews were then conducted on sixty-two farms covering a total of 200 interviews per each survey unit. Therefore a total of 186 farms were surveyed. On each farm interviews were conducted with one farmer and two agricultural wage labourers. Interviews were conducted in thirteen administrative districts occurring mainly on commercial farmland.

#### **4.2.4 Data Analysis Techniques**

Churchill (2001: 582) asserts that data analysis is concerned with searching for meaning in the collected information. Some general conclusions are then drawn from the data. There are several steps involved in data analysis such as editing, coding and tabulating the data. Completed questionnaires were first edited for detecting glaring inaccuracies and omissions in the data by the field supervisor. Thereafter an extensive edit was done in the central-office in Windhoek. The coding of data was also performed in the central-office to transform data into numerals. The latter is easy to tabulate and count. Categories into which responses are to be placed were specified. Code numbers were thereafter assigned to the relevant categories. Finally, a computer programme, SPSS+4, was used to analyse the data and to produce simple tabulation and cross-tabulation. A research report using tables and graphs to present general conclusions drawn from the data was prepared.

Although interviews were conducted on 186 farms, information of respondents on one farm engaged in charcoal productions was excluded during the data analysis stage. Furthermore, whilst analysing the data on rations, income and working hours the information provided by five respondents was excluded from the discussion due to their superior employment status (Devereux et al 1996: 39).

#### **4.2.5 Limitations of the Results**

It is impossible to have a “perfect study” as every study has its limitations. Therefore it is proper to document the limitations of this study. Some problems were encountered during the data collection stage of the study. Interviews in the southern study area could not be started in time as planned because the respondents were harvesting crops. The respondents had to be interviewed at a later stage. However, the process was concluded within the planned time-frame. Due to occasional non-response in the central study areas data collection went beyond the agreed upon time frame and a full sample was not attained (Devereux *et al* 1996: 13).

Due to occasional non-response mentioned above the presence of non-observation errors cannot be discounted. Given the paucity of information on research methods employed in this survey it is not possible to quantify the magnitude of the problem or to specify the direction of bias. However, it is comforting that this problem was overcome by visiting again the particular farm to obtain the missing information. Observation errors that emanate from the provision of inaccurate information by respondents need to be acknowledged. Procedures such as training field interviewers and matching their individual characteristics with that of the interviewee were meant to reduce this bias.

Care should always be taken to use collected data because of validity concerns. There is a need to be concerned about the extent to which data collected are reliable and valid. Reliability refers to consistency with which a measure reproduces the same results repeatedly. A measure is valid if it can measure the concept it is intended to measure (Patton 1997: 251). The involvement of intended users of the collected data throughout the research process was designed to ensure the validity and reliability of the data. They would have raised objection if they thought that the data collected was not credible or valid. Since a multi-stage random sampling procedure was employed to draw a representative sample the findings of the case studies could be generalised to all agricultural labourers working on commercial farms in Namibia. These findings would not be applicable to agricultural labourers on communal farms.

### **4.3 Results/Findings of the Documentary Analysis**

The findings of the above-mentioned survey would be used to assess the implementation of the labour policy in relation to the agricultural wage labourers and to determine if the hypotheses advanced are rejected or accepted. This exercise would primarily involve content analysis and the interpretation of the available data. To interpret the data the study will draw on theoretical perspectives gained via the literature review. Following from Patton (1997: 307) a data review framework consisting of the following elements

will be employed: description and analysis, interpretation, and judgement. The data will be organised into a form that reveals the actual findings. Interpretations will involve answering questions such as what do the results mean? What are possible explanations of the results? Judgement would entail determining the merit of the research outcomes.

In recognition of the special circumstances pertaining to agricultural wage labourers, the Act set forth specific prohibitions aimed at protecting this category of the labour force. In assessing the implementation of the Labour Policy with regard to agricultural employees, the findings of the survey will be organised according to the following categories: remuneration, accommodation, right to livestock, cultivation and rations and collective bargaining.

#### **4.3.1 Remuneration**

Section 37 of the Labour Act prohibits certain acts related to payment of remuneration to agricultural labourers. The Act prohibits employers from requiring their employees to make use of any shop owned by the former. Furthermore, employers are not allowed to sell goods to their employees at a price that exceeds the purchase price plus an amount incurred in transporting the goods to the farm (Labour Act 1992: 44). In this regard the Commission of Inquiry into Labour Matters found that wages paid to agricultural labourers countrywide are generally low and that rations provided by employers in many instances were considered by the recipients insufficient to meet their needs (Government of the Republic of Namibia 1997: 213). Furthermore, the Commission found that the provisions of Section 38 of the Labour Act relating to livestock keeping and cultivation necessary to provide for the needs of employees living on the farm were generally not effected. (Government of the Republic of Namibia 1997: 213-4, Devereux *et al* 1996: 11).

The majority of agricultural wage labourers received their pay in combinations of cash wages and rations. Permanent employees are paid a total wage of N\$395.39 per month consisting of a cash wage of about N\$166.12 and a ration pack of N\$229.27. Therefore,

close to two-thirds of their total wage is made up of payment in kind. In comparison, casual employees received a total monthly wage of N\$364.27. Out of these, N\$135.00 is paid in cash and N\$229.27 is paid in kind (Devereux *et al* 1996: x).

The average total wage paid to employees varies markedly across study areas. For example, employees in the South received N\$236.00, whereas those in the Central study areas received N\$440.00 per month (Devereux *et al* 1996: 23). An analysis of monthly wages received by farming activities suggests that highly paid employees are working on cultivation and guest farms, whereas the lowly paid employees are those working on small stock farms (Devereux *et al* 1996: 47).

The San and women employees receive monthly cash wages comparable to those earned by casual workers. For instance, San employees earned an average cash wage of N\$130.00 per month. Women employees, on the other hand, earned N\$140.00 (Devereux *et al* 1996: 69).

It is very difficult to imagine a situation where employees will not be compelled to buy goods from the farmer's shop, as there is only one such shop on a farm. Hence the worker is unlikely to resist being coerced into buying goods from the said shop. The employees' choice is further constrained by the fact that farms are far away from towns and that he/she does not possess own transport to enable him/her to make own purchases off the farm. Hence many farm labourers are forced to buy additional foodstuffs and other basic necessities from the farm shop. As the result they are continually indebted to the farmer (Government of the Republic of Namibia 1997: 213-4).

Agricultural labourers are not likely to obtain goods on farms at prices that are not exploitative as they do not buy goods in cash because most of the time they lack the necessary cash and the fact that the farmer is aware that the workers have no intimate knowledge of the cost price of goods, not to mention the cost of transportation. Hence, these prohibitions with regard to certain acts pertaining to payment of remuneration cannot be implemented. They thus remain mere policy intents.

### 4.3.2 Accommodation

Employers who require their employees to live in or reside on agricultural land are in terms of Section 38(1)(a) of the Labour Act required to provide their employees with housing, sanitary and water facilities in order to comply with the “reasonable requirements” of those employees and their dependents (Government of the Republic of Namibia 1992: 46, Devereux et al 1996: 12). Close to 90% of agricultural wage labourers are provided with housing. However, in the northern study area only 21% of employees are provided with housing. Although the types of housing vary significantly from farm to farm, about half of the employees are provided with brick houses (Devereux *et al* 1996: 28).

About half of all employees surveyed do not have access to decent sanitation facilities as they use the bush as a toilet. Only a third of all surveyed employees have access to a flush toilet, whereas the corresponding figure for those employed in the northern study area is 46%. Employees on farms are provided with adequate and accessible water. For example, 94% of all surveyed employees have access to piped water into their houses or in the yard (Devereux *et al* 1996: 28).

In conflict with the provisions of the Labour Act, about 44% of San workers are not provided with adequate housing. Women employees on farms are much better off than the San workers. For example, 91% of these employees are provided with housing. Although water provision for San workers is comparable to those of all employees, their access to adequate sanitation facilities is much worse than that of their counterparts. For instance, only 12% of San employees have access to a flush toilet, whereas 31% of all employees have access to a flush toilet (Devereux *et al* 1996: 75).

Suzman (2000: 57) has suggested the following with regard to farmers’ attitudes with regard to the need for and quality of housing provided to San farm labourers:

[If] housing was provided it was usually sparse and rudimentary, consisting of a brick or corrugated iron shelter and a communal tap. In general it was assumed that, because Ju/'hoansi were Bushmen, they were happy to sleep outside.

The Commission of inquiry into Labour Matters found that the various types of housing provided to agricultural employees countrywide were of a poor standard. The Commission further found that it is difficult to interpret the meaning of “reasonable requirement” in relation to employee housing (Government of the Republic of Namibia 1997: 217). The phrase “reasonable requirements” is too ambiguous and subjective and hence difficult to interpret.

Does “reasonable” refer to quality or quantity or just mere availability? How would someone go about enforcing such an ambiguous and value loaded concept? This concept is likely to evoke different interpretations amongst people depending on their material condition and ideological leanings and hence is not enforceable. Therefore this requirement should be seen as a long-term objective around which desirable behaviour change can be agitated.

### **4.3.3 Right to Livestock, Cultivation and Rations**

The Labour Act in terms of section 38(1)(b) requires employers of agricultural wage labourers to permit their employees to keep “such livestock” and carry on “such cultivation” on “such land” as may be necessary to provide the “reasonable needs” of the employee and his/her dependants. However, this section does not apply to a situation where the employee by mutual agreement is provided with food or ration by the employer (Government of the Republic of Namibia 1992: 46, Devereux *et al* 1996: 12). Therefore, the extension of the right to keep livestock and cultivate a piece of land to farm labourers should be seen as aimed at providing them with additional source of subsistence and hence reduce their dependency on the farmer.

The Commission of Inquiry into Labour Matters found that most of the farm labourers are landless and hence lack any secured rights of tenure. During times of drought those



agricultural employees who are allowed to keep livestock, are forced to find alternative grazing for their animals. As a result, they are caught in a cycle of poverty and dependence on the farmer (Government of the Republic of Namibia 1997: 227).

Cattle and small stock keeping as well as cultivation on farmland are additional sources of revenue for some employees. This source of income seems to be primarily restricted to employees on cattle and small stock farms (Devereux *et al* 1996: 49). However, the numbers of animals owned by employees is very low as farmers impose restrictions on livestock ownership by the former. Two-thirds of all surveyed employees confirmed the above-mentioned restrictive practices (Devereux *et al* 1996: 50).

None of the San workers has any other source of income, such as livestock sales, pension, crop sales, and remittances from family members. Only one San respondent has sold a livestock, which is a donkey (Devereux *et al* 1996: 71). This lack of access to additional resources and wealth had made the San labourers entirely dependent on wage labour and hence has weakened their position in the labour market.

A typical ration pack provided by farmers to San employees is comprised of milk, maize meal porridge, sugar and some tea. These rations are usually issued to workers and their dependents on a monthly basis (Suzman 2000: 57). In most cases this is not enough to cater for the nutritional needs of the whole family.

There are two problems with the current formulation of the land and cultivation rights extended to farm labourers. Firstly, the Act makes the labourers' grazing rights dependent on the farmer's good will. Secondly, even when the farmer decides to grant an employee access to the land, he/she will solely decide on what he consider to be the appropriate size of land to be made available including the number of animals to be kept. Quite often farmers allow workers to keep livestock but then restrict the number of animals to be kept to a bare minimum. Farmers tend to grant this right to the employees on condition that such animals shall only be sold to them. Therefore, this sub-section of the Labour Act is very difficult to enforce.

#### 4.3.4 Collective Bargaining

Prior to the enactment of the Labour Act, Namibia's labour relations were governed by colonial legislation designed to exclude farm labourers from their operation. Both the Master and Servant Proclamation (1920) and the Wage and Industrial Conciliation Ordinance (1952) did not protect the rights and interests of agricultural wage labourers (Koerner-Damman 1990: 76). However, with passage of the Labour Act in 1992 adequate provisions exist for the regulation of labour matters for all categories of workers (including farm labourers) in the country. The Act provides a statutory framework for employers and employees organisations to collectively bargain over issues of mutual concern.

The Commission of Inquiry into Labour Matters found that there is a lack of proper collective bargaining within the agricultural sector. This situation is caused by the weaknesses of employers and employees organisations (Government of the Republic of Namibia 1997: 213). Furthermore the Commission found that many agricultural employees are not members of an employee organisation because the latter is not operating in remote areas. It was also found that many farms are being shielded from trade unionists and labour inspectors by means of laws regulating trespassing (Government of the Republic of Namibia 1997: 222).

About 75% of farmers are members of NAU, whilst only 12% of agricultural labourers are members of NAFWU (Devereux *et al* 1996: xi, 33). Therefore, nation-wide, almost 90% of all surveyed agricultural labourers are not yet unionised. NAFWU membership is the highest on cultivation farms where about 43% of labourers surveyed affirmed this (Devereux *et al* 1996: 58). However, none of the San labourers surveyed is a member of the trade union, whilst its membership amongst women farm labourers was only 4% (Devereux *et al* 1996: 78-9).

Two main reasons explain the lack of unionisation of agricultural labourers. Firstly, some have no knowledge of NAFWU (57%). Secondly, although they have heard about the existence of NAFWU, the union has not yet approached them to join (30%) (Devereux *et al*: 33). This low unionisation rates can be explained by the fact that NAFWU was formed recently and is struggling to access farms to recruit members due to the operation of the Trespass Ordinance which is still on the Statute (Hubbard and Katjiuanjo 1997: 229). Suzman (1995: 59-60) identified the following additional factors as militating against the unionisation of agricultural wage labourers: squabbles between workers, dependency on employment for material survival, high mobility, and low resources.

The above suggests that farmers are well organised. It is easy for them to collude with each other by fixing low wages for their employees and high profits for themselves. The converse is true for agricultural labourers. Chimana and Hengari (1997: 15) have therefore suggested that the farm labour market is monopsonistic. Hence, the poorly organised agricultural employees are susceptible to exploitation by the farmer.

Even those labourers organised in NAFWU are unable to wield the collective bargaining weapon. This lack of bargaining power is due to the fact that worker density is very low on farms and that farms are far apart (Hubbard and Katjiuanjo 1997: 229). Additionally, the following factors combine to weaken the bargaining position of farm labourers: rising unemployment in Namibia and the resultant oversupply of labour in rural areas, recurring droughts, and lack of skills transferable to other sectors of the economy by these employees (Chimana and Hengari 1997:15-16, 23). Hence the possibility of a strike on the part of agricultural labourers is very remote.

Knowledge of the Labour Act is very low amongst the agricultural labourers as opposed to the farmers. In this respect about 94% of farmers surveyed are aware of the Labour Act, whilst only about 34% of farm labourers have ever heard of this Act (Devereux *et al* 1996: 34). Of those labourers aware of the Labour Act, their main sources of information are as follows: radio (45%), friends/relatives (24%) and the farmer (14%) (Devereux *et al* 1996: 33).

The Labour Act sets the framework for labour relations in the country. In terms of the Act the role of the government in labour matters is conceptualised as minimalist as the government is seen as a facilitator of the process of collective bargaining between employers' and employees' organisations. In furtherance of its objective to resolve collective disputes amicably, the government has established certain institutions such as Labour Commissioner and Labour Courts.

There are a number of problems with regard to this collective bargaining model in relation to the situation of agricultural labourers. Firstly, the model relies heavily on the role of employers and employees organisations in resolving labour disputes. However, the employee organisation, NAFWU, is not yet strong enough to take up this collective bargaining challenge. Individual disputes that are most prevalent on farms are not given sufficient attention in terms of this dispute resolution model as it prejudices the collective over the individual approach.

Secondly, because the role of the state is conceptualised in minimalist terms, the state shies away from interfering in the labour market on behalf of the marginal groups. To date no Wages Commission has been established by the Minister of Labour as per the provisions of the Labour Act. There is therefore a need to revisit this model of dispute resolution with the view to protect the interest and rights of agricultural labourers adequately.

#### **4.3.5 Summary of Findings**

What follows below is a succinct presentation of the findings of the study with regard to the special provisions applying to agricultural wage labourers in terms of Labour Act of 1992. Firstly, there is a lack of proper collective bargaining within the agricultural sector. Secondly, access to many of the farms by labour inspectors and trade union organisers is being denied by means of laws regulating trespassing. Thirdly, wages paid to agricultural labourers are generally low and rations provided by employers are considered insufficient by the recipients to meet their basic needs. Fourthly, labourers' rights with regard to

livestock keeping and cultivation are generally not affected. Fifthly, the various types of housing provided to labourers are of a poor standard. Sixthly, most of these labourers are landless and hence highly dependent on farmers for their subsistence.

#### **4.4 Interpretations/Discussion of the Outcomes**

Thomas and Grindle (1990: 1171) have identified two broad responses to a policy reform initiative. A reaction can either occur in a public arena or in a bureaucratic domain. The policy characteristics of reforms occurring in the public arena are as follows: dispersion of costs, concentration of benefits in government, low administrative or technical content, extensive participation, and short duration. The converse applies in the case of policy reforms occurring in the bureaucratic arena Grindle and Thomas (1991: 136-7). These hypotheses have been framed to correspond to the characteristics of the reform initiatives occurring in the bureaucratic arena. The implication of this typology is that once a set of hypotheses are rejected this will indicate that actors in the public domain offered resistance to the reform initiative.

On the basis of the five working hypotheses developed in section 2.4 an analysis will be carried out to explain why the minimum conditions of employment meant to protect the rights and interest of agricultural wage labourers against exploitation have not been implemented as envisaged under the Labour Act.

##### **4.4.1 Concentration of Costs in Government**

The first hypothesis proposes that the costs for the implementation of the labour policy narrowly affect the government and allied institutions and the public does not directly

feel the impact thereof. Hence, resistance to the policy reform initiative will arise in the bureaucracy. Policy actors need political, financial, managerial and technical resources to implement and sustain a reform initiative (Thomas and Grindle 1990: 1164-5). The major costs for the implementation of most aspects of the labour policy e.g., the payment of salaries of officials and operational activities of key labour institutions, such as Labour Inspectorate, Labour Commissioner, and Labour Courts are provided in the annual ministerial budgets. But these costs are not exclusively borne by governmental bodies as will be demonstrated below.

For costs pertaining to the registration of agricultural labourers as members of the Social Security Commission, both the employees and employers pay on a monthly basis. By 1997, only sixteen per cent of agricultural wage labourers were registered with the SSC. This poor registration is a result of the attempt by individual farmers to avoid paying the mandatory contributions to the SSC. The poor registration is also due to the fact that the SSC has no infrastructure in rural areas where farmers and agricultural wage labourers reside. Additionally, individual employers who transgressed the various provisions of the Labour Act are ordered by the district labour courts to pay fines as well to take corrective measures, such as re-employing sacked employees.

The farmers are aware that the implementation of the Labour Act will result in additional costs to them as the result of the need to provide for a decent accommodation, rations and arable piece of land for grazing or cultivation. Equally, the mobilisation of agricultural employees into trade unions will result into high wage bills for farmers; hence all their efforts to prevent the operation of NAFWU on farms. As a result only twelve per cent of agricultural employees are organised into a trade union. Equally, they are determined to frustrate the monitoring function rendered by labour inspectors on farms.

The resistance by farmers should be seen against the background that they are politically conservative and are by large supporters of opposition political parties, such as the Democratic Turnhalle Alliance (DTA) and Monitor Action Group (MAG). The latter party exclusively recruit white persons into its fold. The majority of commercial farmers

in Namibia are persons hailing from the white community. In addition, farming operations in Namibia are not that profitable as a result of low and erratic rainfall; hence farmers would not be agreeable to very expensive conditions of service as demanded by radical groups in society, such as trade unions and allied interest groups.

It has been found that the costs for the implementation of the labour policy are not only borne by government institutions as suggested in the hypothesis but also by agricultural employers. As suggested by Thomas and Grindle (1990: 1166) and Grindle and Thomas (1991: 125), employers have been negatively affected by the implementation of the labour policy and took action to alter or reverse the existing policy which disturbed the status quo. As the result the reaction to the policy was in the public domain

#### **4.4.2 Dispersion of Benefits**

The second hypotheses suggests that since the costs of the implementation of the labour policy is primarily concentrated in the government budget, the benefits of the policy are broadly dispersed; hence these benefits will only become visible to the public in the long run. The direct impact is initially borne by public officials and institutions.

The previous section has already suggested that the cost for the implementation of the labour policy is not concentrated in the government budget but shared by both the public (farmers) and public bodies (ministries and officials). Hence, the reaction against the policy reform is not primarily within the bureaucracy. However, there is still the need to analyse how the benefits of the labour policy is distributed in society. The following are the envisaged benefits of the labour policy: to improve the conditions of labour, to promote rights at work, and to ensure basic security and employment.

A closer scrutiny of the objectives of the labour policy indicates that agricultural wage labourers are the primary beneficiaries of the envisaged policy. It is their conditions of service to be improved; it is their rights at work that need to be promoted; and it is their security of employment that is to be ensured. Therefore, the benefits of the labour policy

are not widely distributed as hypothesised above. They are mainly concentrated among agricultural wage labourers. However, in reality the agricultural wage labourers do not enjoy these benefits as they not only lack the necessary power to enforce these rights, but also are not aware of the existence of these rights. Agricultural wage labourers are largely unorganised in contrast to the farmers; hence they are not in a position to communicate effectively with each other and to act collectively in defence of their rights.

Within the government sector political office bearers are likely to benefit the most from the successful implementation of the labour policy by way of increased political support from the broader organised labour. This support is possible because organised labour conducts its business on the basis of solidarity. As Moore (1992: 65) suggested, organisations modelled on the concept of solidarity tend to be effective in policy implementation because social links and moral attachments are highly valued by the membership. Social links and moral attachments bind members together; politicians are aware of this potential source of political support. Hence, politicians initiated the replacement of the district labour courts with the new system of compulsory mediation and arbitration, thus speeding up the grievance resolution process. The envisaged new dispute resolution procedures based on mediation and reconciliation are favoured because the parties will have control over the process, the process is less time-consuming and more cost effective (Katjuanja, et al 1997: 7).

There are also potential benefits for bureaucrats, especially the staff of the Ministry of Labour, in the implementation of the labour policy. The civil service in Namibia is administratively organised along the Weberian model. In anticipation of promotion and high reward, bureaucrats are motivated to act as follows: to be committed to duty; to be precise in execution of duties; to be uniform in approaching a task at hand; to be politically neutral; and to be impersonal in dealing with the various members of society (Moore 1992: 68; Garcia- Zamor 1991: 440-442). The above expectations are possible factors that motivate bureaucrats to implement the labour policy. However, it is a well-established fact that bureaucrats in developing countries do not act as expected for a variety of reasons, such as job insecurity, low morale and inadequate conditions of



service. They are often inefficient and formalistic in approach (Moore 1992: 67). Hence, the government agencies tackle policy change at a slow pace.

Lastly, there is a need to account for the involvement of the interest groups, i.e., the LAC and the SSD in the implementation of the labour policy. As is the case with the trade union movement, interest groups are organised along the lines of solidarity and community. Therefore, they get involved in issues pertaining to the implementation of the labour policy in order to defend the collective interest of agricultural wage labourers. Therefore, they conducted socio-economic studies on the living and working conditions of agricultural labourers and made recommendations to the Commission of Inquiry about ensuring effective policy implementation. Because the benefits of the labour policy are not widely dispersed throughout society there is lack of popular support for the initiative.

#### **4.4.3 Demanding Administrative and Technical Content**

The third hypothesis proposes that the content of the labour policy is administratively demanding and technically complex. It thus requires coordinated efforts by public officials and institutions to implement. As a result the public is not affected immediately by the implementation of the policy. The content of the labour policy is administratively demanding and technically complex. The content of the labour policy is administratively demanding because the relevant acts are written in legal jargon. Therefore, appropriately trained persons such as lawyers possessing the necessary technical competencies are required to interpret the various provisions. The availability of economic resources, administrative frameworks and skilled personnel are prerequisites for the implementation of policy objectives (Bjorkman 1995: 138). However, these requisite resources are in short supply and those that are available are stretched to the limit.

The ILO “experts” initially provided the requisite technical and administrative expertise. Amongst others the ILO provided assistance to the following projects: improvement of labour administration, conducting labour market surveys, development of vocational training policy and institutions, development of affirmative action policy, and the

development of a social security system. Once the ILO (an important stakeholder) ended its technical support in 1995, the weaknesses of the labour policy with regard its implementation and sustainability; and the limited technical and managerial capacities of bureaucrats became obvious. Consequently many provisions of the labour policy with regard to agricultural labourers were not implemented as envisaged during the policy formulation stage. As alluded to by Garcia-Zamor (1991: 436-43) the implementation of the labour policy was premised on the expected technical assistance from abroad. This is common pitfall in developing countries.

A range of institutions at both local and central level is required to implement the labour policy. Therefore, the various activities undertaken by organisations such as the labour commissioner, labour inspectorate, social security commission and district labour court to deliver the necessary services with regard to the labour policy need to be coordinated effectively. Appropriate administrative, managerial and coordination skills are required to expedite service delivery. The coordination of the various efforts rendered by these diverse organisations is meant to overcome implementation constraints that are caused by both centralisation and fragmentation of the administrative structures. Bjorkman (1995) has referred to this administrative challenge as a “macro and micro” implementation problem.

To overcome this macro and micro implementation problem Lester and Goggin (1998) have formulated a “communication theory”. The theory explores inter-governmental policy implementation issues. According to the communication theory state bureaucrats form the critical link through which implementation messages are transmitted between central and local administration. Implementation problems arise because the state bureaucrats, especially senior administrators, take into account the legitimacy and reputation of the sender when interpreting these messages. As a result of this process by which messages get translated into concrete actions bargains take place amongst the various bureaucrats. Hence, there is a need to ensure cooperation between the various independent implementing agencies by coordinating their various efforts closely.

Although the implementation of the labour policy is the responsibility of the various directorates of the Ministry of Labour as well as independent and autonomous bodies, such as the District Labour Courts and the Social Security Council all the coordination, planning, supervision and decision making is centralised in the senior civil servants of the Ministry of Labour (Garcia-Zamor 1991: 437-438). Inter-agency relations are by nature very complex; hence they demand strategic bargaining between central authorities and implementing agency in order to overcome the avoidance of hierarchical control and disclosure of information by subordinate agencies, such as the Social Security Commission and the District Labour Courts (Moore 1992: 68). Therefore, it is very difficult to coordinate the activities of the various implementing organisations by utilising the hierarchical control framework. As a consequence, the Ministry of Labour has not been able to get subordinate organisations such as the Social Security Commission to implement the envisaged provisions of the Labour Act with regard to agricultural labourers.

It has been demonstrated that the content of the labour policy is administratively complex and technically challenging. It has also been shown that the implementation of the labour policy requires coordinated efforts by both senior civil servants and public bodies. However, it has not been shown that as a result of the technical complexity of the policy and the need for extensive coordination to implement it, the public was not affected immediately by the implementation. In fact, the farmers were immediately affected by the implementation of the policy and took action to alter or reverse the policy. Of course, some aspects of the policy such as the social security provisions were not simultaneously introduced with that of the Labour Act. However, once implemented they were immediately resisted by farmers.

#### **4.4.4 Limited Participation**

The fourth hypothesis suggests that limited organised participation is required to implement the labour policy as participation is on an individual basis; hence the response is likely to be confined to the bureaucracy. Furthermore, it is suggested that the fewer the

bureaucratic actors involved, the higher the probability that the policy will be implemented. There are too many institutions and bureaucratic actors responsible for the implementation of the labour policy and consequently a high level of coordination is required. Hence, the difficulties to implement the labour policy, especially with regard to the most marginal labourers who are both unorganised and rural based. To this end various theoretical perspectives outlined in chapter two would be used to assess the implementation of the Labour Policy.

Although employment is primarily a relationship between an employer and an employee, in the labour policy both individual and collective dispute resolution mechanisms are provided. However, due to the absence of a trade union capable of organising agricultural wage labourers into its fold, to communicate effectively to them about their rights, and to defend these rights passionately, individual disputes are prevalent on farms. Broader participation is not only possible but also desirable as it is likely to reduce the bargaining power of employers and hence make policy implementation effective. Therefore, as opposed to the hypothesis that favours limited organised participation, it is desirable for the government to ensure greater participation in support of the implementation of the provisions of the policy in order to overcome the resistance of farmers and a section of the bureaucracy.

Effective coordination is necessary with a view to harmonising the administrative structures of various independent implementing agencies. Furthermore, the presence of so many bureaucratic actors and implementing organisations hinders efforts aimed at coordinating the range of activities they perform. Therefore, there is a need to reduce the numbers of these actors and institutions and thereby increase the probability for implementation of the policy. In this regard the proposed amendments are meant to reduce the number of bureaucratic role players significantly. There is also a need to mobilise and obtain the consent of both employer and employee organisations in order to implement the objectives of the labour policy effectively. In this respect, Cabinet has approved the establishment of a tripartite forum composed of representatives of government, agricultural employee organisations and employer organisations to discuss

matters of mutual concern with regard to the objectives of the labour policy. This body has already met and decided to fix a minimum wage for agricultural employees.

The success of this forum is likely to be determined by what each participating party can bring to the table by way of latent power that could be employed in defence of the interest of its members. NAFWU is likely to continue struggling to have access to potential members as they are spread across farms. It is therefore likely that NAFWU will not get much out of this forum as it lacks the necessary capacity to mobilise its members for action and to recruit other important societal stakeholders to support its efforts. In contrast, the majority of farmers are organised into an employer association that is in a position to influence the outcome of the labour policy for a foreseeable future.

Following from Thomas and Grindle (1990; 1991) agricultural wage labourers are not organised around a common interest and hence cannot advance their sectional interest; they do not possess a coherent communication strategy and hence cannot quickly be mobilised to respond in support of their interest; they are highly dispersed geographically and thus cannot take combined and visible action; and the majority are illiterate and hence are unable to access useful information, to communicate effectively with each other, and to manipulate policy options in their favour. These weaknesses make them vulnerable to exploitation. Therefore, there is need to devise appropriate means aimed at getting agricultural wage labourers to participate in the implementation of the policy and thereby force issues into the public arena.

#### **4.4.5 Long Duration**

The fifth hypothesis proposes that a longer time is needed to implement the labour policy, and therefore potential conflict and resistance will not emerge immediately. Hence, administrative capacity within the system will determine its implementability. In fact, some aspects of the labour policy took a long time to implement as separate acts and attendant regulations needed to be enacted first, whilst relevant institutions also needed to be established. For example, the Labour Courts started to function at the end of 1993, the

Social Security Commission went in to business during 1995, and a collective agreement introducing a minimum wage was introduced at the end of 2002.

Although all the stakeholders were consulted during the formulation of the labour policy, resistance was immediate once its provisions were implemented. Hence, it cannot be argued that resistance to the policy was not immediate and that the administrative capacity of the inter-government system was solely responsible for the implementation of the policy. Employers and their organisations resisted the implementation of the policy. It has been mentioned that the initial capacity to implement the labour policy came from the ILO “experts” as Namibia had just attained its independence and lacked the necessary skills to embark upon this exercise singularly. However, gradually the “experts” of the ILO pulled out and currently Namibians are struggling to implement all aspects of the labour policy effectively. It has also been mentioned that the Cabinet has authorised the abolition of the labour court system. This policy shift has been initiated because of the unavailability of experienced legal officers that made the system ineffective in resolving the individual labour disputes timely. To date many of these cases are not yet solved as the workload at courts has accumulated tremendously. Some progress has been made in the implementation of certain aspects of the labour policy such as the administration of collective dispute resolution system.

#### **4.4.6 Conclusion**

Utilising a number of working hypotheses the outcome of the labour policy has been analysed. Firstly, it has been found that the costs for the implementation of the labour policy is not primarily affecting the government sector alone but is also affecting other societal groups, such as agricultural employers. A section of the public, namely agricultural employers is directly affected by the policy outcome and therefore it resisted the policy outcome.

Secondly, it has been found that the costs for the implementation of the labour policy are shared between the public sector and employers; the benefits of the labour policy are not

dispersed widely but are concentrated in the agricultural employees. Hence, there has been little popular support for the labour policy. Thirdly, it has been ascertained that the content of the labour policy is administratively demanding and technically complex, thus requiring coordinated efforts by public officials and implementing institutions in order to implement it effectively. Even though the content of the policy is technically and administratively complex, agricultural employers reacted immediately to the policy change.

Fourthly, it has been found that broader participation is required to implement the policy as participation is at both collective and individual level. Hence, the reaction to the policy has come from agricultural employers and not only from the bureaucracy. Fifthly, it has been found that although at an initial stage it took a long time to implement certain aspects of the labour policy, resistance to the policy by agricultural employers has been immediate. Therefore, resistance has not been confined to the bureaucracy.

The stakes involved are high and the implementation of the policy does not only depend on the competence and commitment of the bureaucracy but also depends on the resistance and participation of a section of the bureaucracy as well as agricultural employees and employers. Additionally, managerial resources and bureaucratic power, such as budget control, personnel management, and control over other support services, will play a critical role in the successful implementation of the labour policy. Technical resources, such as analytic capacity, will also be needed to overcome the complexity of the policy.

The characteristics of the labour policy caused the reaction to this reform initiative to occur primarily within the public arena. Therefore there is a need to reformulate the hypotheses in order to set a research agenda. The following hypotheses are proposed:

- (a) If the costs for the implementation of the policy do not affect the government sector alone but also affect other societal groups, a section that is directly affected by the policy outcome would resist implementation of the policy.

- (b) Although the costs for the implementation of the labour policy are shared between the government sector and a section of the public, the benefits of the labour policy are not dispersed widely but are concentrated narrowly in a section of the public. Hence, the policy is not likely to create popular support.
  
- (c) If the content of the policy is administratively demanding and technically complex, coordination will be required to ensure implementation of the policy by public officials and government institutions. Even though the content of the policy is technically and administratively complex, a section of the public may react immediately to the policy change.
  
- (d) Broader participation is required to overcome the resistance of politically important groups in society in order to implement a policy initiative. Hence, the popular support for the policy is likely to emerge.
  
- (e) Although initially it will take a long time to implement certain aspects of the policy, resistance to it by some section of the public will be immediate.



## **CHAPTER FIVE: CONCLUSIONS AND RECOMMENDATIONS**

### **5.1 Introduction**

The implementation outcome of the labour policy has been analysed utilising a number of working hypotheses. Firstly, it has been found that the costs for the implementation of the labour policy do not primarily affect the government sector alone but also affects other societal groups such as agricultural employers. Hence, a section of the public is directly affected by the policy outcome.

Secondly, it has been found that the costs for the implementation of the labour policy are shared between the public sector and agricultural employers. It has also been found that the benefits of the labour policy are not widely dispersed but concentrated in the agricultural employees.

Thirdly, it has been ascertained that the content of the labour policy is administratively high and technically complex, thus requiring coordinated efforts by public officials and implementing institutions in order to implement it effectively. Even though the content of the policy is technically and administratively complex, agricultural employers reacted immediately to the policy change.

Fourthly, it has been found that broader participation is a prerequisite for the implementation of the labour policy. Due to a lack of popular support for the policy reaction came mainly from agricultural employers.

Fifthly, it has been found that although at an initial stage it took a long time to implement certain aspects of the labour policy, resistance to the policy by farmers was immediate. Resistance has not been confined to the bureaucracy.

Most of the characteristics of the labour policy caused the reaction to this reform initiative to occur primarily within the public arena. The stakes involved are high and the

implementation of the policy does not only depend on the competence and commitment of the bureaucracy. It also depends on the resistance and participation of a section of bureaucracy as well as agricultural employees and employers.

## **5.2. Conclusions**

This paper assessed the implementation of the Labour Policy with regard to agricultural wage labourers via a secondary analysis of available survey results. This secondary analysis of the data has been confined primarily to basic provisions contained in the Labour Act, namely remuneration, accommodation, right to livestock and cultivation as well as rations, and collective bargaining aimed at the protection of agricultural wage labourers against possible exploitation by employers. What follows below is a succinct presentation of these findings as well as the reasons why the provisions of the labour policy are not being enforced.

Firstly, wages paid to agricultural labourers are generally low and rations provided by employers are considered by the recipients insufficient to meet their basic needs. Gebhardt (1978) demonstrated that the wages and rations of agricultural wage labourers have historically been too low. She found that a contract labourer was paid between R6 and R10 per month and the foremen received between R20 and R30. Suzman (1995) found that payment practices of agricultural wage employees are highly variable and he ascribed this variability to the existence of a hierarchy in both employee and employer discourses expressing their preference for different employer and employee on ethnic grounds. As a result farmers prefer San workers as they are perceived to be the cheapest workers in the labour market. This marginalisation of the San worker is as a result of their historical and contemporary relations with “others”. It has also been found that the working and living conditions of agricultural labourers in Namibia is comparable to that of their counterparts in the SADC Region countries.

Secondly, the various types of housing provided to labourers are of a poor standard. Devereux et al (1996) has found that about half of agricultural employees surveyed do

not have access to decent sanitation facilities as they use the bush as a toilet. The Namibia Household and Income Survey of 1996 has documented that agricultural labourers housing conditions are generally better than the average for rural areas. The housing conditions of agricultural employees in South Africa is not better than that of other SADC Region countries as only fourteen per cent of their housing facilities were provided with ablution.

Thirdly, labourers' rights with regard to livestock keeping and cultivation are generally not administered in line with the provision of the Act. A commission of inquiry into the status of agricultural employees has ascertained that this provision is not being adhered to by farmers. The situation is similar to that obtaining in the SADC Region countries as grazing and cultivation rights are also highly restricted in Botswana and South Africa. Most agricultural labourers are landless and hence highly dependent on farmers for their subsistence. Due to this landlessness fifty five per cent of their households are living in poverty. In Zimbabwe agricultural employees are living in "squalid conditions". These workers live below the poverty datum line of N\$1 500.

Fourthly, there is a lack of proper collective bargaining within the agricultural sector. Access to many of the farms by labour inspectors and trade union organisers is being denied by means of laws regulating trespassing. A government sponsored commission of inquiry has found that due to the weakness of both NAFWU and NAU collective bargaining within the agricultural sector is absent. Because many farms are shielded from union activities many agricultural employees are not members of NAFWU. Suzman (1995) has argued that squabbles between employees, dependency on employment for material survival, high mobility, and low resources are factors that militate against unionisation of agricultural employees. He further found that although agricultural employees are aware of the legal protection they supposed to enjoy in terms of the labour policy, they remain unsure as to what rights they may have and what necessary procedures they should follow to realise them. As a result Namibia's labour administration institutions, such as labour courts, labour commissioner, the social security commission and the labour inspectorate are not fully operational. This situation

is further compounded by NAU's lack of cooperation in relation to the implementation of the objectives of the labour policy. Unlike NAFWU, NAU possesses political, financial, managerial and technical resources which it utilises to resist the full implementation of the labour policy effectively.

### **5.3 Recommendations**

The Commission of Inquiry into Labour-related Matters affecting Agricultural and Domestic Employees has recommended with regard to the implementation of the Labour Policy in respect of remuneration that rations be phased out in favour of increased cash wages and that labour inspectors should be empowered to inspect price mark-ups on farms. These recommendations are supported.

With regard to the implementation of the Labour Policy in respect of housing provision to agricultural wage labourers, it can be recommended that "reasonable requirement" in relation to employee housing be defined to overcome the latent ambiguity and subjectivity contained in the concept.

With regard to the implementation of the Labour Policy in respect of access to arable land by agricultural wage labourers, the government should consider purchasing commercial farms to be allocated to agricultural employees and their dependents as part of its ongoing Resettlement Policy. Although this is already happening, a more aggressive targeting policy in favour of agricultural labourers is needed.

It is recommended that agricultural labourers need to be mobilised more aggressively to participate in the implementation of the labour policy and thereby counter the resistance posed by the agricultural employers. By mobilising workers to participate in policy implementation, pertinent issues will be forced into the public arena. As already recommended by the Commission of Inquiry into Labour-related Matters trade unions should be granted rights of access to farms as if they were recognised by the employer as exclusive bargaining agents as per the provision of the Labour Act.

The Commission of Inquiry into Labour-related Matters also recommended that a National Agricultural Employment Forum (NAEF) composed of an equal number of employee and employer representatives and chaired by a Government representative be established to discuss, negotiate and determine conditions of employment and similar matters in respect of farm labourers. This recommendation is being implemented and should go a long way to provide a platform necessary to promote collective bargaining in the agricultural sector.

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