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**Compliance with Section 6 (1) of the Labour Act (Chapter 28:01) (Protection of employees' right to fair labour standards), within Chinese enterprises in Zimbabwe: the HRM Practitioners' Perspective**

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**Abstract**

This study examines the Chinese employer compliance with section 6 (1) of Zimbabwe's Labour Act, aimed at protecting employees' right to fair labour standards. Chinese business investments in African countries is substantial. Zimbabwe's economic development and employment creation prospects are partly attributed to the Chinese investments, with the government envisioning more strengthening of economic relations with China. Nevertheless, concerns regarding human rights abuse in Chinese-run organisations continue to be a key challenge with claims of violations of the right to fair labour standards an issue of interest in the country. The study explored the views of 14 human resource management practitioners within Chinese enterprises, exploring their experiences and perceptions regarding employer compliance to fair labour standards. The findings reflect that employer compliance with the legal provisions is a major challenge. Employees continue to experience unfair labour standards in many Chinese organisations in Zimbabwe while the role of the HR practitioners within these organisations is overlooked. There is a need to constantly conscientise Chinese investors of the country's labour laws to ensure adherence to fair labour standards.

**Keywords:** employee rights, labour act, fair labour standards, Chinese enterprises, human resource management, Zimbabwe

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## INTRODUCTION

This study examines employer compliance to fair labour standards within Chinese enterprises in Zimbabwe, based on the perspective of human resource management practitioners and their conceptualisation of the measures that can be taken to strengthen adherence to the provisions of Zimbabwe's Labour Act (Chapter 28:01). While much of the literature (in documents, media reports and publications) has been written concerning the prevalence of unfair labour practices in Chinese enterprises in Africa, including in Zimbabwe, less attention has been given to how human resource management (HRM) professionals comprehend the adherence to fair labour standards within the Chinese enterprises. Predominantly, focus has been on the perspective of employees and trade unions. The Labour Act (Chapter 28:01) of Zimbabwe provides the legal framework for employment relations in the country and Section 6 sub-section 1 of the same Act compels all employers to adhere to fair labour standards. The phenomenal political and economic 'entanglement' existing between the People's Republic of China and Africa is evident, and has attracted much attention both in practice and academic world. Yet, less is known about human resource and employment issues relating to this entwinement (*see* Kamoche & Siebers, 2015). In support, Xing, Liu, Tarba and Cooper (2016) avow the existence of limited empirical evidence that examines human resource and employment relations management issues within Chinese enterprises in Africa. In a study focusing on the Chinese investments in Namibia and Zimbabwe, Mapaire (2014) advocated for more research activities focusing on the legal aspects of human and employment relations. Equally, Davies Ndumiso Sibanda, a labour consultant in Zimbabwe, has asserted the need for comprehensive investigations on labour standards in Chinese-run enterprises in the country (Chronicle, 2017). In addressing these issues, this study raises the following two-fold research questions:

1. How do human resource management practitioners within Chinese enterprises conceptualise their organisations' adherence to fair labour standards as set out in section 6 (1) of Zimbabwe's Labour Act (Chapter 28:01)?
2. What are the key interventions required to reinforce the observance to fair labour standards within Chinese enterprises in Zimbabwe?

## CONCEPT OF FAIR LABOUR STANDARDS

The International Labour Organisation (ILO) enacted a system of international labour standards aimed at promoting working conditions that embody freedom, safety, dignity, security and equity for all employees in the workplace (ILO, 2019). As affirmed

by Botha (2014), the principal role of labour law is to protect the rights of employees. The right to fair labour standards is at the centre of labour law and a key enabler to the advancement of harmonious employment relations in the world of work. Gwisai (2015) identifies this right as a basic human right which provides restraint to the inherent use of employer power in the management of employment relations. Osondu-Oti (2016) equally conceives the right to fair labour standards as a vital component of human rights. Employment and labour relations matters are incorporated in the Framework for International Human Rights (Universal Declaration on Fundamental Principles and Rights at Work of 1998), which provides member states with guidelines on the essential labour standards (Warikandwa & Osode, 2016). As a fragment of human rights, labour standards have become foundational to economic development and social cohesion in the contemporary world of work (ILO, 2019; Warikandwa & Osode, 2016). Table 1 below depicts the international labour standards which, as envisaged by the ILO, set the basic principles and rights of employees in the workplace.

**Table 1: International Labour Standards**

Labour Standard	Description
Freedom of Association	ability to organise and form representative worker or employer organisations.
Collective Bargaining	encouraging voice and equal representation during collective negotiations and ensuring fair outcomes, including preventing and resolving labour disputes.
Access to adequate and regular wages	ensuring the provision of living wages and consistent payment.
Regulation of Working Time	protecting employees from working long hours which may endanger their health.
Occupational Safety and Health	protecting employees from sickness, injury, diseases and any harm in the workplace.
Social Security Schemes	providing a safety net in cases of economic crisis, retrenchment, retirement, injury and illness.

Provision of Education and Training	providing all employees with prospects for training, education and lifelong learning, which help promote skills growth and improve employability.
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### Extracted from the ILO (2019)

The labour standards reflecting on Table 1 above are regarded the epitome of fairness, equity and social justice in the employment relationship (Gwisai, 2015). For example, Botha (2014) is of the view that collective bargaining processes help promote industrial democracy and address the inherent dissimilarity in the management-labour relationship. Concerning wages, Gwisai, Matsikidze and Mucheche (2019) are of the opinion that wage systems are innately exploitative of employees to promote the interests of the capitalistic employers. The ILO instruments such as the Protection of Wages Convention of 1949 and the Minimum Wage Fixing Convention of 1970 help address the wage issues which the ILO (2019) avows to be a key challenge in many countries. Upholding fair labour standards in the workplace helps promote decent work, a vital aspiration of the ILO.

### ZIMBABWE'S LEGAL FRAMEWORK ON FAIR LABOUR STANDARDS

Zimbabwe, a member of the ILO, has incorporated the international labour standards within its labour law framework. As aptly stated by Gwisai (2015), section 65 (1) of the Constitution (Act No. 20 of 2013) being the supreme law in Zimbabwe, mandates all enterprises in the country to adhere to the set fair labour standards. Furthermore, section 2A (1)(d) of the country's Labour Act (Chapter 28:01) provides for the promotion of fair labour standards, as one of the objectives to advance social justice and democracy in the workplace. While the Labour Act does not define the concept of fair labour standard explicitly (Matsikidze, 2017), its section 6 (1) recognises the right and provides a list of examples of fair labour standards. Employers are obliged to comply with the set standards in the country, failure of which an employer found guilty shall be liable to a fine or imprisonment in terms of section 6 (2) of the Labour Act.

#### Fair Labour Standards in terms of the Constitution

The Constitution of Zimbabwe, Act No. 13 of 2013 under section 65 (1) proclaims the right to fair labour standards. According to Gwisai (2015), employers are compelled to treat employees in a fair manner in the subsistence of the employment relationship. The section states:

*Every person has the right to fair and safe labour practices and standards and to be paid a fair and reasonable wage*

A further reading of section 65, the Constitution provides other rights that relate to the formation, membership and participation in trade union and employer or employee organisations, the right to participate in collective job action, the right to engage in collective bargaining, entitlement to paid maternity leave for female employees and the right to working conditions that are equitable, just and satisfactory for all employees.

Matsikidze (2017) avers that the constitutional rights provide credence to dealing with cases of fair labour standards which are set under the Labour Act. In their research, Gwisai et al (2019) opined that most employees in Zimbabwe suffered from wage poverty, as wages did not meet the minimum living standards for the working population. They argued that a fair and reasonable wage must be linked to the Poverty Datum Line (PDL), which would ensure a decent and dignified standard of living for the employed. For example, Zimbabwe's current minimum wage is set at about ZW \$ 2 550.00 in terms of the Labour Relations (Specification of Minimum Wages) (Amendment) Notice, 2020 (No.15), a wage that is way below the current PDL measured by the Zimbabwe National Statistical Agency (ZIMSTAT) to be over ZW \$ 15 500.00 for the month of July 2020. Notwithstanding the capacity of collective bargaining agreements at the enterprise and industry level to set wages that are above the national minimum, Gwisai et al (2019) regard any wage earning below the PDL as poor and unfair. It is their contention that since 2013, the country's constitution set a national standard for compensating employees as guided by the conventions and recommendations of the ILO which mirror on the fixing of minimum wages above the poverty-line. Matsikidze (2017) opines that the constitution gives direct access to the constitutional court regarding violations of fair labour standards.

### **Protection of employees' right to fair labour standards in terms of section 6 (1) of the Labour Act (Chapter 28:01)**

Since the promulgation of the Labour Relations Act of 1985, the right to fair labour standards has remained an integral constituent of labour relations in Zimbabwe. The country's labour laws have largely been characterised as comprehensive and detailed (Mapaure, 2014). The current enactment of the Labour Act (Chapter 28:01) enshrines the labour standards that have been set at the ILO. Section 6 (1) of the Labour Act is aimed at protecting employees' right to fair labour standards, with employers obliged not to:

*(a) pay any employee a wage which is lower than that to fair labour specified for such employee*

- by law or by agreement made under this Act; or*
- (b) require any employee to work more than the maximum hours permitted by law or by agreement made under this Act for such employee; or*
- (c) fail to provide such conditions of employment as are specified by law or as may be specified by agreement made under this Act; or*
- (d) require any employee to work under any conditions or situations which are below those prescribed by law or by the conventional practice of the occupation for the protection of such employee's health or safety; or*
- (e) hinder, obstruct or prevent any employee from, or penalize him for, seeking access to any lawful proceedings that may be available to him to enable him lawfully to advance or protect his rights or interests as an employee.*

This paper is aimed at examining employer compliance to the provisions specified above, based on the viewpoint of practitioners in human resource management within the context of Chinese enterprises.

## **LOCATING CHINESE BUSINESS INTERESTS IN AFRICA**

Notwithstanding the long existing historical connections, economic relations between China and Africa have significantly expanded since the 1990s (Kalu & Aniche, 2020; Liu & Deng, 2020). The proliferation of business investments by the Chinese in countries within the African continent is evident. Various researchers confirm the intensification of the Chinese businesses trading in the continent (Donou-Adonsou & Lim, 2018; Osondu-Oti, 2016; Giese & Thiel, 2014; Anseeuw, Gabas & Losch, 2014; Mapaure, 2014), with assertions that China has become Africa's number one and largest foreign direct investment trading partner (Jackson & Horwitz, 2018; Osondu-Oti, 2016; Wang & Elliot, 2014). This, according to Maunganidze and Malita (2013) was achieved through private business investment and technical aid transfer. Jackson and Horwitz (2018) report that the trade volume between China and the African countries exceeded US\$10 billion in the year 2000.

To further demonstrate the existing strong partnership, during the 2018 Forum on China-Africa Cooperation (FOCAC), the Chinese government allocated US\$10 billion for investments in Africa (Herald, 2019). The FOCAC, established in the year 2000 and largely funded by China aims at strengthening trade and economic cooperation between China and Africa (Osondu-Oti, 2016; Wang & Elliot, 2014). Chinese business enterprises are present in all the major economic sectors of the countries in Africa such as mining, manufacturing, construction, agriculture, oil extraction, tourism and

hospitality (Ncube & Oni, 2020; Njerekai, Wushe & Basera 2018; Mayer, Boness & Louw, 2017; Muriithi, 2017; Giese, 2014; Anseeuw et al, 2014).

Predicated on its 'non-interference' policy in the independent governance of countries in Africa, China solidified its presence and citizenship within the continent. China's African policy of 2006 gives credence to this (Hodzi, Harwell & de Jager, 2012). The country's relations with Africa are founded on respect for sovereign rule on all internal affairs and insistence of mutual cooperation (Muriithi, 2017; Maunganidze & Malita, 2013). Apart China being found 'all over' Africa (Osondu-Oti, 2016), significant gains have been derived by countries in the continent. The partnership has led to significant improvements in respect of trade and investment volumes, employment levels, infrastructural development, transfer of technology and access to affordable goods (Koyi, 2018; Muriithi, 2017; Kamoche & Siebers, 2015). In a study of 36 African countries, Donou-Adonsou and Lim (2018) found that Chinese foreign direct investment had led to improved income and standards of living for citizens. In reciprocity, Africa's resources have supported China's growing economy. China's high demand for resources to support the exponential growth of its economy is seen to be a key factor in its partnership with countries in the African continent (Donou-Adonsou & Lim, 2018). For instance, Africa provides more than 30% of China's oil needs (Osondu-Oti, 2016).

Nevertheless, the enormous growth of Chinese business interests in the continent has received a fair share of criticism. Kamoche and Siebers (2015) report that China's business investments have been regarded as controversial with an aim of recolonising Africa in order to benefit from her endowed reservoir of resources. Furthermore, the involvement of China in Africa has been associated with corruption, poor governance and human rights abuses particularly the violation of core labour standards (Kalu & Aniche, 2020; Isaksson & Kotsadam, 2018; Mayer et al, 2017; Warikandwa & Osode, 2016; Hodzi et al, 2012). Precisely, Osondu-Oti (2016) faults China's non-interference policy, which is found to ignore human rights abuses in Africa.

### **CHINESE INVESTMENTS IN ZIMBABWE**

Relations between China and Zimbabwe date back as far as the 1970s, centred on political and military support (Mapaure, 2014). Since Zimbabwe's independence in 1980, relations between the two countries strengthened, with China providing support in respect of infrastructural growth, technical support and management expertise (Maunganidze & Malita, 2013). Around the year 2000, diplomatic relations between Zimbabwe and the international community deteriorated due to the implementation of

a land reform programme in a manner perceived as being controversial (Hodzi et al, 2012). Zimbabwe, whose government also stood accused of poor governance and human rights violations became isolated by many of its Western partners including the international financial institutions (Chipaike & Bischoff, 2019). In the year 2003, the Zimbabwean government adopted a 'Look East' policy, aimed at strengthening ties with Asian countries. China, a powerful and global economic giant became the country's number one investor (Njerekai et al, 2018). As emphasised by Osondu-Oti (2016), China's non-interference approach in the internal matters of African countries won the hearts of the continent's nations including Zimbabwe.

In Zimbabwe, Chinese enterprises are spread across all economic sectors such as tourism and hospitality, retail, manufacturing and mining. Chipaike and Bischoff (2019) express that much of China's enterprise growth in the country is motivated by its 'appetite' for agricultural and mineral outputs. Trade between the two countries rose from US\$191 million in 2002 to US\$560 million in 2010 (Mapaure, 2014). By the year 2016 the trade volume had reached approximately US\$1 billion (Herald, 2016). Zimbabwe has vastly benefited from the Chinese business investments including earning the much-needed foreign currency and creating employment opportunities for the locals (Chipaike & Bischoff, 2019). As characterised by Wang & Elliot (2014), Zimbabwe is a professed acquaintance of China. Zimbabwe's President Emmerson Mnangagwa has reaffirmed China as Zimbabwe's 'all-weather' friend, with measures being established to attract more Chinese investments (Herald, 2020). The Herald of 25 August 2020 reported that the country's leadership was drafting a 5-year national development plan for enhancing production capacity and investment, working with Chinese experts.

In spite of the massive economic contribution of the Chinese investments in the country, major concerns have been raised against their business practices. Chinese business investors stand accused of engaging in bribery through the use of their personal connections with government officials (Wang & Elliot, 2014). Through these connections, the entrepreneurs engage in illegal business operations and illegal labour practices (Chipaike & Bischoff, 2019). Acts of violations of the country's regulatory systems such as the labour laws have been reported (Ncube & Oni, 2020; Mapaure, 2014). The Chinese business investments in Zimbabwe have not come without some apprehensions, particularly in the world of work.

## COMPLIANCE TO LABOUR STANDARDS WITHIN CHINESE ENTERPRISES IN ZIMBABWE

While allegations and evidence in respect of failure to comply with labour standards have been reported in many organisations across Zimbabwe's various economic sectors, the prevalence in Chinese enterprises remains intensified with much of the evidence constructed from the account of employees and trade unions. This does not withstand the comprehensive and detailed nature of Zimbabwe's labour laws. Reports and policy documents, media and research articles depict a failure to comply with fair labour standards by Chinese employers in the country.

In a study of Chinese investments in Zimbabwe, Mapaure (2014) established that Chinese firms disrespected the country's labour laws, with reports of physical and verbal employee abuse. The flouting of labour standards in the country was confirmed by Chipaike and Bischoff (2019), who established that Chinese operators enjoyed preferential treatment and protection as a result of their well-founded political connections. In an earlier study conducted in eight African countries, including Zimbabwe, Wang and Elliot (2014) reported the rife nature of unlawful labour standards within Chinese organisations, who practiced personal connections including the use of bribery to safeguard their interests. Studying within the hotel industry in Zimbabwe, Ncube and Oni (2020) found that Chinese employers discouraged and even threatened employees from joining unions, employees were overworked, and that female employees were subjected to sexual harassment mostly by Chinese managers. In their findings, trade union officials lamented the lack of concern by the state in dealing with the wanton abuse of employees by Chinese employers. Focusing on the staffing and working conditions of employees in Chinese restaurants in Zimbabwe, Njerekai et al (2018) found that trade union membership was low, attributed to fear of victimisation. Other forms of labour malpractices they observed included limited paid overtime, not adhering to leave entitlements and inadequate employee training opportunities. In relation to wage earnings, the researchers established that salaries earned were in line with the industry agreed rates.

Table 2 is a compilation of media reports revealing claims against unfair labour standards within Chinese enterprises in Zimbabwe between the period 2011 to 2020.

**Table 2: Compilation of media reports on unfair labour standards**

Company or Industry	Claims	Source
Construction	Water Resources Management and Development Minister condemns a Chinese contractor accused of abusing employees and providing working conditions described as unfortunate.	Newsday, 2011, March 22
Construction	Employees and the Zimbabwe Construction and Allied Workers Union accuse a Chinese brick-making firm of working employees 24 hours without rest, harassing employees, paying low wages, labelling employees as lacking brains and being lazy, while claiming to be immune from state action.	Newsday, 2011, September 14
Restaurant	Employees lament physical abuse at a Chinese firm in Harare and describe working for the company as "hell on earth".	Newsday, 2011, June 7
Anhui Foreign Economic Construction Company	The contractor denies allegations of ill-treating staff in form of overworking and underpaying.	Herald, 2012, January, 10
Multi-sectoral	Labour Minister Paurina Mpariwa appoints a taskforce to investigate allegations of employee exploitation by Chinese employers in Zimbabwe.	Newsday, 2012, May 2
Detrop Mine	The Zimbabwe Diamond Miners Workers Union takes the company to the NEC over assault of employees, non-payment of overtime, lack of provision of safety clothing and underpayment of wages.	Newsday, 2016, October 15
Goldmore Investments	Employees allege underpayment and physical assault by their Chinese employer at the mine. The Zimbabwe Congress of Trade Unions President Peter Mutasa laments the ill-treatment	Newsday, 2017, May 26

	and abuse of employees in Chinese organisations.	
Mining	The Amalgamated Mine Workers Union of Zimbabwe are concerned of widespread physical assaults and labour violations in Chinese mines, with one of the nation's Provincial Affairs Minister calling on miners to adhere fully with safety regulations in the country.	Chronicle, 2019, June 10
Reden Mine	A Chinese employer shot 2 employees over a salary dispute.	Herald, 2020, June 27
Reden Mine	Zimbabwe's President guarantees the nation of a fair trial for the Chinese employer following the shooting of two employees at the mine.	Chronicle, 2020, June 27
Mining	The Zimbabwe Diamond and Allied Minerals Workers Union (ZDAMWU) accuse Chinese miners of physical abuse and the harassment of workers while bragging about their political networks.	Bulawayo24 News, 2020 July 5
Yakutsi Investments	Employees and the National Union of Mines, Quarry, Iron and Steel Works of Zimbabwe allege gross human rights abuse, including unfair dismissals and poor working conditions at the company. An official at the company denied the accusations.	Newsday, 2020, February 11
Sino Hydro Corporation	The ZESA executive chairman fumes at the rampant abuse of employees by Chinese management at the company. The Zimbabwe Construction and Allied Trades Workers Union reported on the rife of underpayment of wages, unfair dismissals and lack of provision of protective clothing.	The Standard, 2020, March 15
Sino Hydro	Employees allege unsafe working sites that	The

Corporation	expose them to coronavirus such as poor hygiene and lack of social distancing. In addition, the employees and their representatives claim that workers were working long and extended hours. The Hwange Central legislator Daniel Molokele has called for the intervention of the government and the Energy and Power Development Minister Fortune Chasi has pledged to investigate the numerous and long-standing allegations of employee abuse in the organisation.	Standard, 2020, April 19
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#### Sources: Newspaper articles

As reflecting on Table 2, major issues are raised concerning the flouting of labour standards in Zimbabwe by Chinese investors. Comparable opinions have been noted across the African continent. A research of 49 African countries concluded that Chinese investments had adverse impacts on labour practices in Africa (Adolph, Quince & Prakash, 2017). Similarly, Isaksson and Kotsadam (2018) revealed the restricted freedom of labour rights and the abuse of employees in Chinese companies operating in Africa. Muriithi (2017) averred that Chinese managers in the continent perceived local African workers as not hardworking and careless spenders of earnings despite having large families to support. A study at a Chinese construction business in Zambia revealed the existence of exploitative working conditions through underpayment, overworking and underrepresentation (Koyi, 2018). As reported in the Chronicle of September 27, 2011, then Zambian President Michael Sata cautioned Chinese investors against the non-adherence to the country's labour laws, as complaints over low pay and poor working conditions increased in the country. Similarly, Warikandwa and Osode (2016) observed the existence of widespread labour violations in South Africa, Zambia and Zimbabwe.

Kamoche and Siebers (2015) established that Chinese employers marginalised employees in Kenya through pursuing a low-wage strategy, engaging in informal recruitment and often labelled Kenyans as being lazy, lacking loyalty and commitment due to their refusal to work overtime or on weekends. Xing, Liu, Tarba and Cooper (2016) examined the experiences of Chinese employers in managing African employees. The employers indicated that African employees lacked time management skills, did not possess a sense of loyalty to their organisations, had low work efficiency, refused to

work overtime, lacked a spirit of being hardworking and generally had a relaxed lifestyle and work-life attitude.

Despite allegations against unfair labour practices, Giese and Thiel (2014) found that Chinese employers in Ghana often paid wages that were above the local average. Similarly, Njerekai et al (2018) established that Chinese employers in Zimbabwe's restaurant sector paid workers the industry stipulated wages. While establishing that Chinese employers in Ugandan shops were abusive and overworking employees, a research by Arsene (2014), also revealed that Ugandan employees and their Chinese employers engaged in collaborative interactions which helped find common ground and resolve issues concerning employment. Mayer et al (2017) recommended that Chinese organisations increase consciousness to the environments and cultures of African countries, including the engagement in training activities. This, in the view of Muriithi (2017), can be achieved when interactions involve training to deal with the language barrier and improve on communication.

Addressing the Chinese employers' low compliance with labour standards in African countries is considered fundamental to human and labour rights management as asserted by Warikandwa & Osode, 2016). In the case of Zimbabwe, as shown in table 2, trade unions and employees have raised concerns over unfair labour practices in Chinese organisations. A labour consultant in the country proclaimed the need for detailed inquiries to establish the legitimacy of the allegations or to address the depiction of every Chinese enterprise as being bad (Chronicle, 2017). Several scholars have pointed out the need for more research attention focusing on legal, employment and human resource management issues, including ways of improving compliance to fair labour standards in Chinese enterprises (Xing et al, 2016; Kamoche & Siebers, 2015; Mapaure, 2014).

## **METHODOLOGY**

The study is based on a review of purposively selected secondary literature which include policy documents, media reports and publications. Empirical evidence is gathered qualitatively through the use of open-ended interviews with 14 conveniently selected human resource management practitioners, each with more than 2 years of professional experience within Chinese enterprises in five Zimbabwean industries. The qualitative approach is regarded appropriate in examining perceptions in-depth and understanding multiple realities of experts in employment relations studies (Schultz, 2017).

With much of the literature that examines issues on fair labour standards within Chinese companies constructed from the viewpoint of employees and trade union officials, this study took a different direction and focused on the perceptions of human resource management practitioners. In every business, human resource management practitioners play a strategic and key role in the management of sound employment relations. As acknowledged by Van Buren, Greenwood and Sheehan (2011), HRM professionals, who are regarded as experts of employment law are required to be advocates of employee interests and rights, and ensure their fair treatment in the workplace.

In this research, all the 14 HRM practitioners were employed within Chinese-run organisations in Zimbabwe, with 6 coming from the mining industry, 3 in construction, 2 in tourism, 2 in manufacturing and 1 in the retail business. Six participants represented companies in the small to medium sector, while the other 8 were from large companies. In terms of sex, males were 8 and females 6. A sample of 14 was regarded appropriate to draw meaningful conclusions in this qualitative study. This, in the view of Skovdal and Cornish (2015) allows for in-depth data gathering from participants with knowledge and expertise on a particular issue, mostly using open-ended interviews. All the 14 interviews were conducted online, via the Zoom app, each lasting between 30 and 45 minutes. Using online interviews enabled the researchers and the participants to observe the set health standards in consideration of the COVID-19 pandemic and the obligatory travel restrictions. The researchers sought consent from all the participants and undertook to maintain confidentiality. The study findings are presented thematically.

## **FINDINGS**

### **Compliance with Section 6(1) of the Labour Act: the HR viewpoint**

One of the aims of this study was to investigate the human resource management practitioners' comprehension of their Chinese organisations' observance of the employees' right to fair labour standard as espoused in section 6 (1) of Zimbabwe's Labour Act (Chapter 28:01).

Of the 14 participants under study, 9 reasoned that their organisations paid wages and salaries as stipulated by industry negotiated collective bargaining agreements. Two participants revealed that their organisations paid more than the NEC rates, with a male practitioner in a large mining firm expressing:

*We offer salaries which are higher than the industry average taking into consideration the state of the economy. Our aim is to cushion the employee, however only permanent employees get to benefit from the additional incentives and allowances.*

Three other participants revealed that employees were underpaid in their organisations, with a female participant from a medium sized manufacturing company expressing that her Chinese bosses have constantly refused to pay the industry agreed Cost of Living Adjustment (COLA) among other collectively bargaining allowances despite the company doing well in business. A similar sentiment was expressed by a male HR expert in a medium sized construction firm, who indicated that his company was performing well financially, with a capacity to pay employees the agreed industry allowances, yet his Chinese Directors often intimidated that employees were not hardworking to deserve more than the basic wage. One participant shared that in her firm, there have been disputes over discriminatory wage payments, citing examples where local and Chinese employees occupying the same grades were paid differently, a challenge compounded by the fact that the Chinese employees openly ridiculed local employees.

Asked on their opinions regarding the fairness of the wages, the participants were unanimous in expressing that the wages paid were not sustainable, considering Zimbabwe's economic state, with prices of basic commodities beyond the reach of many. A male participant with a large firm in the mining industry shared:

*Mining companies remain strong in performance, such that others are paying in a currency that is more stable, the US dollar. The industry wages are below the poverty datum line, making it a challenge for employees and their families to sustain a basic living standard where one earns in the Zimbabwean dollar whose value depreciates weekly. Employers are taking advantage of both the economic situation and high unemployment rates in the country to pay low salaries or refuse to improve on employee wages. This is national challenge, not just for Chinese firms. Our minimum wages are too low, and any investor will naturally take advantage, and Chinese firms know how to leverage on such situations, and employ cheap labour to pay peanuts. However, in my case, my employer has agreed for the introduction and implementation of benefits that are in monetary and non-monetary terms such as groceries, production incentives and educational or study benefits.*

Regarding the hours of work, mixed feelings were expressed by the participants. Six shared that employees worked as per the stipulated industry agreement, with excess manhours paid, while 9 participants stated that employees were overworked with little or no benefits paid. One said:

*Employees work very long hours, with little rest and regard of their health. Many of our staff are on fixed-term working contracts which makes it difficult for them to raise complaints against the long hours of work they endure. Efforts to engage my Chinese bosses on this have been deemed an act of protecting lazy workers. With many of the employees desperate for the jobs, they lack the power to challenge the status quo, even as the CBA for the industry is clear.*

While some expressed that overtime work was paid in line with the industry set rates, one of the participants shared that in their organisation the employer fixed the rate for overtime pay, which remained lower than the industry rate.

The law stipulates that employment conditions must be fair, as determined by the Labour Act or collective agreements. Several views were expressed concerning the adherence to the law. The study established that some companies adhered to the law in respect of employment, discipline and handling terminations, while in others, working conditions were poor and unjust. An HRO at a large hotel revealed that her Chinese bosses value the need for HR practices to adhere to the labour act and CBA for the industry in respect of employment, safety and contract management. Sharing a similar view was a female participant at a large construction company, stating that in her organisation a health and safety section existed to maintain occupational health and safety standards, including the provision of proper and adequate protective clothing, particularly in this COVID-19 pandemic. She also added that terminal benefits were paid in time in the event of loss of employment.

Findings also revealed the exacerbated state of poor working conditions among Chinese firms. There was a common contention that Chinese employers regarded black labour as being lazy or unappreciative of employment opportunities. A participant expressed that in his medium-sized retail entity, the conditions were depressing, with employees constantly being victimised by their Chinese supervisors and often did not make formal complaints for fear of losing their jobs. Also, within a medium sized tourism company, a participant shared that employees rarely benefited in terms of the leave provisions, with the employer preferring to compensate however using rates that were below the industry agreements. A female participant in a manufacturing firm affirmed the same, stating that employees do enjoy vacation entitlements, with the employer preferring to pay cash in lieu of the leaves days using own fixed rate.

Safety and health concerns were raised particularly the deliberate disregard of NSSA and EMA regulations, with employees exposed to dangerous chemicals, oils, dust and metal equipment. The illegal practice of casualising labour was found to be prevalent among the Chinese organisations under study, with all but one using temporary

employees for longer than stipulated in the industry bargaining agreements. The HR practitioners held that their Chinese employers did not believe in employing permanent staff, and that temporary labour was easy to terminate, with little or no costs associated with medical and pension benefits. Eight participants expressed the challenge associated with getting written contracts of employment for employees authorised by their Chinese bosses, with accusations being made such as “*you take employee interests too seriously*”, “*you do not have the company at heart*” or “*you want to give benefits to employees and destroy my company*”. One participant stated that attempts to explain to his Chinese managers of the need to reduce contractual terms into written form, as statutorily required were futile, with the managers reminding him that his job was to ‘defend’ the company should labour and legal problems arise.

Regarding the retrenchments and termination of employment, the majority of the participants shared that they barely followed the legal procedures and that acts of unprocedural dismissals were common. They indicated that their Chinese employers disliked hearings and retrenchment proceedings, regarding them as a waste of production time. Illegal termination approaches and instant dismissals were reported. To protect their image against legal retribution, the Chinese employers were said to engage in acts of bribery to ‘silence’ the industry designated agents or use their political connections to avoid penalties. One participant stated:

*No one dares to go to court because the Chinese are protected*

Another affirmed:

*The legal system is ineffective as the Chinese have strong political ties that will ensure they go scot-free, or even bribe the law enforcers.*

Where procedures were instigated in respect of retrenchments and termination by use of company codes of conduct, some participants lamented the ‘clandestine’ manner in which these proceedings were conducted, including making predeterminations on disciplinary cases. In their view, the participants considered the actions to be grossly unfair and not consistent with good employment relations. One of them shared that her superiors often expressed reservations with employing skilled personnel for jobs that demanded particular skills in preference for unskilled and underqualified employees. These, according to the participant often lacked awareness of the legalities associated with employment rights including in instances of dismissals, and often would do nothing when dismissed summarily.

Established to be grossly inhumane were issues relating to abusive work contexts with some of the Chinese bosses were said to be physically beating up employees. One participant voiced:

*It is not uncommon in my organisation to witness employees getting beaten using metal objects and being told they are lazy and are only good at demanding for more money.*

Another added:

*They have a slavery mentality, shouting at employees on a daily basis and throwing objects at them or name calling.*

Overall, when asked if the widespread allegations of unfair labour practices levelled against the Chinese employers in the country were reasonable, 9 of the 14 study participants indicated that they had observed the extreme levels of Chinese brutality on local labour. Nonetheless, not all Chinese organisations were engaged in rampant abuse of labour, with one participant stating:

*Not all Chinese companies are bad employers. Also, the economic situation in the nation gives an upper hand to employers not just the Chinese, to violate labour standards unintentionally. For example, it is costly to employ labour on a permanent basis. An investor is forced by the situation to go against the law by employing and continuously renewing contracts for temporary employees. Perhaps the solution lies in fixing the economy, which at present does not encourage business investment and good HRM practice.*

The nation's challenges including the unfavourable economic circumstances and high levels of unemployment were found to be aggravating the failure to comply with the legal provisions on the promotion of fair labour standards in Chinese enterprises in Zimbabwe.

### **Interventions to strengthen adherence to Section 6(1) of the Labour Act**

A second aim of the study was to explore the measures perceived by HR practitioners as key to promoting compliance with the Labour Act on fair labour standards within Chinese organisations in the country.

Table 3 below reflects the suggested interventions.

**Table 3: Proposed interventions to ensure compliance within Chinese enterprises**

HR practitioners be empowered and listened to by the Chinese investors
Continuous training of the Chinese investors on the nation's labour laws
Educating and training the worker representatives on employment and labour matters
Facilitation of leadership and team building workshops to improve the interactions between the investors and labour at company and industry level. This will help build trust, cooperation and improve communication and cultural tolerance.
Engage the employment councils and designated agents to professionally and impartially assist in resolving labour challenges.
Establishing a policy at the national level spearheaded by the government, aimed at enculturating Chinese investors in the context of Zimbabwe's labour laws.
Strengthening or reconstituting labour boards to conduct regular inspections to ensure firms are complying with labour laws. The board's mandate should include the compilation of reports on a timely basis, auditing and the systematic dissemination of findings to all parties concerned.
HR practitioners should not tire from constantly reaching out to labour officers, trade unions, the Chinese investors and employment councils to enact policies and procedures that promote fair labour standards.
Establishing frameworks for good corporate governance particularly at the industry level. These would provide monitoring mechanisms and set punitive measures to deal with employers who fail to comply with its principles including matters on fair labour standards.
Improving law enforcement and ensuring mechanisms for reporting corrupt law enforcers are in existence and clearly communicated.
Enforcement of collective bargaining agreements should be strengthening to guard against non-compliance by employers and designated agents be assisted to regularly visit the workplaces to monitor the implementation of the agreements.
Trade union renewal will be key to attracting membership and dealing with contemporary labour issues while giving voice to employees in precarious employment environments.

Employers need to establish collaborative relationships and engage in genuine negotiations with employee representatives to ensure the conclusion of sound and implementable agreements at the works councils.

**Source: Field work**

The above interventions, were indicated by the participants as fundamental to addressing many challenges bedeviling employment relations in Chinese organisations operating in the country. While workers committees were identified to play a vital role in addressing employee concerns, the participants indicated that agreements were never implemented, with one saying:

*Efforts by the workers committee are noticeable, however the authorities see them as pursuing a monetary agenda. At the end, decisions do not reflect the deliberations made at the works council, leading to shop-floor workers alleging their representatives are recipients of bribes in order to defend the employer.*

A similar opinion was shared by another:

*In my organisation, employee representatives are not consulted and this has led to numerous court cases on such issues as unilateral variation of contracts and victimisation of employees and their representatives.*

It was the contention of the majority of the participants that trade unionism was viewed with suspicion. One participant indicated:

*They practice militant management which discourages trade unions. Actually, they hate unions and intimidate worker leadership.*

Another contended:

*Employees at my organisations regard trade unions as a complete waste of time and of no use, except taking employees' moneys. Most deregistered their membership citing the ineffectiveness of the union in dealing with the prolonged labour cases and bribery by the employer in order to silence workers.*

The HRM practitioners contended that their role in ensuring compliance to the provisions of the Labour Act was either overlooked or neglected by their Chinese superiors. One stated:

*The HR function is there to pacify the less qualified labour as instructed by the bosses. In my experience in 3 Chinese organisations, I think the investors have no respect for native HRM.*

Another emphasised:

*Whatever they say, you must bend as HR or risk being dismissed. We are just placeholders in the organisation, otherwise they run the show. Our powers and voices as HR people are limited.*

Two HR practitioners indicated that they were on fixed-term contracts, which incapacitated their ability to address some of the concerns brought to their attention by the employees. They stated that management in their organisations barely took advice from the HR office about employment conditions. They were often accused of being overly concerned about employees than business growth. Considering the challenging economic environment in the country, where opportunities are scarce, the HR practitioners resorted to adopting a silent approach and turning a blind eye to employee issues in order to protect their jobs. The practitioners indicated the need for the HR function to be more empowered, protected and visible in order to balance the interests of both the investor and employees, including ensuring the upholding of employees' right to fair labour standards in Chinese enterprises.

## DISCUSSIONS

The study examined the human resource management practitioners' perspective of employer compliance to fair labour standards within Chinese run enterprises in Zimbabwe. The country's constitution in terms of section 65 (1) and the provisions of the Labour Act under s6 (1) provide a framework of the standards which organisations are expected to comply with. Except in a few circumstances, the study found that most Chinese employers in the country either paid wages that complied with the wage rates set at the industry level or even paid higher rates, confirming similar findings within Chinese-run restaurants in Zimbabwe by Njerekai et al (2018).

The study found that for the majority of the Chinese organisations, employees were overworked, with little or no rest. In such enterprises, overtime payment was established to be non-existent or paid as per the rates that were unilaterally determined by the employer, violating section 6 (1) of the Labour Act. Previous research points towards an inclination by Chinese enterprises in the country and in Africa to overwork employees, with little or no compensation (Ncube & Oni, 2020; Koyi, 2018). This can be explained by the preference of Chinese employers to recruit workers with little or no formal education and skill, mostly on a temporary basis, as was also confirmed in this investigation. Such precarious conditions facing these employees may direct them to focus more on wage earnings, with little or no concern over issues of working hours,

particularly in a hyper-inflationary economy characterised by job scarcity and a high cost of living.

The study established the pervasiveness of poor working conditions within Chinese enterprises operating in the country. The conditions manifested in the form of rampant labour casualisation, physical and verbal abuse of employees, unsafe labour practices, lack of entitlement to statutory leave and illegal termination of employment contracts. The participants expressed that employee concerns over the working environment were regarded with contempt by the Chinese employers who rather resorted to labelling workers as being lazy, disloyal and money grubbers. The grossly intolerable working conditions have been a subject of interest in many Chinese enterprises in Zimbabwe (Ncube & Oni, 2020; Chipaike & Bischoff, 2019; Hodzi et al, 2012). While section 6(1) of the country's Labour Act provides measures for seeking legal recourse against unfair labour standards, the study found that Chinese employers utilised inducements and political networks to evade the law and the ensuing penalties. Such actions violate the human rights principles that the country's constitution embodies. The right to fair labour standards is foundational in employment relations. It is a basic human right (ILO, 2019; Gwisai, 2015), and the essence of labour law is to secure that right (Botha, 2014).

The study also explored the key interventions required to strengthen compliance to section 6 (1) by the Chinese enterprises. One key role for HRM practitioners in the world of work is to promote the interests and rights of employees as asserted by Van Baren et al (2011). A key finding from this study is that the HR practitioners have restricted roles in Chinese enterprises, with their expert opinions often discounted. Their voice as advocates of employee rights require strengthening. One way is to lobby employer associations at the industry level to initiate training and awareness programmes that will involve Chinese employers and HR practitioners, with a particular focus on the role of the HR function in the workplace. The visibility of their roles, particularly in respect of employment relations can also be boosted if the practitioners engage in continuous research on the subject of labour law and confidently provide advice to their Chinese superiors.

To promote compliance with the provisions on fair labour standards, the participants indicated a need for employment councils and designated agents to regularly conduct labour inspections in organisations within the respective industries. Part VIII of the Labour Act empowers employment councils to deal with labour issues arising within the establishments that fall under the particular industry. By regularly assigning the

employment councils' designated agents to investigate and redress labour disputes, cases against unfair labour practices within Chinese enterprises can be effectively resolved. In addition, the employment councils can develop enforceable frameworks which set principles upon which businesses in the industry are expected to adhere to, including the promotion of fair labour standards.

The role of the state is key to enculturating the Chinese investors to the country's laws, including those relating to employment relations. Most participants expressed that these investors were oblivious of local labour laws or regarded the laws with disdain, and rather relied on the political linkages they had with government officials to flout regulations and evade penalties as observed by Chipaike and Bischoff (2019). The immense contributions that Chinese investments continue to bring to the African countries on a 'no strings' attached basis perhaps explains and justifies the reluctance by African states to decisively deal with Chinese organisations that engage in gross human rights abuses, through for example, the defilement of labour standards. African states, including Zimbabwe need to engage Chinese leaders and raise awareness regarding, *inter alia*, the respect of labour laws as also proclaimed by Mayer et al (2017).

The study established that trade unions and workers' committees, vital institutions for promoting workplace democracy and defending employee rights and interests in the workplace were seen to be largely dysfunctional. The main reasons advanced were that Chinese employers made pseudo consultations before imposing decisions, victimised employee representatives, engaged in acts of bribery to silence trade union officials or used the practice of casualising labour to deal with deafening voices. This unfair labour practice was found predominant in Chinese enterprises in Zimbabwe and other African countries (Ncube & Oni, 2020; Isaksson & Kotsadam, 2018; Xing et al, 2016).

## CONCLUSIONS

In terms of Section 6 (1) of the Labour Act of Zimbabwe, all employers are obligated to comply with the provisions that seek to protect the employees' right to fair labour standards. Provisions of the section relate to wage earnings, working time, working conditions, as well as protection of health and safety. The employees' right to fair labour standards is fundamental to employment relations, as embodied in the country's constitution, being the supreme law, and the normative instruments of the ILO, to which Zimbabwe is a member. Since the 1990s, a rapid increase in the economic relations between African countries and the Asian economic giant, the People's Republic of China have been observed. China has become Africa's most desirable investment partner due to its non-interference strategy on the internal matters of the

continent's countries. It is without doubt that the continent continues to benefit from the partnership in relation to economic growth, employment creation and infrastructural development. Nonetheless, questions have been raised in the media and scholarly research, pertaining the deepening abuse of human rights by Chinese investors in Zimbabwe. The Chinese investors in the country are accused of violating the labour standards in ways that are extensive. Based on perceptions of human resource management practitioners within Chinese enterprises in Zimbabwe, this research study examined employer compliance with the legal provisions that aim to safeguarding the employees' right to fair labour standards as promulgated in the Labour Act.

The study established that some Chinese organisations in the country deliberately do not comply with section 6 (1) of the Labour Act. Illegal labour standards manifest in the form of employees working beyond the stipulated hours with little or no overtime payment, unsafe working environments, physical and verbal abuse of employees, non-entitlement to statutory leave, victimisation of employee representatives and beholding employees with disdain. It is however, noted that not all Chinese employers engage in unfair labour practices as realised in the study. Exacerbating the situation is the precarious economic context companies operating in the country find themselves faced with, including Chinese-run firms.

The role of HR practitioners as employee advocates and legal experts on employment relations issues is weakened and undervalued in Chinese enterprises in the country. Employers in Chinese businesses regard HR practitioners as being too attentive to employee issues than the business. They refuse to take legal advice from them, and often override any decisions that are expected of their function. Chinese investors have created sturdy political linkages to protect their firms against any possible litigation. In addition, acts of bribery are common among Chinese investors. Such corrupt tendencies are seen as providing a shield against legal lawsuits, including those relating to unfair labour practices.

Of importance is a need for interventions to help strengthen the adherence to the law on fair labour standards. Enculturation of the Chinese investors at the point of investment entry will enable an understanding and appreciation of the country's labour laws. Employment councils and employer bodies in Zimbabwe can act as springboards in the enculturation, for example, through organising regular training, workshops and labour inspections. Continuous interactions between Chinese employers and locals, including employee representatives can be foundational to creating sustainable and collaborative

relationships, resulting in compliant Chinese business operations and reverence of the employees' right to fair labour standards in terms of section 6 (1) of the Labour Act.

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