

Midlands State University



Faculty of Social Sciences

Department of Politics and Public Management

***THE EFFECTS OF THE SUPREME COURT RULING BY CHIEF JUSTICE GODFREY
CHIDYAUSIKU IN THE CASE OF NYAMANDE AND ANOR V ZUVA ON LABOUR
RELATIONS: THE CASE OF ZIMBABWE'S PARASTATALS.***

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***This dissertation is submitted in partial fulfilment of the requirements of the Bachelor of
Science in Politics and Public Management, Honours Degree to Midlands State University,
Zimbabwe.***

Zvishavane, Zimbabwe.

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DECLARATION

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Abstract

Zimbabwe is facing a huge amount of inequity in terms of labour relations due to the Supreme Court ruling of 17 July 2015 by Chief Justice Godfrey Chidyausiku in the case of Nyamande and Anor V Zuva. This instability within parastatals has become a common feature as the ruling triggered mass terminations on notice without benefits. Morale within the work place subsequently hit a low and by the end of September 2015 it had led to over 30 000 job terminations. The rights workers had prior to the ruling were rendered insignificant thus they were stripped. Those that tried to ensure that their rights were being preserved did so with the risk of termination as the order of the day became termination on notice. This was facilitated by the Supreme Court making it clear that the only prerequisite for firing an individual was adequate notice which ranged from three months to two weeks depending on the nature of the employment contract. The main thrust of this research was to find the effects of the ruling on labour relations within parastatals in Zimbabwe. The researcher used qualitative research to complete this study as effectively as possible. Purposive sampling was employed and thereafter, document analysis, questionnaires as well as interviews were used in order to collect data from research participants. A content analysis was thereafter used as the data analysis tool in this study. Ethical concerns played a major role as they contributed to the manner in which the research was executed. All the research tools were used in order to amass knowledge on the effects that the ruling had on labour relations within parastatals, which it was able to do. Effects of the ruling which were unpacked within the study were termination on notice, unfair dismissal, no job security, limitations on unionism and collective action and retrenchment without severance packages. The research findings revealed that the ruling had adverse effects and since it was done it formed the basis of meagre and conflict riddled labour relations in the country and countered the efforts of ZIMASSET in job creation. The results made it evident that there was need for the Labour Amendment Act of 2015 to be formulated. The government is recommended to put in place instruments to ensure cordial labour relations within parastatals. The employers are recommended to employ prudence in terms of firing, while employees, to lobby for their rights and an amicable work environment. Research findings have enabled the conclusion that labour relations within Zimbabwe's parastatals are largely impacted by external stakeholders.

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Dedication

This dissertation is dedicated to my parents who serve as my pillars of support and have been my greatest cheerleaders throughout my educational life .

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List of Abbreviations

Air Zim.....	Air Zimbabwe
Anor.....	Another
CMED.....	Central Mechanical and Equipment Department
CZI.....	Confederation of Zimbabwe Industries
LR.....	Labour Relations
NRZ.....	National Railways Zimbabwe
V.....	Verses
ZESA.....	Zimbabwe Electricity Supply Authority
ZETDC.....	Zimbabwe Electricity Transmission and Distribution Company
ZIMASSET.....	Zimbabwe Agenda for Sustainable Socio-Economic Transformation
ZIMPOST.....	Zimbabwe Postal Service
ZIMRA.....	Zimbabwe Revenue Authority
ZINARA.....	Zimbabwe National Road Authority

CHAPTER 1 : INTRODUCTION

1.0 Introduction

This is the introductory chapter, it highlights the background of the study as well as the research framework on which the study is centred. The main research objectives, research questions, justification for carrying out the study, limitations and delimitations of the study are dealt with in this chapter. The structure of the research is also included in this chapter. All aspects of the chapter relate to the effects of the ruling in the case of Nyamande and Anor V Zuva on labour relations within parastatals in Zimbabwe.

1.1 Background to the Study

On 17 July 2015 a ruling was handed down by the Supreme Court of Zimbabwe in the case of Don Nyamande and Kingstone Donga versus Zuva Petroleum. The plaintiffs, Donga and Nyamande, were employed by BP Shell as Finance Manager and Supply and Logistics Manager respectively (Mutasa, 2015). The organization was later transferred to Zuva Petroleum.

According to Mutasa (2015), it offered its staff, conditions of a voluntary severance package on 21 November 2011, which were not accepted resulting in employees being given notice on termination of contracts.

Nyamande and Donga and Zuva Petroleum were not able to reach a consensus, hence a referral was made to the Retrenchment Board on 16th May 2012. It failed to produce results and ordered that both parties continue to negotiate for twenty-one days, however, on the second day Nyamande and Donga were terminated with effect from 1 June 2012 in line with their contracts. The respondent subsequently paid the appellants cash in lieu of their notice and thus terminated the employment relationship (Mutasa, 2015).

In response Nyamande and Donga approached a labour officer who did not resolve the dispute but referred it for arbitration. The dismissal of Donga and Nyamande was then deemed unlawful by the arbitrator, resulting in a court appeal by Zuva. The labour court ruled in favour of Zuva Petroleum, putting forward that section 12B of the Labour Amendment Act of 2002 did not

reduce or retract the employer's right to cut a service contract on notice. This in turn led to a Supreme Court appeal by the two. Which too was ruled in favour of Zuva Petroleum.

Mugandiwa (2015) states that the mass retrenchment embarked on were as a result of misconception of the judgment by the Supreme Court which merely confirmed that the right to dismiss on notice exists to employers in special situations, thus employees cannot be retrenched on three months' notice without due diligence. However, the misinterpretation resulted in catastrophic labour relations within parastatals.

The Confederation of Zimbabwe Industries (CZI) has since 2013 stated that existing labour laws favoured employees and were impeding successful business practices. Section 65 in the Zimbabwean Constitution deals with Labour Rights, which have unfortunately been taken away by misinterpretation of the court ruling. Labour Rights include the right to join trade unions, the right to equitable remuneration and the right to appeal where necessary (Gwaunza, 2015)

The Zimbabwean economy which is on its knees played a large role in the manner in which the ruling was received by bosses of parastatals. Many workers in parastatals had already been working for months without pay, hence the option to dismiss excess employees was a driving force behind a large number of retrenchments. Termination refers to culmination of employer-employee relations, carried out in accordance with the labour laws (Gombiro, 2016).

Termination was therefore based on laws that were simply interpreted by the court.

The economic crisis had already been the reason behind high unemployment rates within the country, making the landslide ruling for Zuva the icing on the cake, seeing thousands being retrenched. This contributed to the increased rate of unemployment in 2015. According to Gombiro (2016) the consequences of the ruling are evident as thousands of jobs were supposedly lost ensuing the decision. The labour relations dynamic worsened and worsened due to termination on notice.

Termination of employment was based on the premise that workers were to be given severance packages as compensation for job termination in some cases. After the court ruling many parastatals were of the opinion that these were not mandatory as Nyamande and Donga were simply given money because a package had not been formulated by the Retrenchment Board.

The implications of this were far reaching and led to disequilibrium within labour relations in parastatals.

Masses of parastatals employees were retrenched with deplorable statistics, National Railways Zimbabwe (NRZ) laid off five hundred (500) from its labor force, but was targeting to fire one thousand five hundred (1500) staff members o concluding its firing exercise. While, Zimbabwe National Road Authority (ZINARA) recorded fifty (50). Central Mechanical and Equipment Department (CMED) had a large number of dismissals, as it stood at two hundred (200). Air Zimbabwe, Zimbabwe Postal Services (Zimpost) and Zimbabwe Electricity Supply Authority (ZESA) also laid off unrevealed quantities (Mashudu and Mugabe, 2015).

1.2 Statement of the Problem

Over 25 000 personnel in Zimbabwe's private and public sector were retrenched since July 2015. There has been a great shift from sound labour relations to non-equity, with workers' rights being stripped away. Fundamental aspects of labour relations such as trade unionism too have dwindled within parastatals in Zimbabwe. Continuing, pay cuts were the order of the day as the Zimbabwean economy fell to its knees and a vast number of parastatals workers had gone for months without remuneration, provoking mass retrenched as a survival means in the hostile economic environment. Lack of job security became rife in parastatals, accompanied by a lack of severance packages for terminated employees. The labour relations sphere within parastatals became volatile, erratic and lacked equilibrium.

1.3 Research Objectives

The study seeks to fulfil the following objectives:

- 1) To examine the factors that necessitated the Supreme Court ruling in the case of Nyamande and Anor V Zuva.
- 2) To analyse the effects of the court ruling on the parastatals in Zimbabwe.
- 3) To explore the effectiveness of the Labour Amendment Act in promoting job security in Zimbabwe's parastatals.

- 4) To proffer recommendations on enhancing sound labour relations in Zimbabwe's parastatals.

1.4 Research Questions

The study is aimed at answering the following research questions:

- 1) What factors led to the court ruling in the case of Nyamande and Anor V Zuva?
- 2) What are the effects of the court ruling on labour relations in parastatals?
- 3) What are the contents of the Labour Amendment Act of 2015?
- 4) What strategies can be utilized in the promotion of sound labour relations within parastatals?

1.5 Justification of the Study

The study was intended to fill literature gaps that existed by manner of proving information from employers and employees who were affected by the court ruling. Another reason for the research was to augment the contemporary stock of data. The research provided information on how labour relations within parastatals were affected by the court ruling and what measures could be taken in the promotion of sound labour relations. Also, the Labour Amendment Act's contribution to labour relations within parastatals was appraised in this study. The intention of this research is to add value and inform policy making and implementation. The overall study is to assist in the promotion of sound labour relations with Zimbabwe's parastatals.

1.6 Delimitations

There is a vast number of states that have experienced poor labour relations, yet the research focused on parastatals in Zimbabwe which are characterised by disequilibrium in their labour relations and a buckling economy. The time frame covered by the study was a year as the court ruling occurred in July 2015. Continuing, the study was centred on those who were directly impacted by the court ruling, that is bosses and staff of Zimbabwean parastatals.

1.7 Limitations

There are various factors that limited the researcher from acquiring some of the requisite information. These factors included challenges faced in the interviewing of employers who failed to meet commitments to the researcher due to their hectic schedules. Another limitation was that of the nature of the research which was fairly sensitive, thus employees were often afraid to answer truthfully. Continuing, the internet proved to be a problem at times as the network was often non-functional. Adding to the limitations of the study were time constraints. The researcher may not have obtained correct or accurate information from employers who sought to protect their organization's image.

1.8 Structure of the Study

The study was divided into chapters, namely chapter 1 to chapter 5. The first chapter is the introduction, which gives an overview of the study. The second, is the literature review and theoretical framework. It covers themes and theories pertaining to the effects of the court ruling on labour relations in parastatals. Next is the chapter on methodology, it covers the means of obtaining data and all rationale behind it. Chapter four is presentation and analysis of findings. In this chapter all research findings are presented and scrutinized. The final chapter is chapter five which covers the conclusions and recommendations of the study.

CHAPTER 2: LITERATURE REVIEW AND THEORETICAL FRAMEWORK

2.1 Introduction

This chapter is on the literature review and theoretical framework informing the study. Included is how the labour processes theory explains the effects of the Supreme Court ruling by Chief Justice Godfrey Chidyausiku in the case of Nyamande and Anor v Zuva. Analysis of commentary by scholars who have given insight on the effects of the ruling as well as effectiveness of the Labour Amendment Act [Chapter 28.01] of 2015 (Sections 12 C) are included within this chapter.

2.2 Theoretical Framework

Theoretical framework is defined by the University of Southern California (2016) as the backing of a theory of an enquiry. It presents and defines the theory that expounds why the research problem exists. The theoretical framework has also been defined by The Business Dictionary (2016) as a cluster of linked notions that offer direction to a research project. In essence the theoretical framework is what has given direction to the study that was completed by the researcher. Through the use of various literature and theories a basic approach to the study was deduced.

2.3. Labour Relations

According to Tracy (2016), in the past, labour relation was thought of as a correlation between staffs and bosses. However at present, it concerns the relationship between personnel, employers and civic surroundings of the business. It is a vigorous practice that enables dialog amongst staff, their employers and the company's civic setting. Labour relations or industrial relations, refers to the system in which employers, workers and workers representatives, and the government cooperate to established the nature of governance pertaining to work relationships (Trebilcock, 1998). Traditionally actors in the labour relations system according to Trebilcock (1998) include the government, employers and employees' representatives.

According to Falana (2011) LR is to do with the manifold of problems associated with working, these include job security; employment conditions; the amount one is getting paid and how often, means used to pay wages and wage fixing; staff development (consisting of training, progression and promotions); grievances arising from employment and the work being done, as well as labour disputes and the amount of outputs produced. These problems have increased in within parastatals since the Supreme Court ruling in the case of Nyamande and Anor V Zuva, mainly because the equity within these organizations was stripped away by this ruling.

When employees in Zimbabwe's parastatals are disgruntled in those ways they require solutions. Trade unions, labour organizational mechanisms and employers organizations are concerned with this, and employ means such as joint consultation; labour tribunals, labour courts and collective bargaining as means to obtain solutions (Falana 2011). Conciliation, mediation and arbitration fall under dispute resolution techniques. Falana (2011) states that on occasion the government intercedes by formulation of labour policies and enactment of labour laws to ensure equilibrium, these are other methods of dispute resolution. In this particular case the government stepped in with the Labour Amendment Act of 2015.

Trade unionism plays a major role in labour relations within Zimbabwe's parastatals as the trade unions are tasked with resolving the array of problems bedeviling parastatal workers. According to the labour act all employees have right to join such unions if they see it fit. This has however not been f much help after the Zuva case ruling. According to the United States Embassy (2013), in Zimbabwe the Zimbabwe Congress of Trade Unions (ZCTU), as well as the Zimbabwe Federation of Trade Unions (ZFTU) represent trade unions. ZCTU, however has more legitimacy due to its hefty participation and the fact that it is acknowledged international, through its associations with the International Labor Organization (ILO).

2.4 Factors Mitigating Against Sound Labour Relations

Sound labour relations are key in ensuring a good work environment and maximum outputs for parastatals which are already grappling to excel with the Zimbabwean economy on its knees. However, there are many reasons why there is discordant LR within parastatals. These are inclusive of lack of job security, that is three months' notice for termination of employment, the

removal of warnings and negotiations on retrenchments, the indirect hindrance from partaking in union activity, little remuneration and above all the common law right to dismiss employees on notice.

Furthermore. Zimbabwe's economy is on its knees, hence the remuneration aspect has been affected negatively. Zimbabwe has since its worst economic meltdown to date, which occurred in 2008 been grappling to regain its former strength. The meltdown that was a culmination of various factors including debt for funds borrowed from the Brettonwoods Institutions, that is, World Bank and the International Monetary Fund (IMF) , poor economic policy such as the Economic Structural Adjustment Programme (ESAP) and policies that have hindered foreign investment such as The land Reform Programme and The Indigenisation Policy. These failures in the economic sphere ultimately led to a liquidity crisis which has seen the inception of cost cutting measures in parastatals which have ultimately affected employee remuneration and seen the reduction in contract workers who cannot be paid.

A lack of foreign direct investment in Zimbabwe has largely affected labour relations as organisations seldom have the funds to remunerate workers. Also, the large debt Zimbabwe has made it impossible for parastatals to get foreign loans as Zimbabwe has a proven record as a bad debtor. This ultimately affects job security which cannot exist when the existence of the parastatal is not definite. The general principle of accounting for the foreseeable future is none existent.

Continuing, corruption which is a characteristic of most parastatals within the nation has been detrimental to labour relations. Corruption has plagued parastatals with it coming from the top levels, cascading right to the bottom of the employment hierarchy. This occurs in the form bribery, fraud and general exploitation of resources, that is human and material. The prevalence of such has hindered the correct carrying out of labour relations which now represent a pyramid scheme of sorts. Many parastatal employers have been in the media for corrupt activity, this includes Cuthbert Dube, ZBC and Air Zimbabwe bosses.

2.5 The Role of Trade Unions in Labour Relations

The Singapore Trade Unions Act , states that a trade union is any establishment of employees or bosses, impermanent or perpetual. They play a pivotal role in labour relations as they are in essence the facilitators of equilibrium within the LR sphere. Trade unions have a very large hand in the success or failures of LR as they serve as the middle ground between employer and employees. In most cases they are the difference between the ill treatment of employees and favourable treatment. They serve in various capacities within the LR discourse thus making them a key feature of LR. The essence for the existence of trade unions is to reinstate equilibrium between managers and employees (Armstrong, 2001).

According to Taylor (1994) trade unions are tasked with enlightening employees who have no or little knowledge on their rights about these rights. They usually poses vast knowledge on the rights of employees which helps them when imparting requisite knowledge. This helps in the protection of workers who are less likely to be violated within the workplace or by the organization when they know exactly what their rights are. The trade union in this way act in the capacity of an informer on and protector of industrial rights. This role is of essence for those who work in Zimbabwe's parastatals and those who worked in them before the ruling in the case of Nyamande and Anor V Zuva as workers' rights were violated repeatedly by virtue of unfair dismissals as well.

Taylor (1994) states that trade unions play an advisory role in labour relations, this is in as much as it is required. Where employees or employees have been aggrieved the trade unions are tasked with advising what means to employ in resolving their disgruntlement. Consultation with trade unions is also done when employees or employers need to take action within the work place but are not certain if it is allowed or they will be overstepping their boundaries and subsequently violating the law. In this case, had the former Zuva bosses received correct advice from their union they may not have gone to court leading to the ruling by Chief Justice Godfrey Chidyausiku.

Furthermore, trade unions play a representational role in the labour relations discourse. According to Mywage.org (2016) Parties negotiating for CBA need representation by committees, delegates or agents. This ensures that collective bargaining agreements are favourable to the employee, as trade unions are well versed with what tools that are required to

get the best results out of this. Continuing, trade unions cannot be threatened nor intimidated by employers.

This in essence means trade unions are tasked with the role of promoting favourable industrial relations within Zimbabwe's parastatals. It is the job of trade unions to mediate when disputes arise between the organization and its employees or to speak on their behalf in order to ensure that the negative effects that could result are limited and sound labour relations exist within the work place. It is through interventions by trade unions that the size of disputes between employer and employees are curtailed.

Trade unions are amongst other things tasked with improving the employment conditions of employees and boost their financial and social standing. They are responsible for ensuring equitable remuneration for all employees. Trade unions usually ensure that this is done by requesting pay increases or through the collective bargaining process, as well as organising collective action in order to get employers to comply or at least reach a compromise where they do not wish to. The social standing is boosted when remuneration is favourable to the employees and their needs.

Trade unions play the role of facilitating collective bargaining. Mywage.org (2016) states that the Constitution acknowledges collective bargaining as a right for all employees excluding those in security services. Right to collective bargaining by listed trade unions, bosses and employers organizations is also recognized and regulated by Labour Act, 1985. It is up to the union to negotiate in the collective bargaining agreement (CBA). A CBA usually provides better benefits to the worker than those provided in the law.

2.6 Government policies underpinning Labour Relations

The Zimbabwean Government has put in place the Labour Amendment Act of 2015 to aid in the conduct of labour relations. It serves as the core of all labour relations activity and dictates its nature, in essence it facilitates the existence of labour relations. Organisations within the public sector also have codes of conduct which stipulate the nature of labour relations, however these are derived from the Labour Amendment Act of 2015 in order to ensure that there are no clashes in these documents for sound labour relations. Another such government instrument is the Public

Service Act of 1931 which dictates the nature of labour relations in government entities. Its terms have remained the same. It generally dictates that essential service providers are restricted from taking part in collective action, cutting out a vital aspect of labour relations, especially because all parastatals provide essential services.

2.7 Dispute Handling Procedures in The Public Sector

The Labour Amendment Act of 2015 clearly states how disputes are to be handled if or when they may arise. There are a number of conflict resolution techniques that are to ensure sound labour relations in Zimbabwe's parastatals that have been riddled with problem after problem in regards to labour relations. Khabo (2008) states that the ILO realises collective bargaining as the main tool in dispute handling as its characteristics include the allure in shared decision making , resolution of difficulties, as well as mutual accountability labour relations. Dispute handling techniques include arbitration, adjudication, determination by an expert, mediation and conciliation.

According to Duve and Maitireyi (2011) the Labour Relations Act of 1985 made arbitration the favoured technique for settling collective labour disputes. Adjudication is another procedure used. It is carried out by specialist courts which are operated by technocrats in the fields of labour relations and labour law, dealing in appeals or reviews (Khabo, 2008). In conciliation and arbitration all those involved in a collective bargaining agreement, that is the employee, employer and respective unions or workers representatives partake in discussion to resolve disputes. Khabo (2008) states that mediation and conciliation should be tried over and over until it is clear that no common ground will be met before embarking on industrial action.

2.8 Labour Amendment Act of 2015

This Act was formulated in order to ensure sound labour relations within Zimbabwe's parastatals. The act sought to stop termination on notice, which it did as it in Section 12 C stipulates that an employee may only be terminated if there is engagement with a Retrenchment Board and or employment council beforehand, furthermore, the employee and employer have to

sign to show that both parties are agreeable (NN Law, 2015). This has reduced the disequilibrium within labour relations in parastatals which have especially since the ruling, been riddled with labour relations problems.

Furthermore, Clause 18 affords the ex post facto application of section 12 of the Labour Act. Those covered by the clause were those employees who were retrenched on three months' notice on 17 July or following this date. This has facilitated an improvement in labour relations within Zimbabwe's parastatals as employees who had been fired were called back to work in some cases. This, however conflicts with Section 3(2)(e) of the Zimbabwean Constitution which stipulates that there should be separation of powers between the arms of Government, yet in this case the actions of the Judiciary were undermined by Parliament through the formulation of the Labour Amendment Act of 2015.

The Labour Amendment Act of 2015 as a revision of the Labour Act only had major changes on to Section 12, which included the removal of the common law position that facilitated dismissal on three months' notice. This however was a hasty move as the Act became law on 26 August 2015. Section 4 too was changed, however it was not amended but replaced. Section 4 gives guidelines on the period of notice for termination of contract, that is one day for casual workers, seasonal workers and those with contracts for less than three months, three months' notice for contracts spanning two-years or permanent contracts and so forth. Section 4a(a-d) stipulates procedure such as mutual agreement to part ways which enhance equilibrium.

2.9 Labour Process Theory

According to Braverman (1974) the labour process theory states that the only way to amass capital is for employers to obtain control and authority over employees and get maximum outputs from them and machinery by way of turning labour power into labour. According to Marx (N.D.) the labour process theory looks at the practise by which workers are equated to how useful they are in terms of production. This theory in essence states that the employer has all the power and employees are left at their liberty as they are nothing but mechanisms used to get maximum outputs. In the case of the effects of the Supreme Court ruling, this was made very

evident as employees fired workers at will, not considering their plight or the fact that their employment is their means of survival.

Furthermore, the events that preceded the termination of the contract of the Zuva Petroleum bosses included them paying themselves extravagant salaries whilst the rest of the workers languished in poverty due to the lack of funds to remunerate them adequately. Also, they were retrenched without taking any of their feelings or needs into account as they were viewed simply as a means of production. This was a characteristic of most parastatals in Zimbabwe, for instance Hapison Muchechetere the ZBC CEO, earned approximately US\$ 40 000 per month and receives a housing allowance of roughly US\$ 250 000 yet many employees were not receiving remuneration for months (Rusvingo 2014). This clearly showed the imbalance in labour relations within parastatals.

2.10 Country Experiences

There are a number of countries experiencing labour relations issues as well. This shows that no phenomenon is isolated completely. There are deviations in the manner in which the poor labour relations occur, but the characteristics of bad industrial relations still exist within these states. Botswana and South Africa, like Zimbabwe are characterised by these poor labour relations that leave a lot to be desired.

2.10.1 Botswana

Botswana has poor labour relations characterised by suppression of rights to collective action such as strikes or stay aways, which are against the law because the government does not want to address employee demands (Marobela, 2016). The labour relations dynamic is oppressive as employees have no say at all in issues to do with labour processes. Continuing, the employees cannot express their disgruntlement without crossing legal lines. The high unemployment rates in Botswana are major sources behind poverty within the nation according to Marobela (2016).

2.10.2 South Africa

The country experience of South Africa is not the same as that of Zimbabwe, however both have instability in their labour relation. In the case of Zimbabwe it has resulted in a lack of industrial action while for South Africa it has had the opposite effect. South Africa's industrial relations system is facing strain as vehement industrial action is on the rise and collective bargaining arrangements are riddled with legal issues (Bhorat and Oosthuizen, 2012). Continually, the Marikana incident saw brutal clashes between strikers and law enforcement agents resulting in a large number of deaths.

2.11 Chapter summary

This chapter included the theoretical framework surrounding the ruling by Chief Justice Chidyausiku and the subsequent Labour Amendment Act. The state of nature, labour processes and conflict theories explain the effects of the ruling. The chapter used literature that was already existing in order to clearly illustrate themes within the research that are continually affecting parastatals. Among the effects are job loss, pay cuts and the Labour Amendment Act of 2015. The chapter utilised existing information to answer in part the question of what the effects of the ruling were as well as those of the Labour Amendment Act.

CHAPTER 3: METHODOLOGY

3.0 Introduction

This chapter addresses the overall research design and methods utilised in carrying out the research. It also delves into the means by which it was carried out. Qualitative research methods were chosen by the researcher, thus interviews and document analysis were the tools used in conducting the study. The chapter is comprised of the research design, sample selection, methods of data collection, data analysis and the ethical considerations. A pivotal feature of the chapter is the focus on the logic behind the research techniques selected by the researcher.

3.1 Research design

Research design denotes the complete strategy that one chooses to integrate the diverse components of the research in an articulate and consistent manner in order to make certain that the research problem is meticulously addressed. According to van Wyk (N.D.) research design is the complete strategy for linking the appropriate practical research to the theoretical problems of the research. Therefore, it articulates relevant and important data, the methods that are to be used to collect and analyse the data, and how it answers your research question, focusing on the results. According to van Wyk (N.D.) research design puts emphasis on the final product. It involves the research methods and why they were chosen. Research design is the plan for piloting a study with maximum control over elements that may affect the legitimacy of results, according to Burns and Grove (2003)

3.1.1 Qualitative research

The research problem dictated that a qualitative approach be taken to the study. Burns and Grove (2003) term qualitative research as an organized and particular approach employed so as to articulate occurrences. Qualitative research methods are usually consist of inductive tactics, that means they are centred on observed evidence (van Wyk, N.D). According to Atkinson, Coffey, Delamont, Lofl and Lofl. (2001) the qualitative approach is used to explore the manner in which

people conduct themselves , their views, experiences and frame of mind in order to gain understanding. According to Morse and Field (1995), researchers who use the qualitative approach assume an all-encompassing and humanistic stance, so as to understand the experiences people have had.

The researcher used qualitative research methods as the study was focused on obtaining information on the effects of the ruling in the case of Nyamande and Anor V Zuva on labour relations within parastatals because it is a lived experience and qualitative research seeks to understand the experiences of people. The rationale behind employing a case study was to ensure that particular attention was paid to detail that could only be obtained through contextualisation. The logic behind the use of interviews, as well as document analysis was that information would be obtained from those that were affected, whilst also being able to take factors such as confidentiality clauses in employment contracts into consideration.

3.2 Sample selection

3.2.1 Sampling

Sampling is the method of choosing elements from a population of interest to study, after which, generalisation of results is done for the population from which they were selected (Trochim, 2006). Sampling is the statistical procedure of choosing a subset, termed a sample, of a population of interest in order to make observations and statistical interpretations about that specific population (Bhattacharjee, 2012). According to Berg (2001) the reason for utilising a sample of subjects is to make conclusions about some larger population from a lesser one, which is the sample .There was stressed importance on selecting appropriate samples as these provided the most accurate information relating to the study. The samples were therefore chosen from employees within parastatals, as well as employers in order to represent all parastatals workers and employees.

3.2.2 Purposive sampling

Purposive sampling was used in this study. A purposive sample is a form of non-probability sample chosen based on the characteristics of the population and the purpose of the research (Crossman, 2016). In this type of sampling, researchers purposively select certain units for constituting a sample on the basis that the small quantity that they pick out of a vast one will be archetypical or symbolic of the whole (Kothari, 2004). Purposive sampling is therefore, deliberately picking a certain, small group of people who poses the necessary traits or experiences from a larger group of like individuals in order to obtain the results or answers being sought after by the study.

The logic behind choosing purposive sampling was that specific information was needed for the study, thus it was necessary to use only those who could provide the requisite information. In this case employers and employees of parastatals were used as it is their relations they were affected by the ruling. Purposive sampling was the most appropriate and applicable form of sampling to complete the study as the researcher needed first-hand accounts from those affected and those who had witnessed the effects of the ruling in the case of Nyamande and Anor V Zuva.

Purposive sampling was easily selected by the researcher because the research problem called for this type of sampling as not everyone in the general population is affected by labour relations within parastatals. Despite the problems of purposive sampling, it was the best option as the researcher took into account that any random sampling or probability sampling may have been costly in terms of time and resources, whilst yielding very little or no results that would be of essence to the study. Through the use of purposive sampling the researcher was able to identify the target population, derive a suitable sample from it and obtain the requisite information without wasting any valuable resources.

3.3 Methods of data collection

According to Abawi (2013) data collection enables the gathering of data wanted regarding study objects. Data-collection techniques enable us to methodically gather information about the objects of our study and about the surroundings in which they transpire (Chaleunvong, 2009). Data collection is therefore the actual methodical process of gathering the information required to answer the research question. Chaleunvong (2009) goes on to say in the assembly of statistics

there is need for a method to be employed as unsystematic collection causes difficulty in answering the research question conclusively.

In order to obtain data, research instruments or data collection techniques were used. According to Annum (2016) research instruments are the apparatuses employed in data collection. Data collection techniques vary but all serve the purpose of obtaining information that will aid in the study being conclusive. The researcher obtained data through the use of interviews, questionnaires and document analysis. All three were chosen by the researcher as they worked symbiotically filling gaps where the other would have left any, thus the data collection process was fairly exhaustive.

3.3.1 Document analysis

Document analysis provides a starting point for the research as it acts as the foundation on which to base research, also it gives direction to the study. Bailey (1994) defines document analysis as the scrutiny of records comprising of information about the occurrence we desire to study. Documents mainly consist of certified papers, which to some extent make available direct proof of choices made, dealings between people and organizations or structures, position, opinions and thoughts and arguments or actions, which are interconnected to the purpose of or question seeking to be answered by a research survey (Prosser, N.D.).

There are two categories of document sources, that is primary and secondary. Mogalakwe (2006) defines primary documents as those that discuss eyewitness accounts and are created by those who experienced the specific incident. While he defines secondary as those that are formulated by persons who did not experience the occurrence, yet obtained information from witnesses. The researcher used secondary sources to help conduct the study. They were chosen because they are readily available on the internet, which was a great advantage to the researcher whose main means of obtaining documentary information was over the internet..

3.3.2 Interviews

Interviews are defined by Chaleunvong (2009) as a data-collection technique that comprises of oral interrogation of respondents, either alone or as an assembly. The interview is a vital method for amassing data involving spoken communication between the researcher and the subject. (Mathers, Fox and Hunn, 1998). The interview used to amass data encompasses presentation of spoken stimuli and spoken responses and may be carried out in person or over the phone (Kothari, 2004). Interviews are some of the most widely used approaches to gathering qualitative data according to DiCicco-Bloom and Crabtree (2006).

The rationale behind the use of interviews by the researcher was that they offer focused discussions. In this way the researcher managed to ensure all questions were focused on the research question seeking to be answered thus enabling the collection of relevant information only. The interviewer took into consideration that some information would have been difficult for participants to share in a group setting, mainly because participants in the study were both employees and employers thus it would have been difficult for answers to be given freely in such a setup, hence one-on-one interviews were conducted.

Continuing, the researcher took into account the need to pick up on non-verbal communication such as anger and frustration on the part of the employees who were affected by the ruling. This made it easier for the interviewer to read whether participants were comfortable answering certain sensitive questions or not. The process was however taxing and time consuming as the researcher had to schedule and at times reschedule interviews with employers who had very busy work programmes and were often unable to commit to the times that the researcher was available to conduct the interviews, vice versa.

3.3.3 Questionnaires

According to Chaleunvong (2009) questionnaires are a data gathering instrument in which correspondence, that is questions and answers are presented in written form . Questionnaires to be utilised in the study are to be prepared using utmost caution so as to ensure that it is effective in obtaining the pertinent data (Kothari, 2004). In essence questionnaires are written communication between the researcher who provides questions and the respondent who provides answers to these questions.

The researcher formulated questionnaires that were in line with the research objectives. They were structured in sequential order. These questionnaires were given to employees and employers at various parastatals in order for them to complete. the researcher took into account the fact that this is a fairly inexpensive means of obtaining information as the researcher only incurred printing costs. Furthermore, questionnaires are widely used in businesses so they were easy for subjects to complete as they were already accustomed to them. Also, the researcher was able to compile all responses with relative ease.

The researcher faced problems in that most of the questionnaires left at the parastatals were not completed. The researcher deduced that this was mainly due to the problems that came as a result of the ruling such as fear over job security after completing the questionnaires. The researcher also faced problems in coming up with relevant questions so as to have an exhaustive questionnaire. This led to a lot of time being spent in the formulation of the questionnaires. Furthermore, because the researcher left the questionnaires with various human resource personnel, the researcher is not certain who completed the questionnaires.

3.4 Data analysis

Data analysis is the method of data appraisal using critical and coherent thought processes to scrutinise the individual elements of the information provided according to the Business Dictionary (2016). Data analysis is the compilation and grouping of data in order to derive helpful material from it (Study.com, 2016). Data analysis is basically the vetting process of data that is obtained and putting it in groups in order to gain coherence thereby allowing the researcher to find relevant information. This research focused solely on content analysis as the researcher realised it was the most applicable data analysis technique to use in this study.

3.4.1 Content analysis

Content analysis is a means by which written, verbal or visual communications are scrutinized (Cole, 1988). It is described as the scientific study of content of communication. It is the study of the content with reference to the meanings, contexts and intentions contained in messages

(Prasad, N.D.). Qualitative content analysis expressly distinguish between data collection and analysis as the two occur concurrently with reflexion on the text (Franzosi, 2007). It is also defined as a research technique for the personal interpretation of the subject matters of the text data through the methodical classification procedure of coding and detecting themes or patterns (Hsieh and Shannon, 2005). There are three forms of content analysis, that is conventional qualitative content analysis, directed content analysis, summative content analysis.

In this particular study, research was carried out using directed content analysis. The preliminary coding began with research findings from interviews, document analysis and questionnaires. Submersion in data facilitated the advent of themes such as lack of job security and pay cuts amongst others. These themes developed as the researcher embarked on data analysis. The researcher was then able to confirm the labour processes theory through the content analysis. Furthermore, it enabled a comprehension of the harsh societal truths regarding the effects of the ruling on labour relations within parastatals.

3.5 Ethical considerations

Ethics are defined as techniques , practices, or perception for determining the manner in which to conduct oneself in addition to scrutinizing complicates subjects and problems (Clinical and Translational Science Institute (N.D.). Berg (2001) states that caution regarding ethical matters is crucial to the triumph or failure of any research to do with people, and is necessitated by the predicament faced in choosing between ethics and reason. The researcher employed various ethical considerations in carrying out the study. These included informed consent, anonymity, confidentiality, privacy and probity.

3.5.1 Informed consent

Informed Consent is a voluntary acquiescence to take part in research (Shahnazarian, Hagemann, Aburto and Rose, 2006). It is recommended that interviewees orally agree to partake in the research process several times as the study progresses, as being asked for their consent enables them to back out if they see it fit or solidify previous agreement (DiCicco-Bloom and Crabtree,

2006). The essence of getting consent from participants is the notion that exploration is likely to be invasive, and invasion into one's privacy is only appropriate if consent is acquired (Spicker, 2007).

The researcher used verbal consent, whereby participants were told through word of mouth what the study entailed, that is its objectives, and were asked if they would be part of it. The subjects were asked numerous times if they were comfortable with being part of the study. This was done in order to gain permission from participants, as well as to make them feel more comfortable with being part of and ensure them that they were by no means forced to partake in the study. Therefore the researcher gave the participants countless opportunities to withdraw from the study.

3.5.2 Anonymity and confidentiality

According to Crow and Wiles (N.D), anonymity aims to guarantee participants that every effort will be made to ensure that all information provided during the study will not lead back to them. The use of aliases for participants and research location is the principal means utilised to preserve anonymity and confidentiality (Crow and Wiles, N.D.). According to the Vanderbilt Kennedy Center (2010) confidentiality is the right to depend on the discretion of another. The researcher ensured anonymity and confidentiality by using pseudonyms as opposed to the actual names of participants.

3.5.3 Privacy

Privacy is the right to non-interference or the withholding of oneself and their belongings from public enquiry (Vanderbilt Kennedy Center, 2010). According to the European Commission privacy is to do with any information which, either unaccompanied or when associated with other data, links to a detectable person or people, thus privacy issues arise when information is obtained and stored. The researcher realised participants rights to privacy, thus did not force the disclosure of information nor did the researcher leave any possible links between participants and information anywhere.

3.5.4 Probity

According to the Oxford Dictionary (2016) probity means virtuous, ethical distinction, integrity, candid, righteousness, uprightness, meticulousness. Probity means honesty, morality and decency and is the mark of ethical conduct, as it involves the application of objectivity, transparency and answerability (Queensland Purchasing, Department of Public Works and Crime and Misconduct Commission, 2006). The researcher tried to ensure impartiality as the study was carried out. General uprightness and uncompromised morals were upheld by the researcher.

3.6 Chapter Summary

This chapter focused on the methodology of the study. It consisted of research design and the research techniques employed in carrying out the research effectively. Also included was sample selection; the data collection methods, the rationale behind them, as well as the positive and negative attributes associated with each data collection method. Data analysis and ethical considerations, as well as the role played by these ethics in enhancing the study were included in the chapter. The next chapter is on data presentation and analysis.

CHAPTER 4: DATA PRESENTATION AND ANALYSIS

4.0 Introduction

This chapter is on the presentation and analysis of research findings. All data provided in this chapter was obtained through the use of interviews with and questionnaires completed by employers and employees of parastatals within Zimbabwe. The research findings were derived from documents, interviews and questionnaires. The study sought to find out the effects of the Supreme Court ruling in the case of Nyamande and Anor V Zuva on labour relations within Zimbabwe's parastatals. Presentation of data was done graphically.

4.1 Research findings

Kothari (2004). Expresses that research results must always go into the common store of knowledge, which is done through a report. It is in this report that the research findings are deduced and presented. The effectiveness and utility of these findings rest solely in the accurate translation of gathered data (Kothari, 2004). The research findings included by the researcher are the effects of the Supreme Court ruling in the case of Nyamande and Anor V Zuva on labour relations within Zimbabwe's parastatals.

4.1.1 The effects of the ruling in the case of Nyamande and Anor V Zuva on labour relations within parastatals

The Ruling in the case involving Zuva Petroleum had adverse effects on parastatals within Zimbabwe. These effects were far-reaching and included extensive job losses, the Labour

Amendment Act of 2015, the reduction of collective bargaining and unionism, the disequilibrium in the work place, pay cuts, dismissal without retrenchment packages, and it left worker vulnerable to vindictive bosses.

4.1.1.1 Extensive Job Losses

The Supreme Court ruling triggered extensive job losses within Zimbabwe. The firing frenzy commenced in the private sector and then cascading into the public sector, affecting a large number of parastatals. Organizations were in essence given the same rights as the employee who has the right to resign from employment on three months' notice. This had a far-reaching, detrimental implications on labour relations within parastatals, as it was the reason thousands of workers were retrenched.

Parastatals too have been retrenching their employees haphazardly, for example the Zimbabwe Broadcasting Corporation (ZBC), Air Zimbabwe, National Railways Of Zimbabwe (NRZ), Zimbabwe Postal Services (ZIMPOST) and many more (Uzhenyu 2015). He added that Aviation Ground Services (AGS), whose operations are based at Harare International Airport, passed letters to numerous personnel, these were signed by the managing director laying them off using the Supreme Court ruling as the foundation. The employers' unencumbered authority to terminate service contracts on notice is buttressed by the freedom contract dogma, which states that contracts are entered into as equals (Mugandiwa, 2015)

4.1.1.2 Lack of job security

The effects of the court ruling include a lack of job security which not only affects the employee but also banks and shops. Many employees were given loans based on the fact that they have a steady income due to fixed employment, which is the same as stores from which high cost items are purchased on credit hence this lack of job security is also harmful to the economy as a whole (Mutasa, 2015). A lack of job security means that employees can be dismissed any time the employer sees it fit, not necessarily based on the usual mitigating factors such as poor job

performance or misconduct. Employees anticipated that any day could be their last at their places of employment.

4.1.1.3 The Labour Amendment Act of 2015

According to Uzhenyu (2015), the rushed modifications to the nation's labour law were as a consequence of the July 17 Supreme Court judgment giving establishments like rights to workers in the annulment of service contracts. The Labour Amendment Act was aimed at rectifying the harm done by the ruling. It is both a negative and positive effect. The Amended Labour Act now forces compensation of workers who were fired on notice (Bhebhe, 2015). This is a positive effect on the labour relations within parastatals, however it too is a negative effect as parastatals had no money to remunerate workers hence the option to retrench was taken.

4.1.1.4 The reduction in unionism

The court ruling had a major effect on the manner in which trade unions conducted their day to day business. It caused anxiety and dismay within trade unions whose members were being fired out of turn. The trade union activity characteristic of LR was reduced greatly as people had inferred that a cause for being dismissed on notice is active trade union participation by workers. This made it pertinent for workers to distance themselves from unions in order to extend their tenure at the organisations of employment. With collective bargaining off the table, the utility of trade unionism dwindled. This saw unions urging President Mugabe to use his presidential powers and stop the heinous acts of termination on notice.

4.1.1.5 Pay Cuts

Another negative effect of the court ruling was pay cuts. According to Uzhenyu (2015) adding to the 17 July ruling was a similar ruling on 27 July by the Supreme Court which stated that the

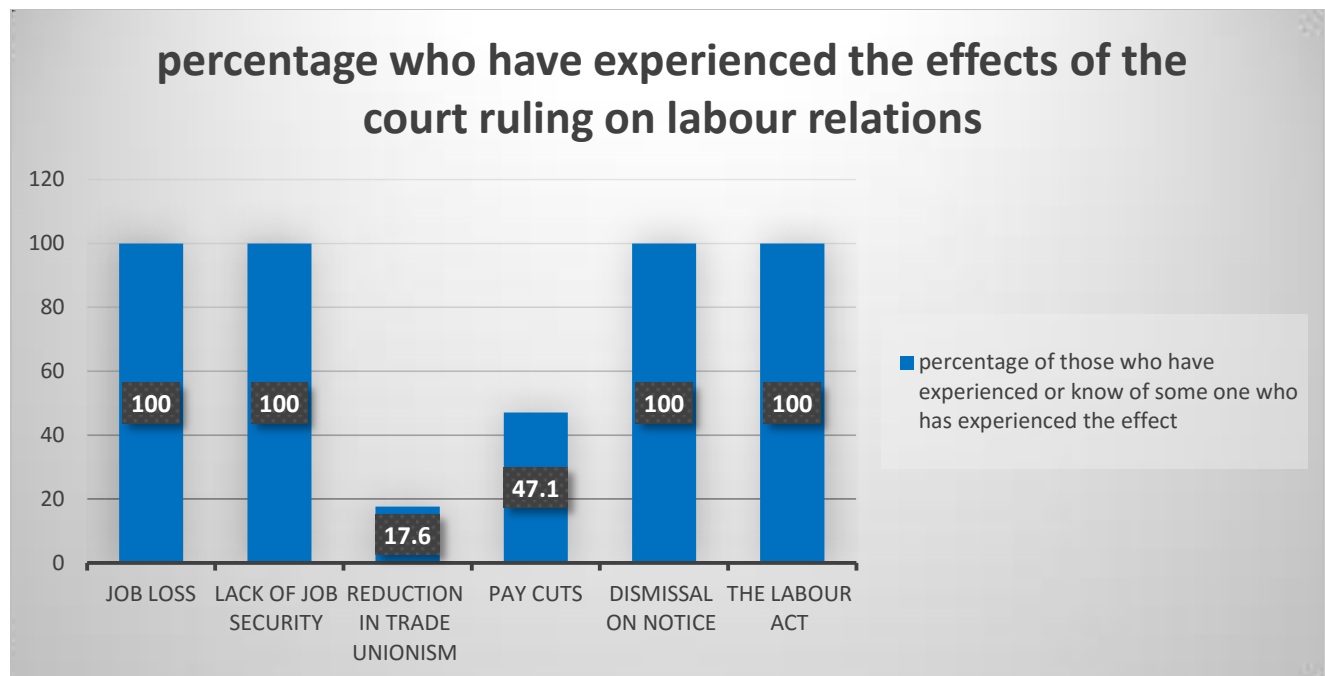
payment of allowances was not compulsory as they were founded on collective bargaining agreements. This ruling worked hand in hand in the remuneration of remuneration in the form of benefits which were what kept most parastatal workers and their families afloat. The employee was further disadvantaged by the heinous decisions of the Supreme Court especially because their right to collective action had been removed in part by the 17 July 2015 ruling.

4.1.1.6 Dismissal on notice

The Labour Act [Chapter 28:01] deals with retrenchment on notice in Section 12 (4) according to Uzhenyu (2015). Termination on notice affected a great number of people. The research showed that a large amount of parastatal employees were retrenched on notice. The length of the notice was based solely on the length of one's contract and did not require any other consideration. Termination on notice was done usually in the form of a letter that was given out to those employees being terminated and the notice was effective from the time of delivery. The termination process cut out the rigorous aspects of firing an employee as there was no longer face to face interaction or even the need to warn employees beforehand.

4.2 Presentation of findings

Chart 1



The column chart above represents the effects of the ruling and what percentage of parastatal workers and employees experienced them or know of someone who has experienced these effects. 100% of employers and employees know of someone who has been terminated as a result of the court ruling. Lack of job security was also experienced by those who are employed in parastatals, whilst all employers know of someone experiencing a lack of job security. Reduction in trade unionism was only experienced by 17.6% , while 47.1% of participants have experienced of know of someone experiencing a pay cut. All subjects reported knowing of someone who was dismissed on notice and all of them stated that they have been affected by the Labour Amendment Act of 2015.

4.3 Chapter summary

This chapter sought to describe the effects of the Supreme Court ruling in the case of Nyamande and Anor V Zuva on labour relations within parastatals in Zimbabwe. Catastrophic results came about due to the ruling, that is extensive job losses, pay cuts, dismissal on notice and a reduction in unionism, the Labour Amendment Act was both a positive and negative effect of the ruling on labour relations within parastatals. Presentation of amassed data was done through graphical representation.

CHAPTER 5: CONCLUSIONS AND RECOMMENDATIONS

5.0 Introduction

This chapter consists of the conclusions and recommendations of the study. It serves to sum up the entire research and conclude it. The recommendations have been made based on the findings of the study that were brought to light through thorough and exhaustive research. The thrust of the research was to find the effects of the Supreme Court ruling on 15 July 2015 by Chief Justice Godfrey Chidyausiku in the case of Nyamande and Anor V Zuva on labour relations within parastatals. This was done, thus shedding light on the issues that (to date) riddle employer and employee relations.

5.1 Summary of findings

The researcher through in depth interviews with and the completion of questionnaires by employers and employees of parastatals (inclusive of ZIMRA, ZETDC, Air Zimbabwe,

ZIMPOST and NRZ) found that the ruling had adverse effects on labour relations within parastatals. Continuing, it formed the source of strained labour relations in the nation's parastatals and it countered the efforts of ZIMASSET to create 1million jobs by the year 2018. Furthermore, termination on notice, unfair dismissal, no job security, the Labour Amendment Act, limitations on unionism and collective action and retrenchment without severance packages were all found to be effects of the ruling in the case of Nyamande and Anor V Zuva.

5.1.1 Termination on notice

Termination on notice was the most crucial effect of the ruling as it affected thousands of people. The research showed that a large amount of parastatals employees were retrenched on notice. The length of the notice was based solely on the length of one's contract and did not require any other consideration. Termination on notice was done usually in the form of a letter that was given out to those employees being terminated and the notice was effective from the time of delivery. The termination process cut out the rigorous aspects of firing an employee as there was no longer face to face interaction or even the need to warn employees beforehand.

5.1.2 Unfair dismissal

Many parastatals employees were left susceptible to wrongful or unfairly. In the case where bosses were vindictive they were able to fire individuals who did not deserve to have their employment terminated. In some cases where an employee made the employer uncomfortable even simply for wanting equal remuneration for their labour or even remuneration they were fired. This was mainly in the case of organisations that had gone lengthy periods without paying their workers whilst the employers received extravagant salaries that left organisations on the brink of collapse.

Continuing, the hearing process was cut out thus employees were no longer given the opportunity to be heard or even defend themselves in order to avoid termination their employment. Therefore a lot of errors in the decision making process in terms of firing were

allowed to slip through the gaps and many people have been dismissed where normally they would not have been. similar

5.1.3 No job security

The job security previously experienced by employees in parastatals who had cordial labour relations with their employers was stripped away by the ruling which left them vulnerable to unfair practices and subsequent termination for refusing to comply with the unfavourable conditions they were presented. Furthermore, contracts of employment were bypassed and no longer held weight hence no employee's job was safe.

5.1.4 The Labour Amendment Act of 2015

This was formulated due to the nature of labour relations as a result of the Supreme Court ruling. It was intended to limit the negative effects of the ruling, however, it was also a negative effect of the ruling as it left numerous gaps to be exploited by the employers. The Labour Amendment Act of 2015 quickly hindered the continuation of dismissal on notice, but did not hinder other injustices such as the stripping away.

5.1.5 Pay cuts

After the ruling termination on notice was the given standard of firing employees, this did not include any severance package or even retirement benefits for those who were approaching retirement age. Pay cuts were mainly in the form of a cut in benefits such as transport allowances and housing allowances. This affected the families of those who were laid off as well as in many cases in Zimbabwe the entire family survived off one family member's earnings.

5.1.6 Limitations on unionism and collective action

The employers had felt disadvantaged by the law in most cases thus they were elated by the judgement. Thus any worker who was actively part of a trade union was made an example of

hence the activities of workers unions shifted from being helpful to detrimental to the employment of workers. In this way collective action was restricted as well. Trade unions however, remained the most vocal on the unfair nature of the ruling.

5.2 Conclusions

5.2.1 labour relations problems are as a result of the ruling

Based on the research findings it is fitting to conclude that the ruling has a direct link on the labour relations within parastatals. This is made evident by the events that ensued soon after the judgement by Chief Justice Chidyausiku which included mass termination on notice and other injustices in terms of the treatment of workers within the work place. Furthermore, stakeholders play a major role in the manner in which labour relations are conducted thus their input is necessary even when forming guidelines for individual organisational labour relations.

5.2.2 High unemployment rates are linked to the ruling

The ruling has in the last year been the greatest contributor to the increase in unemployment rates within the last year as tens of thousands of unsuspecting employees were let go of by parastatals in a bid to reduce the number of salaries they have to pay. This is also linked directly to the economy which is on its knees and the menial amounts of money in circulation within the nation. Due to the fact that workers were going for extended periods without remuneration, this was a solution to the atrocities being committed by parastatals where their management received extravagant salaries while employees wallowed in poverty.

5.2.3 The Labour Amendment Act of 2015 was formulated to rectify problems caused by the ruling

The Labour Amendment Act was formulated as a means to curtail the effects of the ruling. This simply means that the Labour Amendment act of 2015 would not have been formulated if not for

the ruling which led to havoc within parastatals. A commendable measure, however its hasty formulation and implementation have rendered it less effective than it should have been. The new inclusions in the Act, however enable sound labour relations to exist, yet hindering separation of powers.

5.3 Recommendations

There are a number of recommendations that were brought to light because of the gaps in the research which are as follows.

5.3.1 Careful consideration of effects of rulings.

All aspects of employment that may be affected by future rulings should be taken into consideration, paying attention to what impact they will have on the nation as a whole. The judiciary should continue to serve its interpretive role within the state. However, any judgements passed must be explained in order to give understanding, as well as to avoid misinterpretation of what was meant , resulting in calamities within the labour relations sphere. Where effects are weighed, it is less likely for recurrence of the mass terminations, or other like phenomenon .

5.3.2 Efficiency of Acts should be a key concern

Zimbabwe is characterised by contradicting laws with many loopholes and policies that fall short in terms of how they are crafted. Where one law is in favour of an individual, another will be against. Therefore, it is essential to put into consideration if the act will at all be efficient and effective. Hence, policy makers should formulate these in such a way that they addresses all concerns that they are intended on addressing. When formulating an act to curtail the adverse effects of such a ruling it should be done with utmost prudence.

5.3.3 Impartiality and probity should be utilised by employers

Stakeholders should be able to be objective in their conduct thus avoiding wrongful termination. The upholding of good ethical conduct and use of company codes of conduct and ethics will ensure that termination without reason is not a feature of parastatals going forward. Probity should be possessed by employers as it will steer their conduct in the right way. Impartiality is also needed so that no bias is used when it comes to issues of labour relations between the employer and employee. Personal opinions formed about staff should not be used as the basis of retrenchment.

5.3.4 Government intervention should come when necessary

The government should intervene where issues are getting out of hand, as in the case of the mass terminations. This is especially important when the mass retrenchments compromise policies that government is trying to successfully complete, as in this case the ZIMASSET goal of job creation. Government also needs to play a more active role in the protection of the citizen, which it failed to do in a timely manner when people were being fired. Government intervention should be well thought out to avoid the intervention becoming a problem as in the case of the Labour Amendment Act.

5.3.5 Hasty Job Creation

ZIMASSET promises of job creation should be speed up as the national unemployment rate is very high. Although a number of employees were recalled by the organizations that had fired them, there are still so many people who were left unemployed. This is a disadvantage to the state as government is failing to obtain the money it would from taxation and the GDP is as a result suffering. It is wise for the government to therefore, speed up its processes.

5.3.6 Need for Trade Unions and Workers To Be Familiar With The Law

The huge amount of job losses could have been avoided if people were familiar with the law as they would be able to argue that termination on notice is only to be done in special circumstances. Employers took advantage of the lack of knowledge regarding these affairs.

Where one is well aware of their rights they are not likely to be susceptible to unlawful job termination, even if it comes under the auspice of lawful job termination.

5.3.6 Creation of application for termination procedures

It is necessary for employers to justify why they want to terminate an employee in a formal application the Minister of Labour, this should be done for all dismissals an employer hopes to carry out. This would prevent vindictive employers from firing workers who have not done anything to get fired, also it will create transparency within the retrenchment process which was clouded with secrecy and unscrupulous dealings. Furthermore, this will facilitate a job security as no one will be retrenched unless they are deserving.

5.4 Conclusion

The research carried out to find the effects of the Supreme Court ruling by Chief Justice Godfrey Chidyausiku in 17 July 2015 in the case of Nyamande and Anor V Zuva was conclusive. Through literature reviews, the literature gaps were brought to light as well as the manner in which the labour processes theory informs labour relations within parastatals. The effects of the ruling were brought to light, these included job loss which was an adverse effects, on not only those retrenched but also the economy. For employers however, the job losses enabled them to retain a workforce they had the capacity to remunerate, yet working for months without pay is still a characteristic of employment in the public sector. Pay cuts and a reduction in trade unionism were effects found by the study amongst others. The creation of the Labour Amendment act was the most momentous of the effects of the ruling as it took into account all the other effects of the court ruling and hankered to rectify where damage was done. It can be surmised that the effects of the ruling had positives, but were largely negative. the research tools used to get conclusive study results were most effective in carrying out their purpose. The qualitative research method ensured that the lived experiences of parastatal employees and employers were clearly presented and realised. The use of ethics in the research played a huge role in the conduct and overall participation by subjects, which made the study possible . Research questions which were the essence of the study were able to be answered at length in

this study. Recommendations provided will hopefully be taken into account by those who inform sound labour relations in parastatals, thus creating equilibrium once again. The study all in all was carried out to the best of the researchers ability and managed to bring about the desired outcomes answering the question what are the effects of the court ruling in the case of Nyamande and Anor V Zuva on labour relations in Zimbabwe's parastatals.

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APPENDIX A: INTERVIEW GUIDE

My name is Alinafe K. M. Seyani .I am a fourth year student at Midlands State University doing a BSc Honours degree in Politics and Public Management. I am conducting a research on **The effects of the Supreme Court ruling by Chief Justice Godfrey Chidyausiku in the case of Nyamande and Anor v Zuva on labour relations: the case of Zimbabwe’s parastatals**. Please assist by answering **all** the questions contained in this interview .Your answers will be treated with utmost confidentiality .Your cooperation is greatly appreciated with all due respect for the completion of this research. The researcher will also greatly appreciate your participation and support in this research endeavour.

1. Do you understand the meaning of labour relations?

.....
.....
.....

2. Do you understand what happened in the case of Nyamande and Anor v Zuva?

.....
.....
.....

3. What were the effects of the ruling on your organisation?

.....
.....
.....

4. Were the effects negative and how so?

.....
.....
.....

5. Did your organisation retrench any workers after the ruling and how many?

.....
.....
.....

6. If there are any other factors that led to these effects please explain them

.....
.....
.....

7. What effects has the Labour Amendment Act of 2015 have on the organisation?

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.....
.....

8. In your opinion, did the Act come as a result of the ruling?

.....
.....
.....

9. Offer suggestions on how to improve labour relations in parastatals.

.....
.....
.....

APPENDIX B: QUESTIONNAIRE

My name is Alinafe K. M. Seyani .I am a fourth year student at Midlands State University doing a BSc Honours degree in Politics and Public Management. I am conducting a research on **The effects of the Supreme Court ruling by Chief Justice Godfrey Chidyausiku in the case of Nyamande and Anor v Zuva on labour relations: the case of Zimbabwe’s parastatals**. Please assist by answering **all** the questions contained in this questionnaire .Your answers will be treated with utmost confidentiality .Your cooperation is greatly appreciated with all due respect for the completion of this research. The researcher will also greatly appreciate your participation and support in this research endeavour.

INSTRUCTIONS

- i) Tick [✓] where applicable.
- ii) Where spaces are provided, write your answers in the spaces provided below.
- iii) Do not write any names on the questionnaire.

Section A: Background Information

1 Gender

Female

Male

2 Department worked

Management

Administration

Other

3 Working experience

0-5 years

5-10years

11- 15years

15years and

above

4 Are you familiar with the ruling made on 17 July 2015 in the case of Nyamande and Anor v Zuva?

Yes

No

5 Do you understand what is meant by labour relations?

Yes

No

Section B : Effects of The Ruling

6 In your opinion did the ruling have an effect on labour relations of the organization where you work?

Yes

No

7 In your opinion were the effects mainly positive or negative?

Yes

No

8 Of the following indicate which have affected you or anyone you know who works at the same organization as you:

Job loss

Lack of job security

The labour amendment Act of 2015

Reduced unionism

Pay cuts or cuts in benefits

Dismissal on notice

9 List any other effects that you experienced that were not mentioned

.....

.....
.....
.....

10 In your opinion are there any other reasons that contributed to these effects?

Yes

No

Section C Degree of Impact of Effects

11 Of all the effects which impacted you most ?

.....
.....
.....

12 Why did the effect impact you more than the others?

.....
.....
.....
.....

Section D: The Labour Amendment Act

13 Since the inception of the Labour Amendment Act have you noticed any changes in the labour relations dynamic?

Yes

No

14 Were the changes positive or negative?

Positive

Negative

15 In your opinion did you gain job security after the Labour Amendment Act was implemented?

.....
.....
.....

Section E: Recommendations

What suggestions would you give to improve labour relations

.....
.....
.....
.....