

MIDLANDS STATE UNIVERSITY



**FACULTY OF ARTS
DEPARTMENT OF DEVELOPMENT STUDIES**

**RESEARCH TOPIC
THE UPHOLDING OF EMPLOYEE RIGHTS IN ZIMBABWE:
AN ANALYSIS OF THE PRIVATE SECURITY SECTOR FROM 2009- 2015**

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APPROVAL FORM

The undersigned certify that they have read and recommend to the Midlands State University for acceptance, research project titled THE UPHOLDING OF EMPLOYEE RIGHTS IN ZIMBABWE’S INDUSTRIES. AN ANALYSIS OF THE PRIVATE SECURITY SECTOR FROM THE PERIOD 2009- 2015.

Submitted in partial fulfilment of the requirements for the Bachelor of of Arts in Development Studies Honours Degree.

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DECLARATION

I TALKMORE FANUEL MAPFUMO, do here by declare that this dissertation is a result of my own investigation and research, save to the extent indicated in the acknowledgment, references and comments included in the body of the research, and that to the best of my knowledge, it has not been submitted either wholly or in part thereof for any other degree at any other University.

.....

.....//

SIGNATURE

DATE

DEDICATION:

*Special dedication to my mom Judith Jena the only person who could see the potential in me
when others saw a failure.*

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Above all I give thanks to God to whom I owe my life to.

ABSTRACT

This research seeks to examine the upholding of employee rights in Zimbabwe and to see what has been done to promote employee rights particularly in the private security sector. After there were widespread reports of unfair labour practices in the country with employers taking advantage of the economic crises in the country to abuse employee rights. The abuse of employee rights dates back to the colonial era and even after independence which had been achieved with the support of trade unions. Thus, a complete uphold of employee rights remains a pipe-dream. Employers' motives are driven by profit and employees' motivation is driven by salary maximization, job security and incentives. The failure to pay wages, forcing employees to work overtime, non-payment of terminal benefits, closing down of companies without paying terminal benefits and other factors constitute unfair labour practice. This research, therefore, is aimed at examining the major factors underlying the failure to uphold employee rights in Zimbabwe's industries and, later on, give suggestions and recommendations that can guarantee the upholding of employee rights. The research was qualitative in nature and focus and will use four companies that are in the private security sector and their employees as a case study. Information from trade unions and the National Employment Council – Security Industry (NEC-SI) was also used since these are the major players in the upholding of employee rights. Thus, their contributions played a huge part in the research. The outcome of the study will certainly contribute towards a panacea to the problems affecting the environment of work in Zimbabwe in coming up with measures and policies that address these challenges.

ABBREVIATIONS

AIDS	Acquired Immune Deficiency Syndrome
CBA	Collective Bargaining Agreement
HIV	Human Immune Virus
ILO	International Labour Organisation
NEC – SI	National Employment Council - Security Industry
PSWU	Private Security Workers Union
SAZ	Security Association of Zimbabwe
ZINSA	Zimbabwe National Security Association
ZISEGU	Zimbabwe Security Guards Union

CHAPTER ONE: INTRODUCTION

Chapter Overview

According to the Human Rights Bulletin (2015) “Workers' rights are work entitlements recognized by law and claimable by workers”. Workers’ rights were created with a mandate to protect the rights of every employee regardless of their backgrounds, obliging governments to respect, fulfill and refrain from violating employees’ rights whilst employers are obliged to provide decent work and adequate working conditions for their employees. World over employee rights are defined by the International Labour Organisation (ILO) and countries have signed a number of treaties, conventions and declarations to comply with the latter’s terms and conditions. Employee rights are observed under the Declaration on Fundamental Principles and Rights at Work (1998). Member states are obliged to ensure that ratified declarations are adhered to in their respective countries. In Zimbabwe the ILO’s declarations are recognized through the Ministry of Public Service, Labour and Social Welfare and the rights of employees are defined by the labour law that is regulated by the Labour Act [Chapter 28:01] and its amendment 19 of 2015. Employee rights are classified in the following four main categories:

- Right to collective bargaining
- Elimination of forced or compulsory labour
- Abolition of child labour
- The elimination of discrimination in respect of employment and occupation.

According to the United Nations Universal Declaration of Human Rights, employee (workers’) rights are also Human Rights; hence, every employee’s rights should be respected regardless of gender, ethnicity, color or race since workers should be treated equally. Respecting employee

rights improves the company's productivity and boosts the morale of the employees. Every employee is entitled to decent work and employers are obliged to follow the agreed minimum working conditions for the employees, thus upholding the workers' rights.

BACKGROUND OF THE STUDY

Back in the 90s until 2003 the Private Security employees lacked proper representation since the industry used to fall under the commercial sector. Their grievances were neglected or were not handled by people who had experience with the working conditions of the security sector. There was lack of experience and the collective bargaining agreements were negotiated hurriedly, thus failing to take into consideration factors that were affecting security employees. However, the registration of Zimbabwe Security Guards Union (ZISEGU) in 2002 the first trade union in the security industry followed by the Private Security Workers Union (PSWU) ushered a new future for the security guards who were working in the private security sector. Although there were trade unions representing workers in the Security Industry, the equal representation and the right to collective bargaining was not being observed since there was no Employment Council which would sit specifically to address the rights and matters of the security sector employees. It was only in June 2012, when the National Employment Council for the Security Industry was established, that the first statutory instrument for the security industry was enacted. This meant that the rights and grievances of the employees working in the Security Industry would be handled by a Board which was fully aware and experienced on issues that arose in the Security Industry, thus taking a positive step towards the upholding of employees' rights.

Therefore since the registering of a National Employment Council for the Security Industry by the Ministry of Public Service, Labour and Social Welfare in 2012, various changes, either positive or negative, have affected the upholding of employee rights in the Private Security Sector. There has been mass termination of contracts by employees, failure to pay minimum stipulated wages, non-payment of wages among other unfair labour practices and these issues have made the Security Industry one of the guilty of unfair labour practices.

PROBLEM STATEMENT

A number of unfair labour practices in the security sector have been reported to several trade unions, the Labour Court and to the National Employment Council and this has somehow helped to improve the employee rights in the private security sector. However, this research seeks to look at the upholding of these rights in several companies from the period 2009 -2015 and to look at how far the employers have gone in upholding the rights of the employees. The paper also makes a comparative analysis of the companies that are members of the two employers' associations i.e. Security Association of Zimbabwe (SAZ) and Zimbabwe National Security Association (ZINSA)

OBJECTIVES

- To examine the different legislation currently in place that seeks to protect employees' rights.
- To evaluate the efforts by Zimbabwean employers to uphold the rights of their employees.
- To highlight the role played by various trade Unions in protecting employees' rights.

- To analyse how employee rights can enhance the country's development.

RESEARCH QUESTIONS

- What legislation is currently in place to protect the rights of employees?
- What are the employees themselves doing to safeguard their rights?
- What is the role of trade unions in safeguarding the rights of their members?
- What can be achieved, in terms of development, by upholding employee rights?

THEORITICAL FRAMEWORK.

The sustainable development framework shall be used in this research to examine and assess the effectiveness of upholding the rights of employees to the development of a country economically, politically as well as socially. It shall also be used to assess its impact on employees in general.

Upholding of employee rights is a form of human capital development and encourages participation, transparency and accountability.

The Bruntland Report (1987) defines sustainable development as “a form of development which satisfies the needs of the present generation without compromising the ability of future generations to meet their own needs”. Thus, say development has to cater for the needs of the people today without affecting future generations' ability to develop in their own right. It has been realized that past development initiatives have flopped because the importance of people as a human resource has been neglected in the past. Thus, Amartya Sen, in his book, *Development as Freedom*, postulated his Theory of Sustainable Human Development (SHD). In other words, for development to be a success and sustainable, the top priority should be to enable people to develop their capabilities to the maximum

possible extent. Human development should be the primary, central and overriding concern in all development endeavors. According to Gutierrez.T (2011), Sustainable Human Development is “development that promotes the integral human development of each and every human person today without compromising the integral human development of people tomorrow”. According to the UNDP’s Human Development Report (2015), human development should focus directly on enhancing human abilities and creating conditions for their unfettered development in all its economic, social and political dimensions. Thus, upholding employees’ rights will ensure decent living, ability to live a long and a healthy life, full participation in issues that concern them politically, economically and socially

As a strategy, SHD is aimed at increasing productivity, improving the overall quality of life and not just increasing the gross domestic product, but must be people-centered and environmentally conscious (Dobbin et al, 1998). As a framework, SHD rests on four pillars (Kristen Rucki, 2014):

- SHD involves the prevention of deprivation of basic human needs.
- SHD involves the promotion of individual agency, equity and the opportunity for people to define and pursue individual values alone and within social groupings and organizations of varying size and scope.
- SHD involves the safeguarding of public, social and environmental goods over time and across locations.
- SHD involves resolving conflicts between competing interests and needs through the creation of cooperative social, political, economic and environmental institutions.

The issue of decent employment has so far been emphasized by the United Nations and is goal number eight on the current Sustainable Development Goals (SDGs) which were agreed on by United Nations member states in 2015. In this SDG goal, member states pledged to promote decent employment to the underprivileged for the next fifteen years.

It is of prime importance to recognize the consequential damage that can be inflicted on their workers if security companies fail to uphold the rights of their employees. The framework helps putting to conceptualize the impact of human rights abuse (unfair treatment at work) to sustainable human development.

The approach can be used by companies to plan sustainable ways of boosting their productivity and boosting morale of their employees. It improves accountability and transparency as well as the social life of the employees in general. The awareness campaigns and advocacy programs that are held by Trade Unions and various non-governmental organisations should be seen as key initiatives in support of the development of employees in general since these actions provide knowledge to the employees pertaining their rights.

Giving employees various employment benefits, like gratuity and severance packages, encourages employees to remain in one job, thus improving the quality of work rendered to the company. Job security also boosts the morale of employees, thus increasing social capital for the company and a sustainable livelihood for the employees. Decent work ensures human social security both for the employees and their dependents thus ensuring sustainable development for the employees and the country as a whole. Better wages ensure economic independence, enough for the family to have decent shelter, health, better education, and food security,

INSTITUTIONAL FRAMEWORK

Labour Act: This act defines the rights of every employee in Zimbabwe. Recently the Act was amended (in August 2015) to address the issue of termination on notice. In the security sector, the Labour Act is used together with the Collective Bargaining Agreement Statutory Instrument 76/2013 (S.I 76/13). The statutory instrument is negotiated every year to determine the working conditions of employees and also to review wages and salaries. Wages are negotiated for a decrease or for an increment depending on the performance of the economy every year.

Trade Union: An association that represents, protects and promotes the rights and interests of both the employees and the employers. They represent the interests of their members at all levels. Trade unions formation and operations are backed by legal instruments, notably the constitution, Labour Act and statutory instruments and mass action in the form of strikes and stay away as the last resort when negotiations reach a deadlock. They use the Tripartite Negotiation Forum (TNF) with the Government as the regulator and employer and the employers as stipulated in the Kadoma Declaration. The existence of trade unions in Zimbabwe has enhanced the bargaining position of employees who, during the colonial and post-colonial era were deprived of their rights. The workers' trade unions that are predominant in the Security Industry are the Zimbabwe Security Guards Union (ZISEGU) and the Private Security Workers Union (PSWU). The employers are represented by the Security Association of Zimbabwe (SAZ) and Zimbabwe National Security Association (ZINSA).

National Employment Council: This is the Board comprising both employees' and employers' representatives to discuss all issues of concern in the industry. The Council is responsible for negotiating working conditions and remuneration of the employees. Different trade unions are represented in the board and the executive members are selected via elections.

Collective Bargaining: This is a process of negotiation between employers and representatives of employees' trade unions aimed at reaching agreement to regulate or improve working conditions. The interests of the employees are commonly presented by representatives of their trade union. The collective agreements reached by these negotiations usually set wage scales, working hours, training, health and safety, overtime, grievances' mechanisms and the rights to participate in workplace or company affairs.

Unfair Labour Practices: This is term that used to address the abuse or suppression of workers' rights. It involves the failure of employers to pay their employees the stipulated minimum wages, failure to pay salaries, child labour, working without paid overtime, working without vacation and unfair termination of contracts. Unfair labour practices will constitute the theme of this research to see how far employers have gone in trying to eliminate unfair labour practices; what impact the effort has made so far to the employees' livelihoods as well as to the political, social and economic development of the country in general?

JUSTIFICATION OF STUDY

This research was motivated by the desire to examine the livelihoods of security guards in Zimbabwe and to see how their rights are respected by employers. Many researcher tend to give a blind eye on their welfare despite the fact that the sector employs some of most vulnerable groups in the society. A little has been done to address their problems despite the fact that they

risk being manipulated every day. The analysis was therefore a comparative analysis of the companies that are coming from the two employers' associations (SAZ and ZINSA) this was because many of the companies are members of any of these two associations. This research is also of importance to NGOs involved in Labour issues and the betterment of employees in general particularly their welfare as it will help them in formulating projects that can empower employee rights. Academics can use this research in understanding and knowing the problems that are facing employees in Zimbabwe. The government will use this research in formulating policies that seek to empower employees and help promote employee rights, promote equality and help develop

RESEARCH METHODOLOGY

Research Design: This research was to a large extent based on qualitative research though, on matters that require statistics, the quantitative research technique will be used. Qualitative research methodology is a more exploratory method that provides deep descriptions of how people experience a given research issue (FHI, 2006). It enabled the researcher to have enough knowledge on matters that were evolving in the security industry from the period 2009- 2010. Also qualitative research allowed the researcher to have a deeper understanding of the problems that are faced by employees on their day to day activities.

Quantitative method was also used in the research to gather statistical evidence and to compare trends of events in the security industry. During the research the open-ended format questionnaires and closed format questionnaires were used as a way to gather data from different target groups, thus improving the quality of the research.

Various sampling methods shall be applied, especially the stratified sampling method, since the research is based on a particular study. The quota sampling shall also be used to improve the quality of this research given the fact that there are more than ten private security companies operating in the country.

Collection of Data

In this research various data collection techniques shall be used. These methods enable us to systematically collect information of our subjects of study i.e. people, objects and phenomena (IWSD, 2001). It will be risky for the researcher to use one method to collect data because all the different techniques have their advantages and disadvantages. So to come up with an unbiased and rich product, this researcher will use the following data collection methods:

Interviews

This is an arranged technique that is arranged and followed when addressing a topic. Although it is arranged it allows the researcher to get an extra understanding on the subject. (Stuart MacDonald & Nicola Headlam, 2008) Are of the view that it allows flexibility that allows the researcher to get an in depth understanding of the interviewee's response and therefore develop the themes as they arise. Therefore during the research semi structured interviews were used and were more relevant. They allowed the researcher to get in touch with reality. During the research employees from four security companies were interviewed, the workers from the two main trade unions in the security industry (ZISGU) and (PSWU). There was also a visit to the NEC-SI where the designated agent was interviewed.

Available Information: This is the available information that has been gathered by previous writers and or researchers on issues to do with labour rights. These include Trade Unions, the Ministry of Public Service, Labour and Social Welfare the International Labour Organisation sources. On issues involving statistics, the researcher reviewed reports that were produced or gathered by the Labour and Economic Development Research Institute of Zimbabwe (LEDRIZ). This information was used to deepen the understanding of the problems that are faced by security guards. It provides valuable cross-validation of other measures, either in support or disconfirmation. Major contributors to workers' rights are another source of available information or data. Available information was essential in this research in the sense that it was inexpensive and easy to access. It allowed the researcher to cross-examine trends of events in the past, thus improving the quality of the research. However, the information was not easily accessible due to ethical issues of confidentiality, not precise and sometimes the information was incomplete, outdated and thus it became irrelevant to the current study unless it is backed by other data collection techniques

DATA COLLECTION

SAMPLING

The security industry has about 330 companies that operate within it. The biggest employing close to 8 000 employees and the smallest one employing 2 employees. With this large number it is impossible to interview every employee from every therefore only a sample size was used to represent the views from other employees. Sampling can be generally defined as an act of selecting a part from a whole for the purpose of providing insight on the characteristics of a whole (Fridah, 2002). Since companies are represented by two major associations two companies

from one association were selected. This sampling of participants was therefore important since it served time and resources during the research.

PURPOSIVE SAMPLING

Purposive sampling is one of the most common sampling methods used in researches. "... of the most common sampling strategies, which groups participants according to preselected criteria relevant to a particular research question (FHI, 2006). It is flexible for data collection due to the limited resources that were available during the research. It proved much use to the study as it enabled gathering of information against the allocated time to gather data for the topic of study. It also allowed the researcher to gather data from the "relevant respondents saving time and resources" (FHI, 2006).

TARGET POPULATION

In 2008 according to Mariwo (2008) the security industry had a population of approximately 65 000 employees. Zinsa and SAZ are the biggest associations in the sector. ZINSA members are mostly indigenous companies that operate under the small and medium enterprise ministry whilst SAZ members are companies that operate under large scale. Due to the size of the sector companies were chosen from each association (Safeguard, Securicor representing SAZ whilst National Eye and Professional Security represented ZINSA). These companies were therefore used for purpose sampling.

ETHICAL CONSIDERATIONS

The researcher will seek permission from the authorities of every company that shall be visited, accredit the information that shall be received from various Trade Unions and the N.E.C.S.I.

Privacy and confidentiality are of major concern to this research since it will affect the operations of many companies in this sector. There is fear of workplace victimization of the employees by the employer thus making it difficult for the interviewed employees to participate freely.

The researcher has to assure the participants that the information they are giving out will not reach the employers thus if the research is going to be successful. The people who are interviewed are therefore protected and will not cite their true names and the companies they work for.

In an effort to avoid plagiarism the researcher has to cite every piece of information that shall be acquired from published sources.

LITERATURE REVIEW.

Currently there are no universally-accepted statistics on the unemployment rate in Zimbabwe. Various organisations have given different statistical reports, with the Zimbabwe Statistical Agency claiming the rate is at 65% currently. Nango placed the figures between 80% and 90% (Africa Check, 2014). According to a research paper by (Mariwo 2008), even though the unemployment rate in Zimbabwe is so high and many companies are closing, the Security Sector has so far remained one of the biggest employing sectors in the country with a total figure of more than 65 000. Although the Security Industry provides mass employment for the population

in Zimbabwe, it has so far remained one of the worst industries in terms of unfair labour practices. Researchers need to examine the major factors that have contributed to these unfair labour practices.

Today desperate job seekers accept anything that is offered by the employer regardless of its effects to their rights as employees and as humans in general. According to the Zimbabwean constitution protests are legal and they serve a purpose of articulating the demands of employees, according to the Zimbabwe “court of public opinion”, the channel of protests has not yet yielded the anticipated results. Since the trade union movement has been divided, resulting in many splinter groups sprouting in the security service sector, several trade union groups operate but are not effective and have failed to deliver.

There has also not been a clear distinction between trade unions and political parties. When one trade union negotiate seems it will be campaigning of one political party and today trade unions have ceased to talk with one voice thus “their effectiveness in both thought and action is questionable concerning workers representation due to marriage between unionism and politics in Zimbabwe amongst different variable” (Mhizha 2015)

Zimbabwe is a signatory to 28 ILO Conventions, including the Fundamental Principle and Rights at Work, which was declared in 1998 by member states of the International Labour Organisation as a measure to curb the abuse of employees at work and as a way to promote decent work for everyone who has a job. In Zimbabwe, these declarations will not automatically become effective unless they go through a legislative process (through the parliament). Once debated in Parliament through both houses it becomes a Bill which will be signed by the President to become an Act. (Mariwo 2008) states that although the government has ratified and domesticated

some ILO Conventions, their implementation in the private security industry remains a major challenge. Many of the unfair labour practices like labour inspection, occupational safety and health, weekly rest, equality of treatment (for men and women in the sector in terms of promotion), payment of minimum wages and freedom of association have failed to be recognized by the employers.

According to Mariwo (2008) the majority of the employees in the security industry are failing to provide basic human needs i.e. decent shelter, education, health support and enough food. This is so because the employees receive wages that fall below the poverty datum line. The failure to adhere to the current Collective Bargaining Agreement is also a contributory factor therefore it is of high importance to uphold employee rights if decent work is to be achieved

CHAPTER TWO: EMPLOYEE RIGHTS IN ZIMBABWE A GENERAL OVERVIEW

Chapter Overview

Upholding employee rights is important to any country since it is associated with many benefits that facilitate to the development of a country. Investors may reasonably conclude that governments that do a poor job in protecting labour rights will also fail to adequately protect the rights of capital owners. This was reinforced by the World Bank in 2003 saying laws that are not uniformly enforced raise the possibility that selective enforcement may be used for strategic purposes to accomplish protectionist objectives. This therefore shows that failing to uphold any human right including employee rights chases away Foreign Direct Investments.

This chapter focuses on the upholding of employee rights in different industries. Checking the most abused employee rights in Zimbabwe between the periods 2009- 2015. It will also focus on the work of the courts in upholding employee rights, the work of trade unions and the different legislations that are in place to promote and protect employees from unfair labour practices

Nature of employment in Zimbabwe

An employee according to the business dictionary.com is “an individual who works part-time or full-time under a contract of employment, whether oral or written, express or implied, and has recognized rights and duties”. This therefore shows that employees whether fixed term contract or permanent workers are all eligible to employee rights.

Employment in Zimbabwe is based on written contracts mainly although there are some elements of oral contracts especially among small and medium enterprises. There two types of employment contracts that exist in Zimbabwe i.e. fixed term contracts (casual labour) and permanent contracts. According to the Labour Act both of the employees are entitled to equal rights. However since the dollarization companies in Zimbabwe have resorted to higher their workers on fixed term contracts that are renewed in different intervals. Therefore some illiterate employees are misinformed that they are not entitled to equal rights with permanent employees. Company owners take advantage of the illiterate and misinformed workforce to abuse their rights and unfairly treat them at work.

Although being employed does not guarantee an escape to poverty, workers can contribute to the immense development of their households, community or the whole country. Melamed et al (2011) in an ILO report claimed that as many as 40% of workers are poor, not earning enough to keep their families above the \$2 a day poverty line. However an employee who has a **decent job** can contribute to development in different levels of the society. To the family the wages earned cater for the basic needs like health security, food security, education, social security and shelter. The availability of these promotes sustainable development since it reduces the work of the government and the dependency syndrome. High employment rate promotes development vis-a

vis therefore employment can be a strategy to reducing poverty and also a means of improving economic performance. Thus it is of paramount importance to promote decent work for all.

Decent work

Work should be a key to escape various social insecurities which befall persons due to the unavailability of choice and access to opportunities that result in disempowerment. The ILO Philadelphia declaration of 1944 declared that labour is not a commodity that can be negotiated for the lowest or highest price or highest profit and is part of everyone's daily life and is crucial to a person's dignity, well-being and development as a human being (ILO 2016). Work must be able to bring decency and dignity to an individual thus ILO today makes decent work the major goal to achieve the Sustainable Development Goals. Decent work includes rights, social protection, employment and the promotion of social dialogue, applied in an integrated manner (OECD, 2012).

The main purpose of decent work is its empowerment purpose in helping readdress the once existing disparities in the economic, political, and social aspects of life. Decent work for all can be achieved by respecting existing labour laws that exist either internationally or nationally.

It is every employee's fundamental right to be provided with decent work, be treated fairly, with respect and with dignity. Decent work not only encourages high productivity but also assures sustainability of the worker and his or her dependences. Bin Demas minister of Labour in the United Arab Emirates (2016) said that comprehensive sustainable development is not possible without providing decent work and eliminating all forms of discrimination. He further alluded that decent work and protecting workers wellbeing constitute a pillar for sustainable development hence the importance of promoting employee rights to assure development. Decent

work is promoted by making sure employees receive fair income, security in the work place and social protection families, better prospects for personal development and social integration.

Luebker (2008) alludes that the decent work concept embraces the multidimensionality of what makes for a good job:

Decent work is productive and delivers a fair income, security in the workplace and social protection for families as well as allowing people to express their concerns, organize and participate in the decisions that affect their lives.

Trade Unions and their work in promoting employee rights

According to the Zimbabwean 2013 constitution every employee (except the members of the security sector) has a right to join, form a trade union and participate to its activities at his or her own interest. Madhuku (2009) propounds that the right to participate in trade unions activities are protected by the Constitution and the Labour Relations Act. Thus this is a sign that employee rights in Zimbabwe are protected and are achievable. The constitution and the Labour Act gives the employers' and employees' organisations the right to negotiate and collectively bargain, organize and join federations which has resulted in formation of some of the prominent organisations in the country. In Zimbabwe the most popular trade unions are the Zimbabwe Federation of Trade Unions (ZFTU) and the Zimbabwe Congress of Trade Unions (ZCTU). World over trade unions are popularly known for advocating for employee rights and these two organisations mostly specialize in advocating for the full implementation of the labour act. Through their various affiliates they represent employees from all sectors. They lobby for labour reforms, advocate for better working conditions and also educating the employees on their rights.

Lobbying was the major role that was played by trade unions in between 2009- 2015. Trade unions through demonstrations, picketing and workshops influenced the government to change various laws and policies that were failing to promote employee rights. The most popular were the August 2015 demonstrations that were organized by the ZCTU against the Nyamande and Donga vs Zuva Petroleum Supreme Court Judgment of July 17 2016. The demonstrations that were carried out in August 2015 together with seminars pressured the Parliament to amend the law that had existed for more than two decades. The Chidyausiku judgment passed, led to the mass termination of contracts leaving more than 20,000 people jobless (The News Day 2015) and with no enough income to cater for their livelihoods. The ZCTU also has been lobbying for the removal of repressive laws like AIPPA and POSA. The two laws hinder the right to freedom of association which is a barrier to the promotion of employee rights.

Trade Unions also play a role in representing their members whose rights would have been infringed. This is done through representing workers in hearings whenever an employee is charged in any offense. Representation promotes the right to justice and fair disciplinary hearing which in return can promote human rights for all. Whenever an employer feels that the employer has committed an offence at work the employee deserves a fair hearing where he/she is represented by a labour expert of choice. Trade unions also promoted employee rights by representing their members in arbitrations and labour court hearings thus a fulfillment to the right to administrative justice.

The trade unions played a huge part in promoting employee rights by educating the employees on their rights and new laws that concern them. From 2010 trade unions embarked on massive shop steward seminars training and teaching employees how to protect their rights, how to identify unfair labour practices at work. This move was done to educate employees who for long

were being ill-treated at work and being neglected. In 2015 the ZCTU embarked on an education scheme to educate employees on the **Labour amendment Act No-19 of 2015**. This was done to ease the panic that had rocked fears among a number of employees around the country.

Therefore the trade unions can be credited for their work in promoting fair labour practices and decent work. In 2015 alone through its affiliates the ZCTU conducted more than 52 shop steward seminars and indabas while the ZFTU with its affiliates conducted close to 35 shop stewards seminars. This show how important is the role of trade unions in upholding employee rights.

Their work today has however been compromised by their involvement in the politics of the country. Both of these union federations are accused of furthering agendas of a certain political party thus today their works have lost impact in upholding employee rights. Instead of them fighting for a common cause they seem to be campaigning tools to their political parties. Thus one will call for an industrial action to force payment of wages the other will call for another approach which at the end of the day will result in “disorganized labour”. Mhizha (2015) asserts that the government regarded ZCTU and PTUZ as a wing for opposition political party MDC. In return to this the ZCTU accuses the government of sponsoring ZFTU to derail its efforts to fight for employee rights. This has therefore divided the efforts to fight for employee rights in Zimbabwe.

Nature of the security industry in Zimbabwe

The security industry is considered one of the fastest growing sectors in the country today as the economy is faced with mass closure of companies since 2005. Its growth intensified because many companies have been closing and desperate individuals now resort to any form of employment that can produce income. The industry mainly does not require a professional skill

except for a few positions in the alarms department, information transmitting desk and managerial post (Mariwo, 2008). The sector is also growing because is a parasitic sector that exist on the survival of other sectors. The high need to protect assets of many companies, individuals and organisations has also influenced its growth. Thus the sector's existence is controlled by the performance of other sectors. Security companies offer their services ranging from the business centers, factories, embassies, car parks and private homes.

In the past employees who were employed in this sector were pensioners from the army and the police with an exception to other few individuals who were neither of pensioners nor ex-police nor ex-soldier. Employees who were employed in the sector were mostly those who were hopeless, uneducated and who cared less for a status quo. Today the sector accommodates everyone since the country is faced with high unemployment rates and has left both skilled and unskilled labour looking for any employment that would bring income to the sustenance of the household.

The job was regarded as a low level job that would accommodate desperate uneducated jobseekers since the job doesn't require any profession or skill except physical fitness and an individual's ability to quickly respond to a whistle. Majority of the people in the industry according to interviews conducted are less educated with majority of them having reached ordinary level or less.

Individuals in the industries were nicknamed "mahobho" and this made them vulnerable to discrimination in both their communities and the workplace. Security guards were labeled as second class citizens who do not need to be respected and this intensified the unfair labour practice in the private security sector. This whole scenario made employers not to respect the

rights of employees since they were treated as ignorant and less educated. This nature of the security industry contributed to the unfair labour practices that exist today in the industry.

Employee rights in Zimbabwe from 2009-2015

In the Zimbabwean Constitution employee rights are acknowledged under Section 24 which states that

“ (1) The State and all institutions and agencies of government at every level must adopt reasonable policies and measures, within the limits of resources available to them, to provide everyone with an opportunity to work in a freely chosen activity, in order to secure a decent living for themselves and their families.”

The Zimbabwean Constitution further states that institutions and government agencies must endeavor to secure full employment, the removal of any restrictions that prevent people from working and the implementation of measures such as family care that enable women to enjoy a real opportunity to work. It further emphasises on the right to human dignity; freedom from forced or compulsory labour, the right to equality and nondiscrimination freedom of assembly and association, freedom of profession, trade or occupation; labour rights; and right to administrative justice (Human Rights Bulletin, 2015) which were enacted in the new constitution to promote decent work for employees in general and to remove any form of discrimination.

Employers in Zimbabwe however are still behind when it comes to providing decent work for the employees. Employees from 2009 have gone for six to nine months without receiving their salaries and the employer still demanding them to come to work. In a survey conducted by LEDRIZ in 2015 on 442 companies, showed an estimated 80,000 workers had not received their

wages and benefits on time (Muchichwa, 2016) and this is in violation of Section 13(1) of the Labour Act.

The right to remuneration of work guarantees the worker equal payment for the work done however some employers in Zimbabwe failed to pay stipulated minimum wages or have been paying their employees a portion of their salaries “In some cases, workers have had to survive with their earnings in arrears for months or even years. In other cases, wages are inadequately paid in kind rather than in cash, with consumer goods or even alcohol” Muchichwa (2016).

Employers have since the dollarization failed to pay the stipulated minimum wages thus a failure to promote decent work. “ The inability to support one’s family through work gives rise to shame, embarrassment and loss of dignity” Gebre (2015) The wages should be able to provide food security, maintain social security and adequate health for the employee but since 2009 majority of the employees have failed to attain these thus a failure by employees to uphold employee rights. Failure to receive wages on time is an abuse to employee rights. A job means little more than the wages that cover food and shelter, but it can also be a means to better life for the worker or her children. Wages should therefore be able to meet the basic needs of the employee thus if sustainable development is to be achieved.

Every employee has a right to dignity at work: this means every employee should be free from bullying, harassment, discrimination and if an employer fails to guarantee his or her employee this right, it becomes an unfair labour practice. Female employees are sexually harassed by their superiors and this has continued without check. Security officers are popularly known for asking sexual favors to their subordinates as a payment to get employment or to keep your job. This is rampant in the security industry where majority of the employees are on fixed term contract with contracts renewed in intervals of twenty four months, six months or three months. It is the

desperate move to get your contract renewed that makes female security guards vulnerable to sexual exploitation. Thus the security officers lure their subordinates to sleep with them in return of contract extension.

Company closure has also contributed to the failure in upholding the employee rights in Zimbabwe. According to the ZCTU In 2013 alone more than 75 companies closed shop laying off duty more than 9,000 workers risking the job security of employees in Zimbabwe. Employers in Zimbabwe have so far taken advantage of the economic crises in Zimbabwe, they liquidate their companies in order to escape paying their employers the wages they owe them. Every time a company was closing the employees risked not getting their salaries and other terminal benefits. At the closure of a company it is the employees that suffer most and in most cases the employer sells the company properties or change ownership before the company closes by the time the company liquidates employees had nothing to attach to compensate for their benefits. When employees were robbed off their labour the justice delivery system was slow in giving judgments.

The justice delivery system in Zimbabwe is too long and trade unions were always accusing the whole process from the NEC conciliation, Arbitration and the Labour courts. “the labour arbitration system in Zimbabwe is largely ineffective due to reasons of prohibitive costs, complexity of procedures and the perceived incompetence of arbitrators” Duve and Maitireyi (2011) this suppresses the employees right to administrative justice. By 2015 the labour court was only situated in Harare and Bulawayo and only goes to other cities and towns as a mobile court. This on its own is a reflection of mal practice and judicial miscarriage thus contributing to the unfair labour practices between 2009 and 2015. Until 2015 some cases that were referred to

the labour court in 2012 were still to be heard before a labour Court judge and some of the employees have so far lost hope in the whole practice.

Employees also have a right to Freedom of association and collective bargaining: the process of collective bargaining promotes participation workplace, and employer motivation whilst freedom of association allows employees to be members of any trade union, workers committee or any employee organization. Working conditions, wages and other workplace politics are negotiated at shop level but employees can choose to invite a trade union official to assist on various issues that require labour expertise. In the security industry trade unions negotiate on behalf of the employees for minimum wages, code of conduct and working conditions for the whole industry. Kucera in *Aligning Rights and Interests: Why, When and How to Uphold Labor Standards* (2013) is of the view that collective bargaining leads to greater, political and social stability which in turn contributes to collective bargaining. The World Bank (2005) asserts that freedom of association and collective bargaining can lead to better labour-management consultation and cooperation, thereby reducing the number of costly labour conflicts and enhancing social stability. This right is however compromised by employers who use workplace victimization to victimize employees who are members of the workers committee or a trade union. Workplace victimization on its own is against our ethical norms, it induces fear in the employees and make the right to collective bargaining unattainable. Workers committee members who are too vocal are threatened with hearings every now and then, they risk termination of contracts, late payment of salaries. This is however contrary to the loyal employees who get new and better uniforms, promotions, salaries earlier and some extra favors for their silence.

The **Labour Act Chapter 28 [1]** and a CBA (Statutory Instrument) are in place to guarantee the rights of employees in Zimbabwe in general. Employee rights and mandates are stated in the Act

whilst working conditions for a particular industry are defined in the CBA and in the Security Industry there is the Statutory Instrument. Any violation or abuse of workers right as well as unfair labour practice is defined in the Labour Act. After the 17 July Chidyausiku Judgment of Don Nyamande and Kingstone Donga vs Zuva Petroleum which saw the more than 20, 000 workers losing their jobs in a space of 21 days. This was a judicial miscarriage as many labour experts viewed it and it led to the immediate amendment of the Labour Act by the Parliament which brought the **Amendment Act No 19 of 2015** into law. Both the Amendment Act as well as the Labour Act work to define any unfair labour practice. The amendment was done as a way of addressing the irregularities that existed in the Labour Act. Whilst the Parliament amends the Labour Act the Collective Bargaining Agreement is amended by members of the employment council of that particular industry.

CHAPTER THREE:
THE UPHOLDING OF EMPLOYEE RIGHTS IN THE PRIVATE
SECURITY SECTOR FROM 2009-2015

Chapter Overview

The study shows that the upholding of employee rights in the private security sector is still far from being realized. This has been caused by the economic crises that rocked the country from the period 2009-2015. Economic crises led to the non-payment of wages especially during the years 2013 and 2015 as indicated in the research. The non-payment of wages was the major unfair labour practice which certainly jeopardised any other attempts by employers to uphold employee rights.

Employees were victimized for their efforts to join a trade union or to report any unfair labour practice. Some have lost hope in the dispute resolution system since it is time consuming and expensive. The study revealed that employees have so far lost hope and have chosen to accept the unfair labour practices.

However, these unfair labour practices create an unsafe environment for a lot of the employees and limits employee participation which is a hindrance to development. Workplace democracy is important since it removes autocracy and promotes freedom to all employees. Thus the importance of upholding employee rights.

This chapter will focus on the various researches that were conducted by the researcher in the private sector. The chapter will bring out the problems that are faced by the private security industry in trying to promote employee rights. It will focus on the major unfair labour practices

that befell the private security industry during the period of 2009 to 2015. The chapter will also look at what stakeholders in the industry have so far done to promote employee rights.

Dispute resolution in the security sector

In the security sector there are two types of conflicts that arise and they are solved in different ways. There is the dispute of interest and the disputes that arise over the code of conduct.

Disputes that arise over the code of conduct are those that emanate from failure to honour the provisions of the Collective Bargaining Agreement (CBA), for example sleeping on duty, reporting late for work, carrying a cellphone to work (some companies do not allow cellphones at work like Securicor Guard Services). They are mainly conflicts between the employer and the employee. Nangati (in Mariwo, 2008) is of the view that “offences under the Code of Conduct are difficult to avoid due to the nature of working conditions”. They are difficult to avoid because they emanate from problems that are linked to the working conditions experienced by an employee, for example overwork will result in employees sleeping at work, non-payment of allowances like transport allowance will result in the employee reporting late for work or sleeping on duty due to the distance walked to work. However, disputes over rights or interests are grievances that arise when an employee’s rights have been abused or when a certain right is deprived. These include non-payment of wages, non-payment of overtime worked, and non-issuance of adequate uniforms.

The disputes that arise from the Code of Conduct, according to Mariwo (2008), are solved starting from the shop level where a DA investigates the dispute and comes up with a decision.

The shop level DA is selected in consultation with the works council to remove any form of bias. If the employee is aggrieved with the decision made by the DA he/ she has the right to write to the appeals committee. The appeals committee in most cases hears cases of members of staff from

the Human Resource Department. Although the committee exists in name, it does not exist in practice. Employers normally have a tendency of ignoring the appeals committee. One employee from Safeguard said that once the management has made a decision to dismiss you, your appeal is of no relevance since the appeals committee exists in name only. If the appeals committee fails to deal with the case to the fulfillment of one aggrieved party, the case is taken to NEC for conciliation where the DA presides over the case. If the parties are aggrieved again, the matter is taken to the NEC negotiating committee. Once the parties fail to reach an agreement the dispute is taken to the Labour Court for determination and the judge will pass a judgment or order.

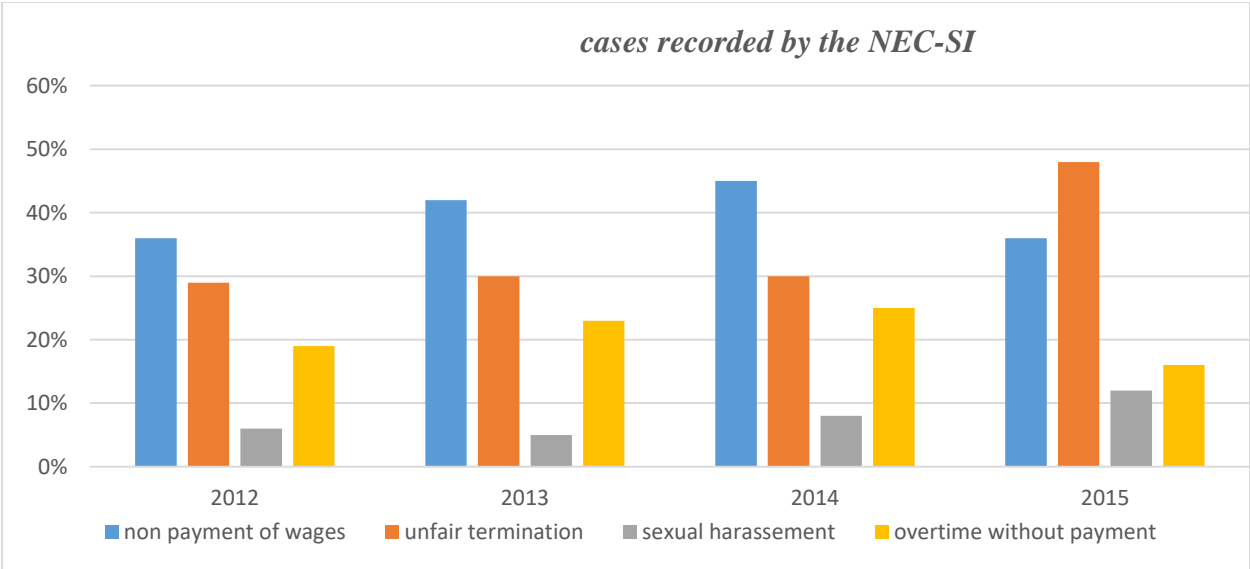
Figure 1: stages in settling disputes that rise from the Code of Conduct.



Disputes of interest or right are reported directly to the NEC by the aggrieved party were both parties are summoned for a Conciliation by the NEC designated agent. The parties have 30 days to agree or disagree but due to shortage of staff at the NEC disputes can take up to 90days. Once parties agree a certificate of settlement is signed. Failure to agree will result in the signing of a certificate of no settlement which is referred to an arbitrator. The arbitrator listens to both parties

and awards a determination. The arbitrator’s award is final and can only be appealed at the Labour court. Most employers have a tendency of ignoring an award because it is not enforceable until it is registered at the Labour Court. This therefore gives employers opportunity to continue violating employee rights since the whole process is long and time consuming. Some employees give up at NEC level since the dispute resolution system is too long and requires a lot of travelling which sometimes will jeopardies the employee’s work. This therefore make the upholding of employee rights in the private security a pipedream.

Unfair labour practices in the private security sector



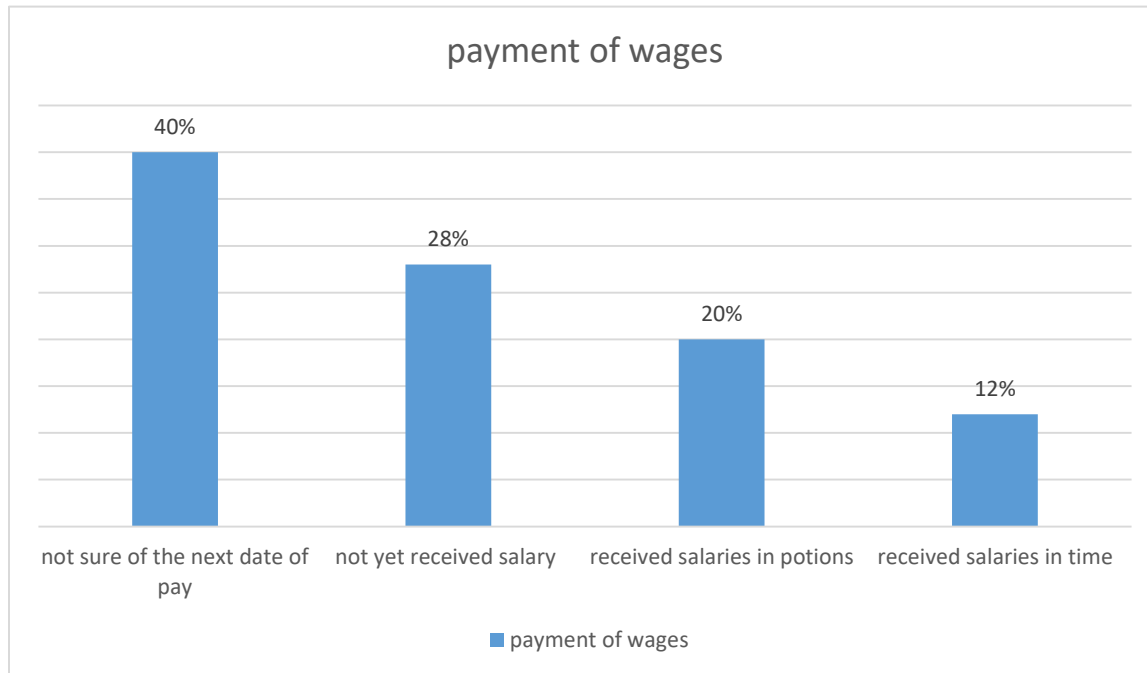
The chart above shows a trend in the unfair labour practices that occurred over the period 2012 – 2015 when the NEC- SI was established. Of all the cases that were solved at NEC level it was clear that nonpayment of wages and unfair termination of contracts were the mostly reported

cases. These cases dominated because of the economic crises that befall the country over the period.

Among the interviews that were carried out at the two main trade unions in the industry and the NEC-SI showed that cases of nonpayment of wages were the dominating unfair labour practices in the industry during the period of study. Nonpayment of wages constituted more than 50% of the cases that were being reported every week and this continued for over four years. From the interviews that were conducted, the NEC-SI claimed that majority of the companies were failing to pay their employees with many of the employees now having salary arrears of up to 8 months.

The years 2013 and 2015 were mostly affected with the nonpayment of wages more than any other years and were motivated by the economic meltdown that was experienced in the country during the years. However the employees argued that their employers were taking advantage of the popular outcry over the economy failing to pay them in time. Trade unionist accused by employers for embarking in office refurbishments and buying expensive vehicles at the expense of their employees and this unfair labour practice is popular in the security industry. This act of failing to pay wages was contravening the provisions of the Labour Act and Zimbabwean constitution which states that an employee shall receive

Figure 2



The graph above shows the rate at which employees in the private security industry were receiving their salaries. The interviews were conducted on employees from 4 different companies. The interviews indicated that more than 40 % were not sure when they will get their next pay since pay dates were changing randomly. About 28 % claimed they had one or more months without receiving their salaries, whilst more than 20 % claimed they had received their salaries in bits and pieces for more than a year now. Only 12% indicated that they had received their full salaries although they were not certain if when they would get their next salaries. This had continued since the beginning of 2013 and the employees expressed fear over the continuous nonpayment of wages.

The number of cases of sexual harassment were hardly reported because the employees were too scared to lose their jobs. The sexual harassment cases that were reported were from those employees who would have already left work in most cases and this would always make the

cases uneasy to tackle. Among the women who were interviewed claimed that cases of sexual harassment were high especially to women who work on night shifts and supervisors were the major perpetrators. The offense of sexual harassment is defined an unfair labour practice in the Labour Act and it falls under the Code of Conduct which the perpetrator is automatically dismissed. In the interviews conducted Securicor claimed to have dismissed 8 security officers for sexually harassing their subordinates since 2009 and the highest ranking officer to be dismissed was a chief security officer. “The weakness is that the Labour Act and the CBA do not provide specific guidelines for dealing with instances of sexual harassment which makes it difficult for women to report their cases” Mariwo (2008) and it rest upon the company’s decision to deal with the perpetrator thus some of them go unpunished thus making it difficult for the next victim to report the sexual harassment.

Unfair termination of contract was highly reported in 2015 after the 17 July Supreme Court Judgment between Don Nyamande and Duva vs Zuva Petroleum. Although many sectors were affected by the judgment the security guards were already victims of this unfair labour practices due to the fact that the sector is dominated by fixed contract workers. Interviews conducted in this research state that the security industry laid down more than 800 workers alone in a space of three weeks. To make matters worse after the new amendment by parliament many companies failed to reinstate all the laid down workers or pay them compensation of their lost benefits. The amendment was in retrospective to 17 July but the employers in the security industry denied their employees this right.

Nonpayment of overtime is also popular in the security industry regardless the provisions of ILO standards that prohibits the use forced labour or slavery. Article 7(1) of the CBA stipulates that the employer must give a 24 hour notice if he/ she so requires the employee to work for overtime

and article 7(2) provides that he/ she shall be paid double the wage of the day worked as overtime. This is however is contrary to the reality on the ground, various security guards who were interviewed at different parade points claimed that they were working for five or six days regardless of the CBA stipulated working hours. Security guards are supposed to work for 208 hours/ 16 days per month but various companies have ignored this provision. A lot of employers refuse to pay for the overtime worked regardless of the Labour Act and any employee who raises the nonpayment of overtime is threatened with expulsion or disciplinary hearing. Employers in the security industry are taking advantage of the unemployment rate in Zimbabwe to abuse employee rights. Majority of the security guards remain idle in reporting this unfair labour practice because of the fear to lose their jobs. One security guard who requested anonymity had this to say.

“I work twenty four days per month yet I am paid the wages that are equivalent to sixteen days wages and everytime I try to complain about it I am called for a disciplinary hearing. This act is however contrary to what ZISEGU taught us. My employer does not even care if I sleep at work or not except that I should attend duty”.

The security guards that were interviewed expressed high levels of corruption at work place with the top management demanding money from low level security guards (kutimbira mugarden) as a form of job security. Three security guards during the research claimed that they had to pay “guys from the human resources department” US\$20.00 to save their jobs. The bribe money is paid in intervals of 1, 3, 6 or 12 months depending on when the individual’s contract will be renewed, because it is popular among casual workers who depend on renewing contract. This unfair labour practice has been allowed to proceed because of the rampant unemployment rate in the country and the fixed term contract system that has become popular today. It is the

employer's responsibility to assure job security to his/ her employee however the popular casual labour has created an unsafe working environment for employees today.

From the period 2009 -2010 various minimum wages have been set in the security industry and the current minimum wage was revealed in 2013 setting the minimum wage at US\$236.00 including housing and transport allowance. This however is contrary to the interviews that were conducted in this research. The interviews reflected that employers were paying as little as US\$120.00 per month and majority were paying US\$180.00. The failure to pay the minimum wage is violation to the Labour Act provision which offer practical supervision to employers and employees on how to apply the principle of equal payment for work of equal value in their workplaces. Various people indicated that they had not received the stipulated wages since the time it was gazetted and this failure to implement the statutory is a violation to employee rights and hindrance to the full promotion of their rights.

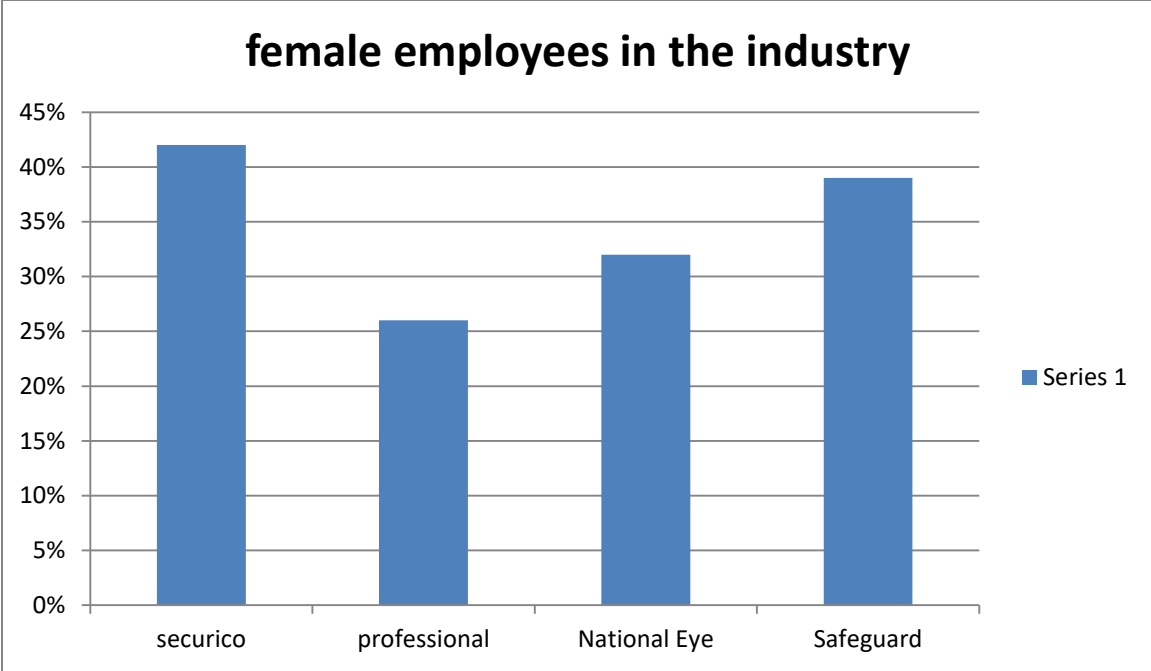
Female employees

The number of women who are being employed in both the private and public employment sectors has contributed to the high demand for female security guards. Also the breakdown of various sectors in Zimbabwe due to the economic meltdown has pushed a lot of women to become security guards despite the existing unfair labour practices that are popular in the industry. In the past female guards were recruited to work in the shops or to search female employees and were only working in day shift duties. However this research revealed the number of female employees in the night shift, working in Cash in Transit (CIT) department, residential areas and business centers has increased reversing the previous traditional norms.

However, this shift has not seen any development of gender-sensitive policies that assist women in balancing their work and family responsibilities.

It is a fundamental right for any employer to provide equal employment opportunities for all regardless of their race or sex. The security industry was discriminatory to the employment of women however since the period 2010 the number of female security guards has so far increased with Securicor becoming the largest employer of women in the industry. In the study it revealed that women employed at Securicor were close to three eighths of all the employees at the company. This was improved by the Gender policy that was put in place by the company management in 2012 which was meant to increase equal opportunities of employment for both men and women. Safeguard also made a positive improvement in employing large number of women in the industry to reshape the previous perception of women in the security industry. Women during the study indicated that they now have equal opportunities of recruitment with men although men still dominate the industry.

The recruitment of women has seen an improvement in the livelihood of women than the past. 70% of the women who were interviewed claimed that they were either divorced or widows. This therefore shows the security industry is playing a leading role in providing income to the vulnerable of the society. Giving equal opportunities help in fighting gender discrimination in the society. Women who were working in the security industry were regarded as loose by their fellow colleagues at work whilst the employer would pay them little than their male counterparts however this unfair discrimination has been reversed.



Figures 2 show the number of women female employees that responded to the questionnaire. The results of the questionnaire were used to estimate the number of women who are employed in the sector today.

The number of women who responded shows that men still dominate the industry although there is a positive change. This statistics reveals the challenges that are encountered by women at work and how unfairly they are represented when they fight for their rights both as employees and women in a patriarchal dominated society. Those who were interviewed revealed the challenges they face by working in the night shift and also having to perform house chores (patriarchal norm) during the day. To undertake both the house chores and work duties gives a lot of women little time to rest and, sometimes force them to sleep on duty and this workplace offence attracts dismissal according to the Security industry Code of Conduct.

Although women have begun to increase in the security industry only a few occupied managerial post and if they do most of them occupy post that in most cases require ‘feminine characteristics’

e.g. marketing managers and consultants. Mackinnon (1980) alluded that, countless studies have shown that ‘women are overwhelmingly in positions that other people (men) manage, supervise or administer. This shows that women are not given positions which have a man controlling it this because of the general assumption that women are underman. According to Simone de Beauvoir a feminist writer women find themselves in these dependent situations by virtue of their ‘otherness’ or being the ‘second sex’. This “otherness” is popular in among security guards and has so far promoted the number of sexual harassment that are in the industry. Many companies today according to the research do not have a gender policy frameworks that are meant to empower or to protect women from male dominion. This might be mostly because the Zimbabwean government is yet to ratify the ILO Convention 156 on Workers with Family Responsibilities.

Employee representation

60% of the employees from the four companies that were researched from both ZINSA and SAZ expressed fear in joining a trade union. Victimization, dismissals and industrial hearing were popular to members of trade unions thus limiting the number of employees who will join a trade union. Securicor and Professional Security do not have a standing workers committee and efforts to establish one is treated with negativity by the employer and the management. This is against the Labour Act provision that obligates for the freedom of association, the right to join or to be member of a trade union. These practices are also direct violations of the provisions of ILO Conventions and statutory laws concerning the freedom of association and protection of the right to organize.

Security guards who were interviewed claimed that there was victimization of employees who were members of trade unions whilst some workers committee members were always bribed by the employers. Critique workers committee members were treated with negativity and threatened with disciplinary hearings or have their salaries delayed. This was all done to silence the employee rights and a jeopardy to workplace democracy. One president of ZISEGU Kenneth Matare who is an employee at Safeguard claimed that in 2015 alone he was summoned for hearing 3 times as a way of silencing him. And also he was called for duty when ZISEGU had arranged for a demonstration against employers in April 2015. This is a clear reflection of workplace victimization and a way to limit employees' participation in matters that concern them.

Key players in promoting employees' rights

Trade unions

ZISEGU and PSWU are the major trade unions that represent the trade Unions in the security industry. The two organisations play an important role in defending the rights of their members. Their efforts have however been jeopardized by the financial crises in the country. Both ZISEGU and PSWU revealed that companies were not remitting union dues as obligated in the Labour act Section 12A (2d). This forced trade unions not to represent their members in full capacity especially in the period 2013, 2014 and 2015. The employers neglect remitting union dues as a way of weakening their efforts. ZISEGU in 2015 alone failed to register 12 cases that were due for arbitration and if employers see this loophole they take advantage and continue to abuse employee rights knowing exactly that by the time the case goes for arbitration they would have made a lot of profits.

Trade unions have their offices in major cities and towns of Zimbabwe thus their efforts are of relevance to security guards who are in these cities. In this study ZISEGU employees claimed they were not able to reach all security guards especially during. During the study the researcher met security guards from various companies in Zvishavane and asked them if they had any knowledge of either ZISEGU or PSWU and they claimed ignorance of the unions. This therefore shows that employees in remote towns will have their rights abused and will never know when their rights as employees are abused and how are they abused.

Despite these challenges trade unions have made tremendous efforts in promoting employee rights. Shop stewards seminars were held from the period 2010 until 2015 in most companies around the country. Shop stewards seminars are trainings that are given to workers committee members at shop level so that they are able to educate other employees on unfair labour practices and to raise awareness of employee rights. In 2015 alone PSWU reportedly held 42 shop stewards seminars country wide whilst ZISEGU had 36 seminars countrywide. This therefore can be reported as a positive step in upholding employee rights.

Trade unions also play an important role in representing their members whenever unfair labour practice is reported. This has seen trade unions playing a leading role in solving cases from the shop floor level till it reaches the labour court. ZISEGU represents its members when they are summoned for a disciplinary hearing at work, when they are unfairly treated at work as well as during conciliations.

Trade unions both PSWU and ZISEGU have played an influential role during the collective bargaining agreements. Since 2010 the two employee associations have negotiated the minimum wages for the years 2010, 2012 and 2013 and in 2015. Although the 2015 wages negotiations are

still to be finalized the trade unions have so far appealed to the Labour Court and the judgment was granted on the employees favor. In 2015 also trade unions in the industry played an influential role in negotiating the security industry Code of Conduct. This can be seen as a positive part in promoting employee rights.

ZISEGU in 2015 reportedly played an influential role in lobbying for an amendment of the Labour Act. This was through massive demonstrations it undertook in conjunction with its affiliate ZCTU and other trade unions. The amendment was done to reverse the 17 July Supreme Court Judgment which had given employers the right to fire their employees whenever they wanted. The various demonstrations that were held by trade unions forced the parliament to pass a law that would protect the rights of employees and this can be seen as a positive step in upholding the rights of employees in the Security industry.

National Employment Council

The NEC is the mediator between the employers and the employees but since its establishment it has failed to make the much anticipated efforts in upholding employee rights in the private security sector. The board has two arbitrators and one designated agent who are meant to tackle hear cases of unfair labour practices in the whole country. This has slowed down the efforts to uphold employee rights in the security industry. Thus causing employees to lose their confidence in the board. The three officials are located in Harare and Bulawayo with two satellite offices in Gweru and Mutare were the officials visit from time to time thus causing the whole process time consuming and delaying in nature. Cases take time to be solved and some employees end up moving to their home villages whilst some die before they receive justice.

Employees who were interviewed claimed that the NEC's DA and Arbitrators were slow in solving their cases and sometimes they paid little care on their issues. One employee Mr Ncube who was not a member of any trade union claimed he reported his case to the NEC but the DA showed little care on his case and he had to come back and forth 3 times to the offices before the DA summoned his employer for a conciliation. This was popular to employees who came to report their cases direct when they are not members of any union. The NEC's designated agents were very reluctant and foot dragging in solving cases of employees who are not represented. Thus this has caused many employees to lose confidence in the NEC thus jeopardizing the efforts to uphold employee rights.

CHAPTER FOUR:

UPHOLDING EMPLOYEE RIGHTS: AN ASSESSMENT

Chapter Overview

The upholding of employee rights in Zimbabwe is of importance since it improves the social security of employees and their dependencies. It promotes industrial democracy which is a fundamental factor to the development of any country, and attracts a lot of foreign direct investments which are essential to development. Various stakeholders should make changes in different aspect to make sustainable development for employees. Employees need to be assured of their job securities whilst the justice delivery system should be effective and fast. As Martin Luther King Jnr states “justice delayed is justice denied”. This means both the Labour Court and the NEC should not take time in delivering justice to those employees who would have had their rights abused. Trade unions’ efforts to employee rights are of significance though they have to put an extra effort in various issues like gender framework policies, HIV/ Aids awareness among other issues.

This chapter seeks to give an analysis (effects) of the failure to uphold employee rights to the company, to the employee (the effects to the household and family welfare) as well as to the country’s development (the burden it has left for the country in its performance). It will highlight the effects of upholding employee rights to the sustainable growth of the country.

Effects of the failure to uphold employee rights

Effects on the company

The failure to uphold employee rights affect the company's performance i.e. in the services it offers to the clients. The failure to pay wages that are at par with the poverty datum line (PDL) results in absenteeism at work. From the research conducted employees claimed their salaries were far away from meeting their basic needs therefore they have resorted to get two jobs. One security guard from Securicor said he was working as a builder during the day and during the night will go for his night duties. He further alluded that sometimes he would choose to skip his duties at Securicor or he would sleep at work during the night. This therefore will compromise the services that the company renders to its customers.

Casual labour (fixed term) is also a barrier to the full growth of the employee and this affect his or her performance at work. Employers have resorted to casualization of labour as a way of minimizing costs and maximizing profits however this has affected the performance of the employees in return. The motivational alludes that companies can only succeed in the long-term if they recruit and motivate people who are able to respond to and shape the challenges of the future. However casualization of labour has created uncertainty for employees at work. To further reinforce this Bodibe (2007) alluded that casual workers feel disconnected from their jobs and at the same time full time workers have lost enthusiasm for improving their lot. Therefore instead of employees uniting at shop level in producing quality services they are filled with hatred and this end up affecting productivity. Many security guards that were interviewed in the research expressed uncertainty on the future of their jobs thus resulting in their poor performance at work.

Involving employees in the day to day activities of the company promotes workplace democracy which in turn gives an opportunity for new ideas. Thus the failure to involve employees in the company politics has contributed to the ill performance in the security sector. Industrial democracy increases productivity and service delivery from a more fully engaged and happier workforce. Other benefits include less industrial dispute resulting from better communication in the workplace; improved and inclusive decision-making processes resulting in qualitatively better workplace decisions, decreased stress and increased well-being, an increase in job satisfaction, a reduction in absenteeism and an improved sense of fulfillment. Other authors regard industrial democracy as a consequence of citizenship rights (Wikipedia)

Effects on the livelihood of the employee

The failure to pay employees their salaries in time is a cause of great concern to the livelihood of the employee in general. Employees that were interviewed expressed their failure to create a better livelihood for their families and this has resulted in children dropping out of school, deterioration in the lifestyle of many of them and failure to provide basic human needs like food, health services, and adequate housing. One employee from National Eye Security who has had salary arrears of up to 9 months claimed that his child failed to write Ordinary level examinations in 2014 and had failed to register again in 2015 thus straining the relationship in the family. To him the failure to support his child's education has removed his dignity as a father and a threat to his status as a member of the society.

Three women who were interviewed claimed that they were working for six days at work and sometimes they were not relieved forcing them to work both day and night shifts and this has so far affected their relations with their families. They complained that they have to see their family two or three times a month. Forcing employees to work overtime is rampant in the security

sector and this has increased family problems. Thus it can lead to family disunity in the near future.

Effects on the development of the country

Investor confidence is boosted through upholding employee rights. Kucera (2002) propounded that countries that have a stronger representation of employees and promotes employee rights receive a massive foreign direct investment compared to those that have do not. This is so because workers' rights just like human rights help in addressing political and social stability which in turn guarantees greater stability which attracts investors.

CHAPTER FIVE: CONCLUSIONS AND RECOMMENDATIONS

The research clearly showed there is still a lot to be done in order to achieve fully the upholding of employee rights in Zimbabwe, particularly in the private security sector. The research showed that employees in the private security sector experienced the worst labour practices in the country today which range from employers failing to pay them their wages, nonpayment of stipulated minimum wages. Employees are forced into slavery or forced labour since employees make them work for more than the 208 hours per month and without compensating for the overtime worked. Employers have a tendency of firing their employees willy nilly and to add more harm they do not pay them their terminal benefits.

The dispute resolution system has been accused by trade unions in the private security industry as too slow to achieve its goal. The time that is spent in conciliating a case at NEC level is too long and sometimes employees lose interest in the cases before they even receive justice. The study that was carried out revealed that a case can go to conciliation for as long as 6 months before the designated agent (DA) refers it to arbitration. On average the arbitrator can take a maximum of three months to release an award which is also subject to appeal. Thus, it can take a year for a case to be heard at the NEC and this is blamed for the failure to uphold employee rights adequately.

In an interview that was conducted at ZISEGU, it revealed that many cases that have direct involvement of employees took long before they are heard or a judgment is passed. The case of Titos Bhaniwa vs Safeguard Security was referred to the Labour Court in 2012 and the judgment was handed in January 2016. ZISEGU also reported that the case of Time Security vs Time Security employees was referred to the High Court in 2011 but today employees are yet to

receive their terminal benefits. In most cases it takes an average three years for a single case to be completed. ZISEGU in 2015 was still attending to cases that were reported in 2012, this therefore means 2015 cases will be completed in 2017 or 2018. Mariwo (2008) alludes that “despite the decentralization of the Labour Court, backlogs have not improved”. This therefore is a barrier to the upholding of employee rights.

From the employees that were interviewed, the majority had no faith in the NEC since the employers pay little respect to decisions that are made by the Appeals Committee at both company and NEC levels. It was revealed in this study that employers are always appealing to the Labour Court mostly as a way of frustrating employees’ efforts since it can take up to three years for the case to be heard. Most employees that were interviewed said they now accept unfair labour practices and had lost faith in the dispute resolution system because of its ineffectiveness.

Female employees in the security industry tend to suffer more than their male counterparts since they are discriminated against by both their superiors and colleagues at work whilst their families enslave them with house chores when they get home. Companies in the security industry are still to put in place gender policies that seek to promote female security guards and this has resulted in many women being sexually harassed but failing to report these unfair labour practices. This is a failure in terms of upholding employee rights therefore this has to be addressed.

Trade unions play an important role in upholding employee rights. Their efforts in lobbying for legislative reforms, demonstrations, representing and educating employees is regarded as a positive move in upholding employee rights. However their efforts are threatened by the massive sprouting of trade unions which divides the attention and makes them look like disorganized labour. Instead of speaking with one voice today we have seen the fight for employees’ rights being jeopardised by this move. Also the politics of the country has so far changed the motive of

trade unions. Instead of them representing the rights of employees they have since turned into campaigning wings for different political parties hence causing them to lose their grip in upholding employee rights.

Employee rights promote industrial democracy which in turn motivates employees to continue coming to work. It brings employees closer together thus boosting turnover and quality production, and allows the free flow of ideas and information from the employees to the management and vis a visa.

It is of much importance in Industrial Relations for employers to respect the rights of their employees since it has a direct impact on the welfare of the employee and his/her dependents, performance of the company and the economy of the whole country thus its importance to development. According to Makaha the term Industrial Relations includes the relationship between various unions, between the state and the unions, as well as those between various employers and the government. This therefore shows that Industrial Relations has an impact to the development of any country as a whole. It involves maintaining industrial democracy, participation of employees and management, raising productivity through reducing tendency of turnover and absenteeism. It also seek to establish a proper channel of communication and to increase morale and discipline of employees (Makaha 2016).

Recommendations

This research aired out various unfair labour practices that took in place during the period 2009-2015 and they will continue if responsible department and individuals continue turning a blind

eye on these issues. The unfair labour practices in the security sector have led to various consequences for example failure to pay employees in time has caused income insecurity to employees whilst unfair dismissal has precipitated to the loss of job securities. This study is a reflection of irregularities in many industries in Zimbabwe therefore the study will be of relevance in the development of all employee rights in the country.

Legal and policy reforms

The problem of fixed term contracts has jeopardized the quality of work and has threatened the social security of employees therefore the law makers need to amend the Labour Act so that it specifies time limit for a fixed term contractor. This helps in protecting employees who are being exploited for by their employers' everyday by renewing contracts in intervals. The existing Labour Act is too lenient to perpetrators and its enforcement is weak therefore stiffer penalties should be put in place to punish perpetrators. This should be coupled with provisions that prescribe stiffer penalties for violating provisions of the labour act like imprisonment and heavy fines.

Many employers do not have respect for decisions that are made at NEC level like honoring a certificate of settlement or an award therefore policy makers should come up with laws that enforce decisions made by DAs and arbitrators. This will obviously speed up the justice delivery system and get many cases solved.

Many security guards are paid wages that are below the poverty datum line and this has denied them to afford some basic needs. Therefore, legislators should enforce a law that compiles employers to pay a minimum wage that tallies with the Poverty Datum Line. When negotiating for wages the guideline should be the poverty datum line.

The employees that were interviewed demanded that their employers be denying the the right to a social security scheme for the security industry. Therefore the policy makers should enforce employers to register their employers with a social security scheme as a way of improving the lives of security guards after they retire. This issue was raised after it was realized that the benefits from NSSA were too little to give a security guard a better life after retirement. The government through the Ministries of Justice and Ministry of Public Service, Labour and Social Welfare should put measures that oblige judges to complete all backlog cases. .

National employment council

There is a high need of employing more designated agents and arbitrators since the three that are available are finding it difficult to solve all cases. These new employees should be stationed at the satellite offices so that all major cities are well serviced unlike the current situation where the DA and Arbitrators are stationed in Harare and Bulawayo.

The NEC should also have a gender based framework that seek to protect women who are in the security industry and also that encourages companies not to be discriminatory when recruiting women. This framework will therefore allow an equal representation of both man and women on labour related issues.

The NEC councilors who negotiate wages should negotiate with a Poverty Datum Line guideline. Wages in the security industry are considered to be one of the lowest in Zimbabwe and many security guards do not afford basic needs for their families like sending children to school, affording medical health. Therefore the poverty datum line will be a starting point for wages that promote decent work.

Trade unions

Trade unions in the security industry should put more energy in servicing their current membership. The interviews that were conducted on employees they claimed that trade unions were like politicians only seen when they seek membership. Thus trade unions should embark on more shop steward training seminars and visiting employees at their companies to educate them on their rights. Trade unions play the major role in promoting employee rights but their efforts have become of non-relevance since they take time to service their membership.

Trade unions should embark on massive recruitment scheme. The recruitment will ensure visibility of unions since their effectiveness is based on their numbers. Sometimes employers neglect the effectiveness of trade unions because they are divided.

Trade unions should also take part in educating employees on key issues of day today lives like HIV/AIDS. Sexual intercourse is taking place in many industries but in the Security Industry no measures have been put in place to address it. Therefore, there should be efforts to put condoms at all workplace especially in mining areas where employees stay for more than two weeks without going back home. This will help reduce the spread of HIV/AIDS.

Employers

There is high need to have gender policies at workplace that seek to address the challenges that are faced by man and women separately. This will help promote equality at workplace and also fight gender discriminatory tendencies that are existing today. It will also help fight sexual harassment that is taking place at work without bringing the perpetrators to book.

HIV/AIDS policy should also be put in place to meet the challenges that are seriously threatening the industry. Employers should not discriminate against employees who are tested

positive and they should strive to end the stigmatisation. This will in turn help more employees to publicize their status and help fight HIV /AIDS and create a safe environment for everyone.

Employers should respect employee rights, labour standards and pay stipulated wages if they want to continue providing quality services.

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APPENDICES

QUESTIONNAIRE FOR EMPLOYEES

The researcher is a MSU male student reading for Honours Degree in Development Studies and the title of the research is ‘THE UPHOLDING OF EMPLOYEE RIGHTS IN ZIMBABWE’S INDUSTRIES. AN ANALYSIS OF THE PRIVATE SECURITY SECTOR FROM THE PERIOD 2009- 2015’. The research is being done in partial fulfilment of the programme and I therefore ask that you assist by responding to the questions by ticking on the boxes and filling in the blank spaces.

Information will be used for academic purposes only and no information will be divulged to third parties without your consent.

Your assistance will be greatly appreciated.

Regards.

Talkmore F Mapfumo

Section A

Instructions

Kindly right your response on space provided

You are kindly requested to answer in utmost good faith.

Name and Surname (optional).....

Age

Sex

Position.....

Company.....

Highest Qualification.....

Section B

1) Complete the table below

When do you expect your next salary	
when did you last receive your salary	

How many days do you go to work	
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2) What major challenges are you facing as employees?

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3) How far do you know about employee rights and to what extend are your rights protected at work?

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4) What are the major unfair labour practices you face at work?

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5) Are you a member of any trade union? If **yes** are you being helped by the trade union? If **no** why haven't you joined?

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6) What are trade unions doing at your company that is helpful?

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7) Do you report any unfair labour practice at the NEC-SI?

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8) What are the major challenges you face when reporting unfair labour practices at work?

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9) How long does it take for a case to be solved at the NEC level and what do you think delays the process?

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Thank for your co-operation

QUESTIONNAIRE FOR TRADE UNIONS AND NEC

The researcher is a MSU male student reading for Honours Degree in Development Studies and the title of the research is ‘THE UPHOLDING OF EMPLOYEE RIGHTS IN ZIMBABWE’S INDUSTRIES. AN ANAYSIS OF THE PRIVATE SECURITY SECTOR FROM THE PERIOD 2009- 2015’. The research is being done in partial fulfilment of the programme and I therefore ask that you assist by responding to the questions by ticking on the boxes and filling in the blank spaces.

Information will be used for academic purposes only and no information will be divulged to third parties without your consent.

Your assistance will be greatly appreciated.

Regards.

Talkmore F Mapfumo

Section A

Instructions

Kindly right your response on space provided

You are kindly requested to answer in utmost good faith.

Name and Surname (optional).....

Age Sex

Position.....

Company.....

Highest Qualification.....

Section B

1) What are the major cases of unfair labour practices that are reported?

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2) What are the employer’s responses towards the cases reported?

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.....

3) Specify first (trade union/ NEC) what are the major obstacles to the full attainment of employee rights?

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4) Are the employee rights attainable?

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5) Does the existing legal framework in Zimbabwe facilitate or frustrate progress in attaining employee rights?

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6) What do you think must be done to better the working condition of security guards in Zimbabwe?

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Thank you for your co-operation.