

Violation Of Labour Laws In The Informal Sector, A Major Setback To Employee Welfare And Job Security. A Study Of Capital City, Harare In Zimbabwe

Dominic Uzhenyu

Lecturer, Faculty Of Commerce And Law, Zimbabwe Open University Harare/Chitungwiza Regional Centre, 3rd Floor West, Main Post Office Building, Cnr Nelson Mandela & Inez Terrace, P. O Box 8306 Harare Zimbabwe

Abstract: The study was meant to establish how the informal sector could be of significance to the socio-economic development of Zimbabwe by observing labour laws in order to improve labour relations particularly on areas of job security and employee welfare. In Zimbabwe at the moment about 85% of potential labour force was being employed by this sector since the main stream industry was on the verge of collapse .Literature reviewed largely covered the characteristics inherent in the informal sector as well as major labour laws in Zimbabwe that are supposed to be complied with. These are the Labour Act 28:01(amended 2015), the Factories and Works Act 14:08 of 1996 and the National Social Security Authority (NSSA) Act, Chapter 17: 04 of 1989. The study which was qualitative, was conducted in the capital city, Harare. The major findings were that the informal sector operators were not registered and there operations were very risk and workers were prone to accidents as they did not comply with health and safety requirements. Majority of those employed entered into verbal employment contracts and there were no contributions as per statutory requirements for pension, insurance and income tax. The study concluded that in this sector, there was no job security and not much was being done to improve/elevate employees welfare. Major recommendations included vigorous government campaigns to register their operations, encouraging remittance of statutory taxes and subscriptions, compliance with labour, health and safety laws. Other key stakeholders such as local authorities, financial institutions and donor community should also provide necessary support to this pivotal sector for sustainable development and positive contribution to Zimbabwe economy.

Definition of key terms

- **Employee welfare** – the basic fulfilment of a worker’s expectations/needs with a thrust on ability to cope up largely with workplace , family and economic demands.
 - **Informal sector** – sector which encompasses jobs which are not recognised as normal income sources and on which taxes are not paid.
 - **Informal sector** –sector which encompasses jobs which are not officially recognised as normal income sources and on which taxes are not paid in a country/economy, that is in Zimbabwe.
 - **Job security** –protection of worker from unprocedural dismissal from work or loss of employment.
 - **Labour law** –Any piece of legislation that is used to administer the conduct and activities of both employer and employees at the workplace mainly on issues of employment contract as well as national labour standards.
 - **Setback** –retrogressive, that is not making any progress towards desired outcomes of job security and improved employee welfare.
 - **Violation** –disregarding observance, not fulfilling or not complying with requirements.
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I. Introduction

Unemployment is probably one of the most widely talked issues particularly in developing nations most of which are in Africa. High unemployment levels have seen an unexpected growth of the Informal sector in Africa and even beyond and are seen as catalysts of ever increasing crime rates and social decadence. The growth of the Informal sector has a lot of implications on labour issues and has been viewed as counter attractive to national goals and policies and at times the blame has been shifted to economic saboteurs, for example in Zimbabwe, the ruling government puts the blame squarely on Western countries (Britain and her allies) for having imposed unjustified economic sanctions.

It is against this background that this researcher/writer was enticed to look more into the informal sector and get better insights about its operations with special attention on labour related issues. The study in essence largely covers the background to the study, literature review, research questions (objectives), methodology, major findings, conclusion and recommendations.

II. Background To The Study

During the economic reforms of 1990, spearheaded by the Economic Structural Adjustment Programme (ESAP-1991-1995), a lot of companies in Zimbabwe folded since there were a lot of reforms centred on the market deregulation policy. The policy allowed competition in most previously protected sectors/industries and attracted a lot of powerful foreign competitors as well as the removal of government subsidies and price controls. ESAP brought untold suffering to Zimbabweans which culminated in sharp/irreconcilable differences between the government and workers with the latter forming a major political party from the then powerful labour body, the Zimbabwe Congress Of Trade Unions (ZCTU) in 1999 after protracted wrangles/confrontation. The Movement For Democratic Change (MDC) party has remained to date the major opposition political party to the ruling party, Zimbabwe African National Union- Patriotic Front (ZANU –PF).

Since then, the situation has continued to deteriorate although stabilized a bit after the dollarisation of the economy in February 2009, but a lot of companies had already gone into liquidation which culminated in millions of Zimbabweans losing their jobs. Even to date, a number of companies continue to restructure their operations by downsizing (massive retrenchments) and this has resulted in high levels of unemployment in the formal sector. On 17 July 2015, the Supreme court passed a landmark judgement which allowed employers to dismiss employees based on common law, by giving them 3 months notice without need to give reasons for such actions. Within 24 hours of that ruling being handed down, termination notices were flying left, right and centre. What started off as restructuring by privately owned corporations quickly extended into the public sector as well. Parastatals (state enterprises) also let some of their employees go at willy-nilly, e.g. Zimbabwe Broadcasting Corporation (ZBC), Zimbabwe Postal Services (ZIMPOST), National Railways Of Zimbabwe (NRZ), Air Zimbabwe etc.

Employers seemed to have heaved a collective sigh of relief. They had been complaining quite vocally through various media that the rigidity of labour laws in Zimbabwe, was robbing them of the flexibility to adjust to the prevailing economic climate. That was adversely affecting them of a competitive edge both in regional and wider international markets. The legal precedent that followed was that most companies acted on this judgement and downsized, with close to 6000 people having since lost their jobs within one week of the ruling (www.myzimbabwe.co.zw, 23 July 2015) and about 25 000 by end of August 2015. Majority of these victims of the Supreme court ruling have since been ‘‘forced’’ to earn a living by joining the Informal sector which has remained the source of employment for the majority. This has seen phenomenal growth of the informal sector in which the jobless are finding reprieve to make ‘ends meet’ as they have families to sustain. .

It is important to also highlight that in 2007 and 2008, Zimbabwe set one of the ever highest inflation records in the world of around three hundred million percent. Most formal businesses struggled. The majority were liquidated and others downsized their operations (Reserve bank of Zimbabwe quarterly report, June 2009). There was economic meltdown which culminated in the dollarization of the Zimbabwean economy in February 2009 under the Government of National Unity (GNU) as the Zimbabwean dollar had been constantly depreciating. A lot of small businesses mushroomed all over the country particularly in the bigger towns and cities especially in Harare, the capital city. Almost all of these joined the informal sector and they have not been properly registered even up to today.

According to be Financial Gazette, a weekly newspaper of 6 October 2013 edition, Zimbabwe had one of the highest informal sectors in the world constituting of about 85% employment in the country. The collapse of the local industry which is struggling today to resuscitate itself, has worsened the unemployment rate in the country. It is also worrying to note that the Centre for International Private Enterprise (CIPE) and US Chamber of Commerce in 2010 rated Zimbabwe as the leading country with informal sector activity but concluded that such a large informal sector inhibits economic growth. There is a serious problem of stagnation in the informal sector but it has lots of potential to grow into commercial SMEs (Small and Medium enterprises). The informal sector has been found wanting also in other areas relating to compliance with statutory obligations. The sector evades tax payments/remittals to government, a lot of enterprises are not formally registered and there is also non-compliance with regard to labour laws especially areas concerning the health, safety and welfare of workers. It is also worrying to note that the operators do not insure their properties and even workers culminating in operational risk and serious threat to human life.

If there is a business culture paradigm shift in this sector in the country, Zimbabwe could witness a transformation of this sector into more formal and organized SMEs (Small and Medium Enterprise). These can even develop into large corporate firms in the long run thereby improving formal employment, labour relations as well as economic growth and standard of living of most citizens.

III. Statement Of The Problem

The Zimbabwe economy has been underperforming for quiet sometime and the domestic industry has been so much affected that a number of companies have been liquidated. Some have downsized their operations

and a number are still facing an uncertain future. The Supreme Court ruling of 17 July 2015 exacerbated the unemployment situation as over 25 000 workers were dismissed by the end of August 2015. Even government since 2015 has been on a retrenchment drive with thousands of vacancies being made redundant in order to reduce its worrying salary expenditure which consumes about 82% of its monthly recurrent expenditure (budget). This growing loss of employment has culminated in the growth of the informal sector which has become the largest employer constituting about 85 % of the national employment statistics. The informal sector has failed to contribute much to the national fiscus (economy) due to a combination of resistance and no effective logistics or mechanism in place to enable the sector to make contributions through payment of taxes or registration fees to legitimise their operations. Of also major concern, is that this sector disregards the country's labour laws. The operations of the Informal sector are largely considered as operating outside the legal framework of the country's labour laws. This has severely damaged industrial relations in this sector despite the "massive potential" of this sector to be of economic significance to Zimbabwe.

It is against this background that this study intended to find out the magnitude of the informal sector not complying with Zimbabwe's labour laws and the effects emanating from such conduct or behaviour.

IV. Research Questions

The study intended to address the following research questions (sub problems);

1. Which major labour laws administer employment issues in Zimbabwe including the informal sector?
2. What is the level of compliance by the Informal sector on labour laws in Zimbabwe?.
3. Which are the major challenges or constraints facing the implementation of labour laws in the informal sector.
4. How can the informal sector improve its observance or compliance with labour laws?

V. Literature Review

Distinguishing Characteristics of the Informal Sector

According to the International Labour Organisation (ILO, 2006) the distinguishing characteristics of the informal sector are given and categorized under employment as shown below:

Major Employment & other Characteristics of the informal sector

1. Absence of official protection and recognition
2. Non coverage by minimum wage legislation and social security system
3. Predominance of own-account and self-employment work
4. Absence of trade union organization
5. Low income and wages
6. Little job security
7. No fringe benefits from institutional sources
8. Labour intensive and adapted technology
9. Absence of access to institutional credit or other supports and protections.
10. Reliance on family labour and artisanal techniques for construction
11. Non-availability of mortgage or any other subsidized finance

Drawing from the above ILO listed characteristics, the informal sector activities seem to embrace all facets of economic activity albeit with a high propensity for a high level of non compliance with the business best practices. The size, non-regulation, low cost, low capital requirements and easy accessibility makes the informal sector a more favoured choice for those who are out of formal employment or who after completing some form of training or equipping themselves with some skill, fail to be absorbed into the formal sector. This is most likely propelled by the survival instinct more than anything else.

Characteristics of Harare's Informal Sector (Zimbabwe)

A physical inspection of Harare's informal sector at the following markets, Siyaso, Mupedzanhamo, Mbare Musika, Magaba & Matapi all in Mbare, Machipisa & Gazaland in Highfield just to mention a few, seems to confirm the prevalence of the above characteristics given by the ILO. Of major exception, is that most of the informal sector traders operate on designated and allocated stalls for which they pay a fee to the local authority, City of Harare but not formally registered under the Companies Act or otherwise (Mpofu, 2012). The characteristics seem to be generally prevalent in the whole of Zimbabwe's local informal sector as well. According to a report by Briscoe (1999), the informal sector in Zimbabwe comprises those enterprises which are not registered under the Companies or Co-operatives Acts, irrespective of whether or not they are licensed by the local authorities.

Briscoe (1999) gave the general characteristics of the informal sector in Zimbabwe as; the enterprises are family owned, the sector is easy to enter and exit, operators rent space from individuals with property, or

local authorities, operators undertake small scale operations, the sector is labour intensive, the enterprises are staffed by the owner or relatives or a small number of employees, operators use their own financial resources, and the sector operates outside the fiscal framework of the economy. The above observations seem to point to a fragmented sector without any form of conformity with regulation and lacking control, organization and orderliness. Illegal activities such as dealing in drugs, prostitution, smuggling etc. usually find their way into such an unregulated sector.

According to a Zimstat survey, (ZIMSTAT, 2012) the total employed population in Zimbabwe aged 15 years and above was estimated to be 5.4 million and of that 4.6 million (84%) were considered to be in informal employment, 606 thousand (11%) were in formal employment and 252 thousand were in employment not classifiable (5%). Females constituted 53% of those in informal employment and 29 % of the formally employed.

Possible reasons for the growth of the informal sector and its characteristics

According to the Confederation of Zimbabwe Industries(CZI, 2013), it is likely that the growth in the informal sector in Zimbabwe was fuelled by the closure of factories, due to a number of factors which include; lack of foreign aid and investment largely because of imposed economic sanctions by western countries created by irreconcilable differences with the Zimbabwe government. Also high levels of corruption particularly in state enterprises (parastatals) which has seen majority of them facing bankruptcy, retrogressive policies based on empowering a few powerful politicians at the expense of the majority under the controversial Indigenisation policy/Act which has hindered the much needed foreign investment. These factors have resulted in most companies struggling, thereby forcing a number of them to downsize or close operations.

In Zimbabwe, those companies that have not closed are operating below their capacity levels. According to the same CZI, 2013 report, capacity utilization in the manufacturing sector had declined from 57.2% to 44.2%. This means that the character of the Zimbabwe's informal sector is likely to be inclusive of skilled, semi-skilled and less educated individuals. The composition of the characteristics creates a window of opportunity to harnessing the vast potential that arises from the available skills that are possessed by those in this informal sector born out of redundancy and downsizing. Those who could not find their way into the Diaspora or join the brain drain band wagon, were possibly lured to the informal sector in order to irk a living. Unlike in the past, the characteristic composition of the persons in the informal sector employment is therefore at the present multi skilled.

Zimbabwe is said to have a high level of literacy of 90.9% (African Globe, 2013) as per the Africa Literacy Ranking 2013 and as such it would be highly unlikely that the informal sector would be dominated by uneducated and unproductive people. An assessment of one of the informal sector markets at Siyaso in Harare according to Mpofu (2012) seemed to point to a high level of education as most people there indicated that they had at least four 'O' Levels and a number holding the basic journeyman certificate for the various trades.

Major Employment and Social Security Labour Laws in Zimbabwe

Although there are lots of labour laws in Zimbabwe, the private and the informal sectors are largely dependant upon the Labour Act 28:01, the Factories and Works Act 14:08 and the National Social Security Authority (NSSA) 17: 04.

Labour Act 28:01 (Amended in August 2015)

The relationship between employer and employee is guided by the Labour Act Chapter 28:01 Section 12(1), which states that,

"every person who is employed by or working for any other person and receiving or entitled to receive any remuneration in respect of such employment or work shall be deemed to be under a contract of employment with that other person, whether such contract is reduced to writing or not"

The Labour Act Chapter 28:01 therefore advocates for social justice and democracy in the workplace by declaring and defining the fundamental rights of employees, providing a legal framework within which employees and employers can bargain collectively for the improvement of conditions of employment and promotion of fair labour standards.

Terms of employment

The Labour Act Chapter 28:01 stipulates the general terms of employment. These are stated in the contract of employment which is an agreement entered into between an employer and an employee at the time the employee is hired. It outlines the exact nature of their business relationship, specifically what compensation the employee will receive in exchange for specific work performed as well as when and how the employment contract can be terminated. It is an oral or written, express or implied agreement specifying terms and conditions

under which a person consents to perform certain duties as directed and controlled by an employer in return for an agreed upon wage or salary.

Upon engagement, the employer shall inform the employee in writing of the following

Contract Details:

- The name and address of the employer;
- The period of time, if limited, for which the employee is engaged;
- The terms of probation, if any;
- The terms of any employment code;
- Particulars of the employee's remuneration, its manner of calculation and the intervals at which it will be paid;
- Particulars of the benefits receivable in the event of sickness or pregnancy;
- Hours of work;
- Particulars of any bonus or incentive production scheme;
- Particulars of vacation leave and vacation pay;
- Particulars of any other benefits provided under the contract of employment.
- Both parties shall abide by the general terms and conditions of employment and anyone who contravenes the terms of employment shall be guilty of an offence.

Termination of employment

According to the Labour Law in Zimbabwe as implied by the Labour Act Chapter 28:01, a contract of employment can be terminated if the employer and employee mutually agree to it in writing. This is also the case if an employee is engaged in a fixed-term contract or for performance of a specific task and the contract has expired after the mandated period or the task is completed.

Cases where contracts cannot be terminated

- Death of the employer: In a situation where the employer has died the contract continues to have effect until it expires.
- Contracts can also not be terminated on the grounds of race, place of origin, sex, religion, political opinion, and tribe.
- Contracts cannot be terminated without notice from the employer without strong reasons.

However there are cases where employers can terminate an employment contract if an employee:

- Is guilty of theft or fraud,
- Wilfully disobeys a lawful order,
- Wilfully and unlawfully destroys employer's property,
- Is absent for a period of five days or more working days without giving a reasonable excuse,
- Lacks a skill that he or she implicitly said they are capable of,
- Is substantially negligent in his or her duties,

Retrenchment

Employment can be terminated by retrenchment. The law states that the employer has to:

- Notify the appropriate worker's committee or trade union giving concrete reasons as to why he wants to retrench.
- Submit names of those who are going to be retrenched.
- Send a copy of the notice of retrenchment to the Retrenchment Board.

A copy of the proposal should also be sent to the Labour investigation officer for investigation to see whether retrenchment should be allowed and that all procedures of retrenchment according to Labour Law are followed. However, if the Labour Relations Officer sees the reason for retrenchment as unclear and not in terms of which retrenchment has been agreed upon, it cannot be granted.

Maternity Leave

Maternity protection under the Labour Act 28:01 largely covers employed women in the Public and Private sectors. *Qualifying conditions* include; Employees need at least one year of service to qualify for Paid Maternity Leave. Such leave may only be granted upon production of a medical certificate. It may only be granted three times by the same employer and only once during a 24-month period calculated from the day previous leave was granted. General total duration should be 98 days of paid maternity leave, 100% of normal pay and paid by employer. During the period a woman is on maternity leave, her normal benefits and

entitlements, including her rights to seniority or advancement and the accumulation of pension rights, must continue uninterrupted in the manner in which they would have continued had she not gone on such leave. Her period of service may not be considered as having been interrupted, reduced or broken by the exercise of her right to maternity leave.

The Factories and Works Act, Chapter 14:08 of 1996

Employees spend about a third of the day at work, which means the working environment can have a major impact on their health. Governments find it necessary, therefore, to enact legislation regulating working environments in the interests of employer's and employees' safety and health. In Zimbabwe there are various pieces of legislation that relate to **occupational safety and health but the major** such law is the **Factories and Works Act, Chapter 14:08 of 1996**. It provides for the registration and control of factories, the regulation of conditions of work in factories, supervision of the use of machinery and precautions against accidental injury to persons employed on structural work.

The Factories and Works Act 14:08 of 1996 is much broader and defines *a factory* as any premises on which any person performs any of the following activities:

- the making of any article or part of any article;
- the altering, repairing, renovating, ornamenting, painting, spraying, polishing, finishing, cleaning, dyeing, washing or breaking up of any article;
- the adaptation for sale or use of any article;
- the sorting, assembling or packing of any articles, including washing or filling bottles or other containers,;
- painting, spraying, construction, reconstruction, assembling, repairing or breaking up of vehicles or parts thereof;
- printing by letterpress, lithography or other similar process, including any activity associated with the printing industry;
- the production and storage of gas in a holder of more than one hundred and fifty cubic metres storage capacity;
- the freezing, chilling or storage in cold storage of any article;
- the slaughtering of livestock;
- the generation of electricity;
- photographic work.

All premises on which the activities mentioned above are carried out must, in terms of the Act, be registered as factories. This is a legal requirement. It is an offence to carry out factory activities on such premises without a current factory registration certificate. It is the duty of every factory or premise owner, therefore, to ensure that his premises are registered as prescribed by law. Any operator that is unsure whether or not its premises fall within the scope of the Act can seek guidance on this from the Factory Inspector within the Occupational Safety and Health (OSH) division of the National Social Security Authority (NSSA).

The regulations require that users should have a current certificate for their equipment. The equipment should be inspected by the inspector at specific intervals as prescribed by the law. It is the duty of the factory owner (or occupier) to maintain an accident register in which to enter accidents that occur within a factory or at a workplace where structural work is being carried out. All accidents must be reported to the inspector if they result in loss of life, permanent injury or the employee being absent from work for at least three days or if they involve people not employed on the premises or if they involve machinery. It is an offence not to report a reportable accident to the inspector. It pays to comply with the law rather than face the consequences of non-compliance. Offenders may be punished independently of others or jointly. Therefore those who offend will not be cushioned by others.

The provisions of the Factories and Works Act should be made known to everyone who owns or works at a place that falls within the Act's definition of a factory. **According to the Act**, occupational safety and health involves everyone. The responsibility for ensuring safety and health at factories lies with the inspector, the employer or occupier and the employee. It is in the interests of both the employer and employee to familiarise themselves with the obligations and rights that are set out in the Act and subsidiary regulations and to put them into practice.

Free Protection

In accordance with the Factories and Works (General) Regulations, it is obligatory for an employer to supply, free of charge, and maintain in good condition, adequate protective clothing and appliances, as may be required by the inspector, including head-covering, gloves, leggings, foot-wear, eye-protection and protective ointments of a type approved by the inspector, to each employee who is exposed to wet or dusty, cold or hot

conditions, or to any poisonous, corrosive or other dangerous substances. It is also the duty of the employer to ensure that equipment, protective devices, safety measures or health services as may be prescribed, are provided and maintained in good condition. The employer must also supply, free of charge, and maintain in good condition, suitable goggles or face-shields and respirators to all employees engaged in operations which expose them to glare, the danger of a foreign body entering the eye or any other dangerous substance liable to cause injury or disease.

National Social Security Authority (NSSA) Act of 1989, Chapter 17: 04

In Zimbabwe the National Social Security Authority (NSSA), is the statutory corporate body tasked by the Government to provide social security and is administered, in terms of Statutory Instrument 68 of 1990. According to the Act, the provision of social security can be defined as instituting public policy measures intended to protect an individual in life situations or conditions in which his/her livelihood and well being may be threatened, such as those engendered by sickness, workplace injuries, unemployment, invalidity, old age, retirement and death. It is based on the principle of social solidarity and pooling of resources and risks, involving drawing of savings from periods of employment, earnings and good health to provide for periods of unemployment, old age, invalidity and death. The funds also provide an important cushion for Zimbabwean citizens during invalidity, retirement or death of a breadwinner who was a member of the scheme. NSSA administers two major schemes: **the Pension and Other Benefits Scheme and Accident Prevention and Workers' Compensation Scheme**

Pension and Other Benefits Scheme

All companies and employers/entrepreneurs in Zimbabwe are compelled to remit pension contributions to National Social Security Authority, (NSSA)'s Pension and Other Benefits Scheme. The Pension and Other Benefits Scheme is based on a 50/50 contribution from the employers and employees and it amounts to the total of 6% of basic wage/salary. It is for every working Zimbabwean above the age of 16 years and under the age of 65 years who is in permanent employment, seasonal, contract or temporary employment.

Its purpose is;

- (a) Providing financial relief to employees and their families when an employee is injured or killed in a work related accident or suffers from a work related disease or dies thereof.
- (b) Creating an awareness of, and promoting health and safety at all places of work.
- (c) Encouraging adoption of health and safety legislation through factory and machinery inspection.
- (d) Providing rehabilitation services to disabled employees so as to reduce their disablement and enable them to return to their former employment or otherwise prepare them for a useful and meaningful place in society.

Contributions

The Scheme is employer funded, employees do not contribute. Currently all employers, except the Government, employers of domestic employees and informal sector employers are required by law to contribute to the Scheme.

Registration

When an employer commences business he/she is required to go to his/her nearest NSSA office to complete registration forms indicating the estimated earnings of his/her employees. The minimum insurance premium the employer is required to pay will be calculated using a risk factor dependent on the type of industry the company is involved in. The insurance year runs from January 1 to December 31st.

Change of business

Employers have the responsibility of keeping NSSA informed of any changes or developments in their businesses. This will allow NSSA to adjust premiums and records in line with any changes as and when they occur.

Reporting workplace injuries

Once an employee is injured in a work related accident, the employer must immediately provide first aid before promptly transferring him/her to the nearest medical centre. The employer is then required to report the accident to the nearest NSSA Office after filling in the relevant details on form WCIF No. 14, which he/she should keep at his/her work premises at all times. In cases of serious/fatal accidents the employer should contact the nearest NSSA Office and the Police within 24 hours.

NB. All accidents must be reported within 14 days irrespective of whether the employee has completed treatment or not.

The Accident Prevention and Workers' Compensation Scheme

Offers the following benefits:

- (i) Periodical payments in respect of loss of earning
Periodical payments are meant to provide compensatory income where this has been lost or stopped by work related accidents. There is guarantee continual payment of normal monthly wages for the first 30 days following an accident, and a percentage thereof thereafter.
- (ii) Medical costs
NSSA pays all medical fees including transport, drugs and hospital using approved rates, besides providing artificial appliances.
- (iii) Funeral grant
In the unfortunate event of a member losing his/her life as a result of a work related accident, the Scheme used to pay out a maximum of **USD200** towards funeral expenses.
- (iv) Lump sum
Where an employee's injury results in permanent disablement, compensation will be paid to him/her as a lump sum if the disability is less than 30%. There shall also be a children's allowance for children up to the age of 19.
- (v) Employees' pension
In instances where an employee's injury results in **30%** or more, permanent disability, compensation will be paid to the employee as a pension. A children's allowance is included in employee's pension, for children up to the age of 19 years and /or those who are below 25 years, provided they are in full time education. The benefit may also be given to permanently disabled dependent children who are incapable of supporting themselves regardless of their age.

Training

According to Third Schedule of the National Social Security Authority (Accident Prevention and Workers' Compensation Scheme) Notice, 1990 (Statutory Instrument 68 of 1990) an employer is required to provide written instructions on safety measures in a manner or language understood by the majority of workers. Similarly, it requires that workers should be provided with the safety training and get released to attend such training during working hours and at an employer's expense. It is obligatory for an employer to provide information, instruction and supervision to a worker to protect his/her health and safety. However, there is no clear provision in the law requiring employer to provide training periodically to new workers once they start working.

Labour Inspection System

Inspections are carried out by the Labour Inspectorate from Ministry of Labour. The inspections are carried out in terms of Statutory Instrument 154 of 2003 and the Labour inspector will complete an inspection form which will be signed by both the Labour inspector and the employer representative. The Factories and Works Act requires inspectors to ascertain whether the provisions of the Act are being complied with, to enter any factory or any premises where structural work is being performed or a lift or elevator is installed and make such examination and inquiry as necessary. The legislation authorises inspectors to issue notices to a local authority where they find any act or default in relation to any drain, sanitary convenience, water supply, lighting, ventilation or other matte(s) in a factory which is liable to be dealt with by the local authority.

The above literature should be very helpful in promoting employee job security and welfare in Zimbabwe, but it appears the Informal Sector does not comply with the aforementioned labour laws, hence that motivated this researcher to conduct this study in order to have in-depth understanding of its operations.

VI. Methodology

The planning and collection of data was premised on the following;

Approach

The qualitative paradigm was largely used

Research design

The *survey design* was used since it is one of the most important areas of measurement in applied social research, which involves asking questions

Population

The nature of business types largely characterising this study consisted of furniture making, motor vehicle mechanics, welding, dress making, block/brick moulding, fabrication, glazing, refrigeration, panel

beating, shoe making/repairs, leather bag making, vegetable vending, flea markets, tuck-shops, butchery and food catering. The population of informal traders at Mbare Musika, Siyaso, Magaba, Matapi, Gazaland, Machipisa, Makomva, Kamunhu, Mereki, Area 8 Glen View, Kamunhu, Mupedzanhamo and Harare Central business district was about 4 300 and each on average employed three people giving a total population size of about 12 900.

Sample and sampling technique

A sample size of 65 subjects was used for this study. This was based on *collective exhaustive* combined with *Quota sampling technique* as this researcher felt that he needed to accommodate as many different types of informal traders as possible who were engaged in different trades for inclusivity.

Research Instruments

Unstructured interviews were used as well as the *observation guide*.

Data collation and analysis

Results were analysed using the content analysis method, involving categorization of data, classification, summarization and coding (Cresswell, 2003).

Research ethics

These were upheld during the entire process of data collection up to analysis and collation. No attempt was made to influence responses or to manipulate results as these were solely based on actual responses /comments

VII. Major Findings

The study was able to establish general challenges (operational constraints) facing the informal sector in Harare, Zimbabwe. The study intended to address the following research questions;

7.1 Which major laws should be used to administer labour (employment) issues of workers including the Informal sector in Zimbabwe?

The following pieces of legislation are the major ones that should be observed;

- The Labour Act 28:01 (Amended Number 5 of 2015)
- The Factories and Works Act 14:08 of 1996
- NSSA Act 17: 04 of 1989
- Zimbabwe Revenue Authority (ZIMRA) Act

7.2 What was the level of compliance by the Informal sector on labour laws in Zimbabwe?

The study revealed that there was non-compliance as most employers/operators made decisions based on their personal discretion rather than making reference to the labour laws. The majority totally disregard the Labour laws as they feel that they do not have the capacity to put in place structures and systems required or to meet certain statutory obligations. As a result most violated working conditions are:

- Vacation and maternity leave provisions
- Failure to pay minimum wages gazetted for certain trades resulting in under payment or no payment at times,
- Long working hours.
- No overtime policy in place despite workers working for long hours.
- Inadequate safety clothing and factory inspections.
- Inadequate or no compensation for injuries sustained in accidents or even no medical assistance provided
- Loss of employment if one becomes disabled or incapacitated even not by his/her own making but due to working environment hazards.

There was almost total disregard of observing the country's Labour Laws particularly the Labour Act 28:01, the Factories and Works Act, the NSSA Act, ZIMRA Act etc. as a result of non compliance, Therefore workers employed in this sector;

- are exposed to health risks e.g. accidents, exposed to heat and poor ventilation, lack of protective clothing and safety shoes, goggles etc..
- do not have freedom of association e.g. to form a workers committee or join a trade union of their own
- do not enjoy their fundamentals rights such as ,right to remuneration, fair labour standards, equal treatment (no discrimination), health and safety , right to bargain etc.

- As a result of the above, most are “abused” with non payment of commensurate remuneration (wages) and there are cases of sexual harassment and bullying and even use of child labour which are not reported to the police or appropriate structures/authorities.

7.3 Which are the major challenges or constraints facing the implementation of labour laws in the informal sector?

These were found to be ;

Lack of education and training

There was hardly any form of training to equip the operators with knowledge related to their operations such as health and safety awareness

Attitude

The sector wanted autonomy and no interference with their operations so they resented any form of inspection or advice from government or local authorities officials

Lack of business acumen/skills

Whilst majority had been trained in their areas of trade (technocrats), they lacked business skills and there were hardly any savings as majority lived by means of “hand to mouth”

Fear of paying which reduces takings/income

The sector was so particular about ‘parting’ with any earnings and therefore there was no culture of even paying statutory requirements as they preferred evasion.

Corruption

Law enforcement agencies and inspectors would be bribed to avoid pursuing any legal action against culprits or offenders.

Lack of government capacity to enforce regulations

The phenomenal growth of the informal sector had posed problems to government which was being incapacitated to enforce labour regulations and put surveillance measures in place

Political interferences

This has resulted in some form of lawlessness as culprits get protection from politicians, such as councillors, Members of parliament and even high ranked government officials. Even a lot of undesignated areas for operation still exist due to manipulation of events and situations by the domineering political parties, ZANU PF and MDC-T. Decisions are based on party lines.

Lack of continuity in the event of terminal illness or death of owner

Most businesses were family or individually owned and the death of the owner (bread winner) would in most cases result in the demise of the business. This was one of the major reasons why continuity lacked in most of the Informal business set ups.

Lack of involvement and participation

Workers employed in this sector, do not have any meaningful contribution toward their welfare. There are no clear salaries (remuneration), no proper employment contracts (for majority they are not even existing (there), no code of conduct etc. In all these, workers are not even involved and there is dominance of dictatorship. As a result the owners use their own selfish discretion and in the wake of high unemployment levels, the workers are so heavily underpaid and are not considered in most cases as critical assets. Such lack of involvement in the day to day running (administration) of the business and poor conditions of service result in low motivation among workers who feel that they do not have a sense of ownership resulting in job dissatisfaction and disgruntlement.

VIII. Conclusion

The results showed that there was violation of labour laws in the informal sector in Harare and that was adversely affecting labour relations. That results in violation of employee rights, proneness to accidents, victimisation, underpayment and no job security. Such violation of labour laws negatively affects employees welfare. The Informal sector has potential if there is a paradigm shift to grow into Formal sector and help

improve Zimbabwe's precarious unemployment levels which in turn would improve the welfare of its citizens including the general standard of living.

IX. Recommendations

The study suggested the following as remedies to the plight of the Informal sector.

1. Registration of Informal Sector traders

Government in liaison with the local authority, City of Harare, should register the informal traders so that their operations can be regulated and monitored especially on compliance issues.

2. Empowering through business training

A holistic approach is required in order to change the business culture of the informal sector, training workshops should be facilitated by government, notably through the Ministry of Small enterprises with the aid of the donor community, financial institutions and the local authority (City of Harare). Training could equip them with;

- Business skills
- Leadership skills
- Knowledge on compliance issues e.g laws and statutory requirements
- Team building
- Marketing strategies
- Efficient Value chains

3. Promotion of workplace democracy

Government should put in place mechanisms or systems that should ensure that those employed by informal sector operators/businesses enjoy their fundamental labour rights in line with the provisions of the Labour Act 28: 01 or otherwise which include;

- Forming workers committee or affiliating to a relevant trade union of their choice.
- Provision to negotiate with their employers on grievances or matters of concern.
- Provision to discuss with employers their working conditions freely (conditions of service).
- Involvement and participation on matters of concern such as health and safety.
- Right to enjoy fair labour standards e.g. hours of work, time off duty, etc.

If these are adhered to, there is likely to be a strong sense of motivation as workers feel that they are recognised and empowered.

4. Mobilisation of financial resources

Government should put in place policies that should allow informal sector traders to access soft loans e.g from government agency, SEDCO (Small Enterprises Development Company) or working on accessing harmonised financial packages from financial institutions' (banks). If stringent measures like "collateral security" are removed or harmonised, that will enhance the informal sector to recapitalise its businesses. This should culminate in business expansion and growth. Ultimately this should lead to meaningful employment creation in the formal sector by then. Also taking into account that most of the businesses should be registered, the government revenue base will be widened because it will be easy to collect taxes.

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