Chinese labour practices in six southern African countries

Sergio Carciotto and Ringisai Chikohomero
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Executive summary

Since the beginning of the new millennium, political and economic relations between China and Africa have intensified, leading in October 2000 to the establishment of the Forum on China–Africa Cooperation to promote industrialisation, infrastructure connectivity and facilitate trade. Between 2001 and 2007, trade between China and Africa increased by 681% and, by the end of 2009, China had overtaken the United States, becoming Africa’s largest trading partner. In 2020, according to Johns Hopkins University, the value of China–Africa trade totalled USD176 billion.

The rapid growth of Chinese-owned companies operating in Africa has been a cause for concern for academics, practitioners and activists. Issues of lack of transparency, as well as the environmental and labour conditions and practices of Chinese companies, have been at the centre of these concerns. For example, research has highlighted the unsafe working conditions in Chinese-run copper mining companies in Zambia and the abusive labour practices among Chinese companies in several other African countries. Other comparative research has highlighted differences and similarities between Chinese and non-Chinese companies’ labour practices.

This monograph analyses Chinese companies’ labour practices, including employment patterns, wage agreements and working conditions. It also reflects on the relationships between Chinese companies and trade unions, as well as on the effectiveness of mechanisms to prevent and settle labour disputes in selected countries. The study focuses on specific sectors, including construction, mining, textiles and fisheries in six southern African countries: Angola, the Democratic Republic of Congo (DRC), South Africa, Lesotho, Zambia and Zimbabwe.

The research employed mixed methods for data collection. In-depth individual interviews and focus group discussions were conducted using a semi-structured
interview guide to understand the experiences of African employees working for Chinese companies in the selected countries. The research also involved interviews with Chinese companies and government representatives in the respective countries.

The research notes differences between sectors and companies within the six countries. However, in general, interviewees who spoke to ISS field researchers raised concerns about labour rights violations and precarious employment conditions impacting the relationships between workers and Chinese employers. In particular, wages, especially for low-skilled workers, remain low, sometimes below the sector’s minimum wage. In some cases, employers do not compensate workers for all hours worked.

Non-compliance with occupational health and safety legislation and procedures was also raised as a concern, particularly in the mining sector. This ranged from a lack of adequate protective clothing and visible labelling of machinery and buildings, to poor lighting and ventilation and scant company training programmes on safety policies. Most labour disputes concern the unfair dismissal of employees without following the disciplinary and dismissal process. This aspect was prevalent in all six countries.

In southern Africa, relationships between employers, trade unions and governments are plagued by corruption and intimidation

Given this background, trade unions can play a fundamental role in enforcing labour standards, addressing issues of non-compliance and ensuring safe working conditions and fair labour practices. However, in southern Africa, relationships between employers, trade unions and governments are plagued by corruption and intimidation. In countries where trade unions have antagonistic relationships with political elites, and their members are threatened or intimidated, it is necessary to strengthen trade unions’ resources and ability to intervene to hold governments and employers accountable.

Furthermore, the right of workers to organise and associate in a labour union must be protected and trade unions must be allowed to advertise and recruit members without the risk of being victimised.

This monograph provides country-specific recommendations tailored to advise Chinese companies, member states and trade unions. The recommendations summarised below apply to all countries involved in the study:

- Chinese-owned companies should establish fair hiring policies that prohibit the exchange of any kind of favour for employment – promote fairness, transparency
and efficiency – and include the principles of non-discrimination and equal opportunity.

• Chinese companies should ensure that working conditions and terms of employment are clearly documented and communicated to employees and contracted workers.

• Chinese employers should commit to developing a health and safety programme in accordance with national legislation and international best practices. This will provide a safe and healthy work environment taking into account inherent risks and hazards. Steps should be taken to minimise accidents, injuries and diseases occurring in the course of work. In line with international best practice, employers should address the identification of hazards, preventative and protective measures, training, documentation and reporting and emergency responses.

• Chinese employers should provide a grievance mechanism for workers that is transparent, well understood and addresses concerns promptly at an appropriate level of management. This mechanism should not delay or impede other remedies available under law or in the context of existing arbitration procedures.

• Chinese companies need to guarantee the rights of workers to participate in organised labour union activities without fear of victimisation. Workers’ representatives need to be protected from being singled out for retribution when they present workers’ grievances to the company management.

• Employees need to be regularly capacitated as to their rights and obligations. These capacity-building interventions have to be guided by law and be part of ongoing staff development that is not limited to the orientation of new staff members.
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# Acronyms

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<tr>
<th>Acronym</th>
<th>Description</th>
</tr>
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<tbody>
<tr>
<td>AGOA</td>
<td>African Growth and Opportunity Act</td>
</tr>
<tr>
<td>BRI</td>
<td>Belt and Road Initiative</td>
</tr>
<tr>
<td>DDPR</td>
<td>Directorate of Dispute Prevention and Resolution</td>
</tr>
<tr>
<td>DMRE</td>
<td>Department of Mineral Resources and Energy</td>
</tr>
<tr>
<td>DRC</td>
<td>Democratic Republic of Congo</td>
</tr>
<tr>
<td>ILO</td>
<td>International Labour Organization</td>
</tr>
<tr>
<td>NACTWU</td>
<td>National Clothing, Textile and Allied Workers’ Union</td>
</tr>
<tr>
<td>PPE</td>
<td>Personal Protective Equipment</td>
</tr>
<tr>
<td>SADC</td>
<td>Southern African Development Community</td>
</tr>
<tr>
<td>SLP</td>
<td>Social Labour Plan</td>
</tr>
<tr>
<td>WRAP</td>
<td>Worldwide Responsible Accredited Production</td>
</tr>
<tr>
<td>WRC</td>
<td>Worker Rights Consortium</td>
</tr>
<tr>
<td>ZIDAWU</td>
<td>Zimbabwe Allied and Diamond Workers Union</td>
</tr>
<tr>
<td>UN</td>
<td>United Nations</td>
</tr>
<tr>
<td>UNDP</td>
<td>United Nations Development Programme</td>
</tr>
</tbody>
</table>
Chapter 1

Introduction

Political and economic relationships between China and Africa have grown stronger during the past 20 years. In 2000, the Forum on China–Africa Cooperation was established to enhance cooperation in economic and social development. China–Africa trading relations are based on the extraction of mineral resources and the import of manufactured goods from China, but also on investments in key economic sectors such as retail, finance and food processing. In 2013, China launched the Belt and Road Initiative (BRI), a diplomatic and political strategy to promote connectivity and trading relations with the rest of Asia, Europe and Africa through major debt-financed infrastructure projects.

The growth of Chinese-owned firms and construction companies ‘has been met with a cacophony of criticisms and a fixture of negative discourses about China’s role in Africa.’ On the one hand, African governments have praised Chinese investments for creating jobs, generating additional revenues and providing opportunities to develop infrastructure. On the other, they cannot easily dismiss concerns over reported cases of unfair labour practices and appalling working conditions at Chinese companies. In this regard, the International Labour Organization (ILO) defines ‘working conditions’ as including ‘compensation, contracts and human resources, occupational health and safety, and working time.’

This monograph examines the working conditions of Africans working for Chinese companies in six southern African countries: Angola, the Democratic Republic of Congo (DRC), Lesotho, South Africa, Zambia and Zimbabwe. The study examines employment patterns, wage agreements and labour standards, focusing on selected industries, namely textiles, manufacturing, mining, construction and fisheries. It also reflects on workers’ responses to the challenges posed by unfair labour practices.
The monograph is organised as follows: Chapter 1 introduces the study, provides an overview of Chinese investments in the selected countries and summarises the current literature on labour practices among Chinese companies in Africa. Chapter 2 outlines the research design and methodology. Chapter 3 discusses cross-cutting issues associated with labour practices and working conditions in the selected countries and synthesises key findings. The final chapter offers a conclusion and recommendations.

**China–Africa relations**

The China–Africa Cooperation Vision 2035 emphasises the benefits of development infrastructure projects, stating that ‘China–Africa infrastructure cooperation is upgraded as China supports the development of African railway, highway, shipping, port, airline and communications network based on multiple cooperation models.’ In 2019, Africa was ranked the second-largest recipient of Chinese foreign direct investment, after Asia (64%), accounting for 17% of the total. Furthermore, ‘the two sides have established diversified arrangements for trade and investment facilitation to elevate China–Africa cooperation on trade and investment facilitation to a new level.’ As part of the BRI, China is financing infrastructural projects in numerous countries in Africa (Chart 1). Launched in 2013, the BRI represents China’s economic, political and diplomatic strategy to promote connectivity and trading relations with the rest of Asia, Europe and Africa through major debt-financed.

**Chart 1: The Belt and Road Initiative**

![Chart 1: The Belt and Road Initiative](source: Mercator Institute for China Studies)
infrastructure projects. In South Africa, for example, China has invested in several projects including the expansion of Durban’s port facilities, railroad expansion to export coal from Limpopo province, an auto factory in Nelson Mandela Bay, the construction of a coal-fired power plant and the establishment of a Special Economic Zone.6

In post-war Angola, Chinese investments are strongly linked to the construction sector. China emerged as the main provider of much-needed loans for the government, led by the People’s Movement for the Liberation of Angola (MPLA), to fund its major reconstruction crusade in the country. Unlike international financial institutions, China lends money without imposing economic and/or political reforms on the borrower. From 2004 to 2014, China became Angola’s main trading partner and provider of credit in exchange for crude. At the same time, Lucy Corkin points out that:

In November 2009, the International Monetary Fund made provisions for a standby loan of $1.4 billion for Angola, 300 per cent of Angola’s drawing quota. Far from alienating financial institutions such as the International Monetary Fund and the World Bank one could argue that Angola has actively courted them, in order to balance China’s influence in the country.7

These multiple financial inflows succeeded in funding and maintaining the regime’s stability, but failed to foster sustainable development. Angola’s economy depends heavily on oil. While this was crucial for bringing in huge inflows of cash for post-war reconstruction projects, oil dependence thwarted the opportunities to develop vital areas of agriculture. To avert the oil dependency pattern, President João Lourenço’s government asserted an economic diversification policy that prioritises the agriculture sector as the basis of sustainable development. The Chinese seized this shift by investing in other sectors such as fishing.

China–DRC relations are epitomised by the Sicomines joint venture between the DRC government and a consortium of Chinese companies. Following the DRC’s successful general elections in 2006, the Chinese government took a more proactive step to engage with the newly elected administration. This culminated in 2008 in a massive ‘resources for infrastructure’ deal worth USD6 billion, according to which China will invest USD3 billion in mining and USD3 billion in infrastructure development, including the construction of roads, railways, hospitals, schools and dams.

The focus for the DRC research component of this project is the construction sector. The contrats chinois (Chinese contracts) served as the pillar of the infrastructure reconstruction programme of President Kabila’s first term in office – known as the ‘5 chantiers.’ The contrats chinois emerged with the DRC’s need for infrastructure development in exchange for financial resources from mining activities. As Claude Kabemba remarks:
China offers considerable opportunities to the DRC, and the DRC is attracted to China for its civil engineering to help with the reconstruction of the country’s shattered infrastructure.8

A 2021 report commissioned by the Extractives Industries Transparency Initiative9 pointed out that the 2008 Sicomines infrastructure project was a golden opportunity for the DRC, through a bilateral cooperation agreement with China, to develop its infrastructure networks by exploiting its mining resources. However, another report highlighted a significant imbalance in the ‘resources for infrastructure’ deal.10 Further investigation has found evidence of corruption, showing that ‘the Sino-Congolese project concealed unethical and illegal conduct.’11

In Lesotho, the migration of ethnic Chinese people for non-agricultural activities started in the 1970s with Taiwanese immigrants establishing businesses in the textile and garment industry. They were followed by migrants from mainland China who worked as supervisors and managers in the factories set up by the Taiwanese. The garment and textile industry is the largest employer industry in Lesotho, with over 50 factories generating employment for more than 45 000 people (Chart 2),

Chart 2: Subsectoral value chain producers: firms, jobs and production volumes in Lesotho

<table>
<thead>
<tr>
<th>Firms</th>
<th>Jobs</th>
<th>Main market</th>
<th>Approximate units of basic garments produced per annum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Textile-only woven denim</td>
<td>1</td>
<td>1 220</td>
<td>Yarn – 18 000t</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Fabric – 15.6 linear metres</td>
</tr>
<tr>
<td>Denim (woven bottoms)</td>
<td>9</td>
<td>13 124</td>
<td>USA, South Africa</td>
</tr>
<tr>
<td>Other woven fashion</td>
<td>4</td>
<td>1 580</td>
<td>South Africa</td>
</tr>
<tr>
<td>Industrial workwear</td>
<td>6</td>
<td>4 696</td>
<td>South Africa, SADC, Lesotho</td>
</tr>
<tr>
<td>Knit garments</td>
<td>33</td>
<td>24 513</td>
<td>South Africa, USA</td>
</tr>
<tr>
<td>TOTAL</td>
<td>53</td>
<td>45 133</td>
<td>155 811 400 (typical clothing units)</td>
</tr>
</tbody>
</table>

Source: Ministry of Industry and Trade, 2017
the majority (82%) of whom are women.\textsuperscript{12} In 2017, there were 24 Asian (Taiwanese and mainland Chinese) factories in Lesotho.\textsuperscript{13}

More than 90% of products are exported to the US, taking advantage of the African Growth and Opportunity Act (AGOA), enacted in 2000 to facilitate economic growth in least developed countries. AGOA provides duty- and quota-free imports to the US market and all exporting companies need to comply with codes of conduct that define minimum working conditions and labour standards. As of 2022, five of 33 factories that export to the US are Worldwide Responsible Accredited Production (WRAP) compliant.\textsuperscript{14} This accreditation certifies that factories are socially compliant and adhere to minimum labour standards.

The Chinese investment strategy in the mining sector is based on limited indirect investments and joint venture agreements with local companies.

South Africa is China’s largest trade partner and 70\% of its export to China is represented by minerals, mainly copper, chrome, platinum group metals (PGM)\textsuperscript{15} and gold. Overall, the South African mining sector provides employment to 396,000 workers, of whom 17\% are women (Chart 3). North West, Limpopo and Mpumalanga have the largest mining workforce, employing 123,000, 95,000 and 62,000 workers respectively (Chart 4). Chinese companies presently involved in South African mining include Taung, Jinchuan Group, East Asia Metals, Gold One, Sinosteel, HBIS Group and Bayin Nonferrous Group. The Chinese investment strategy in the mining sector is based on limited indirect investments and joint venture agreements with local companies. According to some analysts, these do not encourage job creation, skill transfer, beneficiation or the economic development of local communities.\textsuperscript{16}

Concerns have been raised about the development benefits of Chinese mining in South Africa, as well as the environmental impact of their operations. Members of civil society organisations and trade unions describe relations as asymmetrical, and consider Chinese investments and trade relations to be an expression of neocolonial power. According to a report issued by Southern Africa Resource Watch:

… the present Chinese business model for engaging South Africa’s ferrochrome industry presents significant negative features. South African resources are extracted for processing elsewhere. Without value-added in South Africa, jobs remain limited and no skills or technology transfers occur.\textsuperscript{17}

Currently, China is the largest importer of chrome ore from South Africa (93\%).\textsuperscript{18}
China’s investment in Zambia dates back to Zambia’s independence in 1964. However, Chinese investments in the mining sector have grown substantially since the sector liberalised in the mid-1990s. The Zambian government had no choice but to yield to the external policy prescriptions of the International Monetary Fund and the World Bank, and since then Zambia’s economic policies have been tightly policed by international financial institutions. The privatisation of Zambia Consolidated Copper Mine was one of the preconditions for the international financial institutions’ debt relief assistance, and the mine was sold to several foreign companies. After privatisation, China entered the Zambian copper mining industry, along with competitors from India, South Africa, Switzerland and Canada.

In 1998, China Nonferrous Metals Mining Corporation purchased the copper mine in Chambishi from Non-Ferrous China Africa, thus beginning the long venture of Chinese mining companies into Zambia’s mining sector. The mine reopened for production in 2003 after being dormant for 13 years. Since 2003, China Nonferrous Metals Mining Corporation has opened three mining operations in Zambia in addition to Non-Ferrous China Africa.
Furthermore, Collum Coal Mine, a Chinese privately-owned mine, has been in existence since around 2000. The company has been cited for many violations, protests and deaths. The incidents sparked criticism and bad publicity for the mine and many Chinese people, such as China’s ambassador to Zambia, tried to distance themselves from the mine and its operators. In 2013, the Zambian government seized Collum Mine, citing labour and safety violations and non-payment of tax, which led to all three licences held by the company being revoked. In 2015, the Zambian government decided to reopen the mine after Collum assured the government it would enforce proper measures for improvements.

Looking at trends and the extent of trade between China and Zimbabwe, data from the National Bureau of Statistics of China shows that Zimbabwe’s trade with China has increased steadily since the mid-1990s. Bilateral trade between the two countries was estimated to have increased from USD52.2 million in 1996 to USD275.25 million in 2006, reaching a peak of USD874.37 million in 2011. This growth continued under Zimbabwe’s Government of National Unity in 2012 and 2013, with bilateral trade reaching USD1 billion in 2012 and USD1.1 billion in 2013.

Bilateral trade between Zimbabwe and China is defined by the export of raw materials such as tobacco and minerals to China, and Zimbabwe’s importation of manufactured goods (including clothing, textiles and footwear), vehicles (cars, buses, tractors and aircraft), electrical machinery and other equipment. This trade has developed to include Chinese companies participating in sectors such as mining, manufacturing, retail, agriculture, transport and infrastructural development in Zimbabwe. Some of the biggest participating Chinese companies in the mining sector include Anjin, China International Mining Group, Sino-Zimbabwe Ltd and its subsidiary Sino-Zimbabwe Diamond Ltd.

Bilateral trade between Zimbabwe and China is defined by the export of raw materials to China, and Zimbabwe’s importation of manufactured goods.

Chinese investments in Zimbabwe take place within the framework of Zimbabwe’s ‘Look East policy’. This policy was adopted after the fallout between Zimbabwe and its traditional trading partners – the European Union, the United Kingdom, the US and their allies. With its economy in a rapid tailspin and given its precarious position as a bad debtor, the government of Zimbabwe was not only desperate for new friends but also in need of new investors and new favourable lines of credit. Given that the Look East policy was adopted in desperation, it was unclear in its formative years what it encompassed besides holding out a begging bowl to Asian Tiger countries.
The policy found willing partners in China, partly because of long-standing relations dating back to Zimbabwe’s independence struggle. However, the benefits of the policy have been skewed in favour of Chinese investors, who found willing accomplices in local political elites. These relations with top politicians and military officials offer Chinese companies protection from the law and a haven to continue with breaches that are simply overlooked.

This relationship between the state, politicians and Chinese investors has made it difficult for government agencies such as the department of labour, the police and the Environmental Management Agency to effectively carry out their mandate. This compromised agency has resulted in the government failing to protect its citizens from abuse of labour laws and casting a deaf ear on the trade unions and other organisations that raise concerns and objections about the abuses to which local employees are subjected.

**Labour practices among Chinese companies in Africa: literature review**

Evidence is patchy regarding labour practices in industries established and led by Chinese companies in Africa, and there has been limited analysis at national and regional levels. This section provides a review of selected studies on Chinese labour practices in Africa.

In 2012, a report by Southern Africa Resource Watch revealed that Chinese companies were engaged in widespread labour abuses in Africa, citing examples of harsh and unfair working conditions in the mining sector in the DRC, Zambia and Zimbabwe. In the same year, ‘China’s Silent Army,’ an exploration of Chinese engagement in African countries and other regions of the world, reported cases of local labour exploitation and dire working conditions among Chinese companies.

Evidence is patchy regarding labour practices in industries established and led by Chinese companies in Africa.

Furthermore, a study implemented by the African Labour Research Network, titled *Chinese Investments in Africa: A Labour Perspective*, explored working conditions and labour relations at Chinese companies in 10 selected African countries. The authors highlighted poor working relationships and unfair labour practices committed by employers, concluding that ‘Chinese companies are not the only culprits but often they are amongst the employers that offer the worst working conditions.’ The findings from this study revealed issues of low pay, lack of social protection, unsafe conditions in the workplace and conflict between unions and management.
More recently, a study on the DRC’s mining sector reported that African workers at Chinese mines experienced verbal and physical abuse, including ‘being kicked, slapped, beaten with sticks, insulted, shouted at, or sometimes pulled around by their ear, when they were not able to understand instructions in Mandarin, made errors or refused to undertake dangerous tasks.’

According to Rounds and Huang, researchers at Johns Hopkins University, China–Africa labour relations are ‘rooted in ideological rather than empirical description.’ Their study explores potential reasons behind the differences and similarities in the ways Chinese and American companies in Kenya treat African workers. They find that Chinese construction companies operate with a higher degree of informality, with no policies regulating human resource (HR) management and a lack of formal contracts. They further note that ‘in addition to firm nationality, variation in HR structures and policies seems related to the size, corporate structure, length of operation, and, critically, industry.’

This illustrates how exploitative practices and a poor understanding of labour law may characterise both smaller Chinese and American companies in Kenya. Research conducted in South Africa shows that those employed by small firms (< 10 employees) are more likely to experience labour law violations and that these violations decrease as the firm size increases. Similarly, as Ericsson and colleagues observe, the size and nature of ownership of Chinese mining operations represent two crucial elements explaining the tendency toward more abusive and exploitative labour practices. They classify Chinese mining companies into five groups, ranging from private artisanal operators to major state-owned companies. They say that while the former:

… operate as small-scale miners often lacking necessary permits and potentially with serious environmental and health and safety effects’, the latter are forced to adhere to international standards and are under scrutiny by international NGOs [non-governmental organisations].

In their study on the Chinese labour regime in Africa, Ofosu and Sarpong note that ‘variables such as country context (both China and host countries), sector specificities and firm attributes, and global industrial capitalism mechanisms contribute to shaping the labour practices of Chinese firms in Africa.’

Their analysis contextualises the variation in labour dynamics and unpacks some of the myths surrounding Chinese labour practices. First, domestic labour dynamics such as compliance with labour legislation, an effective labour inspectorate and the presence of strong trade unions can reduce the risk of unfair labour practices. It is also useful to consider the peculiarities of labour regimes in China in order to counter claims of ‘Chinese exceptionalism’ in labour relations. For example, Xiaooyang explains the interconnectedness between internal dynamics in host countries and Sino labour relations in the mining sector:
Safety records in China’s domestic mines are poor. Thousands of Chinese workers die in mining accidents every year as a result of lax regulation and ineffective implementation. When Chinese mining enterprises come to Africa, they find a different legal and social context. Consequently, their conventional practices in China need modification.45

Second, the specific characteristics of certain labour-intensive sectors, such as construction and mining, which are more prone to informality and the casualisation of labour, may expose African workers to a higher risk of exploitation. As Rounds and Huang observe, industries containing elements of informality have a ‘high propensity for conflicts’ and labour disputes.46

Research suggests that Chinese enterprises are highly localised and that the majority of workers are recruited among the local population.

Third, trade liberalisation has increased economic competition and the need to cut labour costs and save on production costs. In particular, the practice of subcontracting in construction and mining projects, as an expression of supply chain capitalism, is well documented. The use of labour brokers and subcontractors is common practice in the Chinese construction sector, where informality and flexible labour relations are widespread.47 In South Africa, for example, the increasing tendency to subcontract in mining has undercut workers’ wages, resulting in:

… serious health and safety risks, the lack of medical benefits, inadequate or non-existent compensation in the event of injury or death, and pervasive practices of instant dismissal in the event of injury or sickness.48

Similarly, comparative research conducted in the copper and cobalt belt in the DRC among Chinese and non-Chinese mining companies revealed that ‘the subcontracting model used by the mines is at the core of the exploitation of workers and rights abuses’.49

Regarding workforce localisation, evidence-based research suggests that Chinese enterprises are highly localised and that the majority of workers are recruited among the local population.50 Over the years, in sub-Saharan Africa, the number of Chinese expat workers has been declining, an indication of the increased rate of workforce localisation and a growing contribution to the creation of ‘non-agricultural jobs’.51

The level of localisation may vary according to corporate structure, host countries’ national economic policies and availability of high-skilled workers across sectors. For example, the government in post-war Angola has prioritised rebuilding
infrastructure over securing employment for a large number of workers, while in Ethiopia the need for structural transformation and job creation has incentivised workforce localisation among Chinese companies.52

Nonetheless, firms operating in Africa rely heavily on the expertise of Chinese managers, engineers and highly skilled workers to fill some key positions. This could happen for a number of reasons, including the availability of highly trained individuals among the local workforce, but also because of trust issues. Comparative research between Chinese and American firms in Kenya points to ‘trust’ as an important element linked to cultural proximity rather than to nationality and concludes that ‘the lack of trust that Chinese managers feel towards Kenyans is actualized in corporate structures that maintain Chinese managers in decision-making positions.’53 The same applies to American companies whose managerial and executive positions are filled by compatriots.
Chapter 2
Methodology

To highlight workers’ voices and increase awareness of Chinese labour practices in southern Africa, this monograph draws on field research conducted in six southern Africa countries, namely Angola, the DRC, Lesotho, South Africa, Zambia and Zimbabwe, between November 2021 and March 2022. In-depth individual interviews and focus group discussions were conducted using a semi-structured interview guide to understand the experiences of African employees working for Chinese companies in the selected countries, as well as the perceptions and perspectives of key stakeholders. In particular, this exploratory study sought to examine employment patterns and companies’ employment labour practices in five selected industries: textile, manufacturing, mining, construction and fishery.

Six of the 16 southern African countries were selected to ensure sufficient regional coverage within the constraints of the research budget. The final selection comprised six countries at varying levels of development, with different socio-legal systems and a range of industries. Due to budgetary constraints, the study focused on only one primary economic sector for each country.

Participants (n = 83, 55 men and 28 women) included key stakeholders such as government officials, bureaucrats, administrators, NGO practitioners, community leaders, trade unions, journalists, as well as employees and employers who were interviewed in cities and semi-dense areas across the selected countries. Participants were purposively identified and selected with the assistance of community leaders, trade unions and civil society organisations. Data generated from in-depth individual interviews with these key informants were analysed using thematic analysis approaches.
To ensure construct validity and to highlight multiple perspectives, several sources of evidence were gathered using qualitative tools. This approach allowed researchers to capture the complexity of experiences of African workers employed by Chinese firms and to gather more detailed and content-rich information. For this purpose, in April 2022, the ISS convened a consultative workshop with representatives of the Chinese embassy in South Africa, as well as businesses and enterprises owned or run by Chinese nationals in the region.

Furthermore, a workshop with trade union leaders from the six countries involved in the project, as well as from Namibia, was organised to present and discuss preliminary findings. This event, organised in collaboration with the Southern African Trade Union Coordination Council, enhanced engagement between the research team and organised labour and provided critical insight into some of the challenges related to Chinese labour practices in the region.

This study was conducted in full adherence with standard ethical norms and procedures and the code of conduct for research as prescribed by the ISS Research Policy. The gathering of data was undertaken after approval was granted by the ISS Research Ethics Committee. The researchers ensured adequate quality and integrity throughout the research process and all information collected was treated with confidentiality, ensuring the anonymity of respondents. A written consent form was presented beforehand to all participants, in a language they understood, to ensure they had a chance to read it before they signed and that their agreement to participate in the research was voluntary. In some cases, respondents were offered reimbursement for reasonable out-of-pocket expenses such as transport and airtime.
Chapter 3
Research findings and analysis

Labour practices and working conditions at Chinese companies in Southern Africa

Southern African states face great socio-economic challenges, including the inability to create employment opportunities and high rates of poverty. Their labour market is fragmented, consisting of industrial and public sector urban workers, as well as agricultural workers, most of whom are women. Economic stagnation and the lack of opportunities in the formal sector have increased the percentage of workers employed in the informal sector in southern Africa. As a result, non-standard employees, driven into the informal economy by desperation for work, are often exploited and unprotected by labour legislation.

According to the ILO, work in the informal economy is often characterised by small or undefined workplaces, unsafe and unhealthy working conditions, low levels of skills and productivity, low or irregular incomes, long working hours and lack of access to information, markets, finance, training and technology. The ILO has made remarkable efforts to develop labour standards and Conventions addressing non-standard employment. However, current levels of ratification of these Conventions by southern African states remain low (see Appendix A). Several member states in the region have, however, adopted labour laws in accordance with international standards.

The lack of enforcement of a regional labour standards regime for SADC represents an additional challenge to workers’ protection

Nonetheless, even where workers are protected by labour laws, inadequate resources, a lack of organisational capacity, as well as endemic corruption, inhibit effective labour protection. The lack of enforcement of a regional labour standards regime for the Southern African Development Community (SADC) represents an additional challenge to workers’ protection in Southern Africa.
Some authors argue that a regional labour standards regime to provide minimum protection and labour rights is already in place and includes the 2003 Charter on Fundamental Social Rights, the ILO core Conventions (both adopted and ratified by all member states) and the 2014 SADC Protocol on Employment and Labour.59 The latter, which seeks to establish minimum standards on employment and labour, social security, and safety and health at the workplace, is under revision and has been ratified by only one member state.

This section highlights the main features of Chinese labour practices and working conditions across the six southern African countries which form part of this study. Findings are organised into different cross-cutting themes, including contract and wages, compensation, health and safety, labour disputes and relationships with trade unions. Despite the different experiences across countries and economic sectors, in general conditions of employment for African workers were described as precarious and characterised by low wages, unpaid overtime, and unsafe and unhealthy working environments.

The employment contract is an important document specifying terms and conditions of employment, including information about remuneration and benefits, minimum number of working hours, duration and termination of employment, as well as disciplinary, grievance and dismissal procedures. In several cases, workers employed by Chinese companies reported they were not offered any formal contract but were rather employed as casual workers or paid a fixed piece rate for each unit produced. This practice is concerning because it can expose workers to labour abuse and exploitation.

Conditions of employment were described as precarious and characterised by low wages, unpaid overtime, and unsafe working environments

In the DRC, for example, contracts for casual employees cannot exceed 22 working days in a two-month period. However, even after three years of continuous employment for some workers, contractual conditions and treatment remain unchanged. Although there may be legitimate reasons for using fixed-term contracts, they are also used by employers to avoid payment of benefits, including annual leave, sick leave and maternity leave.

In Angola, prior notice of non-renewal of an employment agreement is only applicable to agreements with a duration equal to or over three months, yet according to a Chinese employer, new employees are offered only one-month contracts. In some cases, rolling-over fixed-term contracts may expose workers to sexual harassment. For example, data suggest that in Lesotho’s manufacturing industry, female workers
are forced by their supervisors to engage in sexual activities to keep their jobs. This was reported to be a widespread practice at Indian-owned factories as well.

Information about wages varies between sectors and countries. In Angola, a representative of a Chinese manufacturing company reported that salaries received by employees were greater than the minimum wage stipulated by the law. In South Africa, a former employee of a Chinese mining company explained that wages were fair when compared to those of non-Chinese companies. Furthermore, a representative of a Chinese state-owned construction company with multiple projects in southern Africa noted that the salary range is determined by market pay rates because companies mostly employ local workers. In particular, highly skilled workers are hard to source and therefore salaries are high to attract better workers.

Nonetheless numerous respondents said that wages, especially for low-skilled workers, remain too low, even below the living wage, and employers do not compensate employees for all hours worked. For example, in the Angolan fishing industry the study found that pay is below the minimum wage applicable for transport, services and manufacturing. In the DRC, on the other hand, workers in the construction sector reported that Chinese employers strictly adhere to standard working hours, whereas Indian and Lebanese companies do not.

Some concerns were raised by workers and members of trade unions over workplace health and safety, especially in mines. Several examples were given: inadequate personal protective equipment (PPE), lack of visible labelling of machinery and buildings (in some cases they are labelled in Chinese), poor lighting and ventilation, and lack of company training programmes on safety policies. Furthermore, in Lesotho, trade unions reported inadequate sanitation facilities and lack of canteens at textile factories.

The majority of labour disputes in the country case studies concern unfair dismissal of employees without following the disciplinary and dismissal process in a fair and transparent manner. ILO recommendations concerning the termination of employment at the initiative of the employer state that:

- The employment of a worker shall not be terminated unless there is a valid reason for such termination connected with the capacity or conduct of the worker or based on the operational requirements of the undertaking, establishment or service.60

Nonetheless, in countries such as the DRC, Zambia and Zimbabwe, respondents said that workers are dismissed without good cause, or without following fair procedure. In Lesotho, remedies for unfair dismissal and unfair labour practices are lacking due to an inefficient and understaffed justice system and bribery. The lack of justice and legal remedies for those who are unlawfully dismissed may have severe
socio-economic implications. For example, Basotho men who are dismissed may end up migrating to greener pastures in South Africa, while women may end up as sex workers.

As the South African case study highlighted, trade unions can play a fundamental role in enforcing labour standards, addressing issues of non-compliance and ensuring safe working conditions and fair labour practices. The Chinese manager of a mining company based in South Africa explained that relationships with trade unions are positive as they meet on a monthly basis to discuss training programmes, opportunities for promotion and other issues of mutual interest. However, the other five country case studies provide a picture of unhealthy relationships between the state, employers and trade unions due to a political environment plagued by corruption and intimidation.

For example, in Zimbabwe where Chinese mining companies have established connections with the Zimbabwean political and military elites, employers can exploit the acrimonious relationship between government and trade unions to their advantage. Similarly, in Angola antagonistic relationships between trade unions and the labour inspectorate have led to a situation of impunity for widespread labour abuses and unfair labour practices.

In some cases, workers who join the unions are victimised. In Zambia, participating in union activities was considered a risky undertaking, while in the DRC where many trade unions are organised by employers to discourage independent unions, members of the unions have been arrested and prosecuted. It is worth noting that political elites and government officials are not the only culprits. In Zambia, workers’ representatives felt they did not have any backing from the national labour union, leading to the conclusion that, ‘labour unions at the national level are in the pockets of the Chinese.’

The sections that follow provide some contextual information on the different country case studies and synthesise the key findings.

**Labour practices and working conditions in Angola’s fishing sector**

**Introduction**

Chinese business practices are intertwined with the reality that sustains them. In Angola, Chinese businesses either adapt to the status quo or exploit legal loopholes and the lack of law enforcement. Angola is a constitutional state, has labour laws and is a member of the ILO. However, some Chinese businesses operating legally in the country get away with imposing appalling working conditions on their employees, including incarceration, sexual abuse, long working hours without adequate food or rest, insufficient holidays, low wages and insecure labour relations.
This study builds on interviews conducted by the researchers in December 2021 with local workers, community leaders, trade union leaders and provincial labour inspectors. It also takes into account a series of reports produced by Radio Ecclesia journalists on Angolan workers employed by Chinese fishing companies in the village of Caota in the southern province of Benguela. The reports highlight the workers’ struggle for better working conditions and reveal the scale of the toxic labour environment, underpinned by conflicts of interest, kickbacks and impunity.

Protests erupted on 23 February 2022 over these labour disputes between discontented workers and Chinese employers. Local trade unions have vowed to enforce the minimum wage of 40 226 Kz (USD93) applicable to workers in the transport, services and manufacturing industries. The sections below briefly describe Angola’s social and economic contexts and legal background in order to pinpoint the extent of Chinese involvement in the fishing industry.

Angola’s labour environment is underpinned by the reality that people are desperate for work but feel unprotected by the laws, partly due to the lack of functional and independent oversight. Workers are confronted with a high unemployment rate and have no choice but to take up jobs with low wages and harsh working conditions. This disjunction between the labour law and its implementation has for decades undermined the structure of the state and public relations. Furthermore, Angola faces challenges of weak governance and widespread corruption. According to the World Bank Enterprise Survey, over 75% of firms in Angola identify corruption as a major constraint, while 51% have experienced at least one bribe payment request (Chart 5).

Chart 5: Level of corruption experienced by firms

<table>
<thead>
<tr>
<th>Country</th>
<th>Experienced at least one bribe payment request (%)</th>
<th>Expected to give gifts to public officials ‘to get things done’ (%)</th>
<th>Corruption as a major constraint (%)</th>
<th>Court system as a major constraint (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sub-Saharan Africa</td>
<td>22.3</td>
<td>28.1</td>
<td>39.1</td>
<td>17.5</td>
</tr>
<tr>
<td>Angola</td>
<td>51.3</td>
<td>48.9</td>
<td>75.6</td>
<td>23.6</td>
</tr>
<tr>
<td>DRC</td>
<td>56.5</td>
<td>50.4</td>
<td>57.7</td>
<td>32.6</td>
</tr>
<tr>
<td>Lesotho</td>
<td>14.6</td>
<td>13.8</td>
<td>50.7</td>
<td>21.8</td>
</tr>
<tr>
<td>South Africa</td>
<td>1.5</td>
<td>1.5</td>
<td>13.6</td>
<td>2.3</td>
</tr>
<tr>
<td>Zambia</td>
<td>9.6</td>
<td>83.0</td>
<td>26.7</td>
<td>22.4</td>
</tr>
<tr>
<td>Zimbabwe</td>
<td>16.2</td>
<td>7.2</td>
<td>32.6</td>
<td>7.0</td>
</tr>
</tbody>
</table>

Source: Enterprise Survey World Bank, 2022
Caota case study

This section looks at the labour practices in Chinese fishing companies in Caota, a coastal village on the outskirts of Benguela city. Interviews were conducted with three trade unionists, a provincial labour inspector, two workers and a community leader. The main source of livelihood of Caota’s population – estimated at between 6 550 and 6 600 residents – is artisanal fishing. The village hosts a public centre, which was created to train local fishermen in artisanal fishing and render support. It was built in 2006 by an NGO called ECOSOL for USD198 840. It ‘opened for a while and later remained shut down for a long time.’

First-hand accounts of practices in Chinese fishing companies in the coastal village of Caota describe tough labour conditions

Today, the centre is still closed as it no longer fulfils its intended goal: to deliver training in artisanal fishing to local small entrepreneurs whose fishing activity [in the past] allowed the Caota community to provide for themselves, before the arrival of four Chinese companies: Guanda Pescas Lda; Faniao; Halifei Angola Lda; and Fui Atlântico. There is not much information about who the owners of these companies are or what their corporate social responsibilities are with respect to Angolan workers. However, first-hand accounts describe tough labour conditions.

‘Guanda Pescas started to build its facilities in 2016 and kick[ed] off their activities in 2017, the same year as Halifei Angola Lda.’

Interviewees were unable to say when exactly the other two companies began operating in Caota. The accounts that follow are from interviews with workers at Halifei Angola Lda.

‘I have worked as a fish processor at Halifei for three months. I have not been given a contract. My shift normally starts at 7am, but the end time is not defined. My shift ends when we are done with all the fish. Until that moment, nobody is allowed to leave. We are entitled to an hour break to eat, but when there is a lot of fish to process, the supervisor shortens our break by half. I process fish. Sometimes we start working at 7am, finishing at 2pm and some days we start 7am until 6am the following day.’

‘At Guanda they start at 7am until 11.30am, to come back at 1pm until 3pm. Here [at Halifei] they choose who does extra hours.’
'I get paid 200 Kz (USD0.46) per hour and monthly I receive 36 000 Kz (USD83) to 37 000 Kz (USD85).'

'I got paid cash in hand. They don’t pay insurance nor social security. When you get sick you stay at home and your salary is cut for the days that you are off sick. They just don’t care. With that woman, the Chinese supervisor, nobody dares to open their mouths. She’s been here for six years. She speaks Portuguese. There is just a male Chinese who often shouts at us: Why are you resting? Work! Those who dare to open their mouth are simply dismissed. Working for the Chinese is just the prayers that keep us going.'

'I learnt to handle the equipment by imitating my older colleague. Here there is no holiday, no bank holiday, nothing. Here the work goes on from 1 to 31 each month, from Sunday to Sunday. I have got a 15-year-old boy and a 12-year-old daughter and they are out of school.'

The accounts reveal glaring violations of labour legislation with regards to the obligation to offer employees a contract, excess working hours per week, paid leave, bank holidays and providing workers with a payslip containing information about the employer’s contribution to social security, taxes and net value paid. The company’s exploitative tendencies highlight a situation of deep neglect where apparently no one is held responsible. Reports of labour violations continue in the account below of a woman who has been working for Halifei since 2017.

'I have worked for Halifei for almost five years, but I haven’t got a contract. Nobody has been given a contract.'

'My salary is 36 000 Kz (USD84) and to top it up I work extra hours. We often write down the hours worked in a notebook, but sometimes they trick us. We don’t get any proof of payment whatsoever. We don’t sign anything here. As far as I am aware, only Guanda offers a one-month contract. They used to issue a three-month contract, but have reduced it to a one-month contract.'

Relationship with trade unions

Guanda Pescas, Lda also violates labour law and workers’ rights. Many workers do not have a contract and are forced to endure long shifts and short break times. Furthermore, the labour legislation does not provide clear guidance on what the minimum duration of a contract should be. As a result, workers, employers, trade unions and labour inspectors are embroiled in a guessing game over whether it should be three or fewer months, with the odds against the workers. The labour inspector for Benguela brushed aside any potential infringement of the law on the part of Chinese companies, as per the responses below.
'We have got some information. I personally visited all these businesses.'

‘Caota is a zone that employs younger people with lower education. The recruitment is nationwide. There are young people who come from Cunene and Lubango provinces. They are all working there and are insured. You might find 50 workers insured and five naot. But this is normal. They have insurance: they are insured against work-related accidents, they have medical insurance, and the Chinese, they contribute for the workers the social security.'

‘The Chinese also suffered a lot of fines. Maybe the Angolan businesses are the ones that violate the law the most. They cause many troubles compared to the Chinese. The Chinese are fearful so they play by the rules, whereas the Angolans don’t obey the rule mainly due to the past tradition of operating through traffic of influence.’

A trade union leader holds a different view and blamed the labour inspector for failing to enforce labour legislation compliance at Chinese companies:

‘The union for agriculture and fishing is constantly seeing the workers facing countless challenges from the Chinese who control the industry. They put the Angolan workers under very appalling conditions but so far the inspectorate has not yet put out a statement. It is urgent to act when we have got workers inside, our members constantly passing on their stories but they just feel powerless as nothing is done on their behalf.’

A union representative for agriculture and fishing shared his views:

‘We confronted the Chinese employers in Caota alongside their lawyers. We urge them to respect workers’ rights because we have noticed that the Chinese use a system of paying wages in complete disagreement with the legislation. When we asked them to give us a sample of a payslip, this was distant from what the law requires. Most of the workers aren’t able to demand their labour rights because they are illiterate, they just can’t understand what is written in the payslip. We noticed that some payslip with a salary of 30 000 Kz (USD70) were reduced of 10 000 Kz (USD23) for food expenses, leaving the worker with just 20 000 Kz (USD46). We reported this matter to the authorities but silence prevailed. However, we have noticed some improvement at Guanda since our last visit. It is not a 100% improvement but it has improved.’

There is a puzzling pattern of silence from the authorities in the face of abuses and breaches of the labour legislation. Lack of inspection worsens the prospects for trade unions to advocate for the rights of their members. A member of the trade union for construction and public infrastructure admitted that:
… some employers see the trade unions as enemies. By not providing contracts Chinese can dismiss workers at any time. Once, we visited a Chinese business and just 30 minutes later we saw the police coming to harass us. The labour inspectors have got the full picture of the situation. So why don’t they shut down these Chinese companies? Instead, we are seeing more Chinese businesses being awarded major contracts for wide-ranging projects. During the time of a single-party system, trade unions had a huge influence. All the employers were expected to pay a fee for trade union membership on behalf of their workers.77

Caota epitomises a reality in which workers do not obtain the rights and benefits they are entitled to according to labour legislation: an agreed contract, fair working hours and wages, health insurance, social security entitlements, clearly defined paid leave and payslips. The onus of ensuring that these rights are respected by both private and public companies across Benguela province lies with the General Labour Inspectorate (Inspecção Geral do Trabalho), represented by a provincial director and a group of labour inspectors. While the labour inspectors are the watchers and enforcers, trade unions are the advocates of employees’ rights and welfare. The Caota case study highlights two underlying issues: poor labour conditions and the conflictual relationship between trade unions and the labour inspectors, and between employers and employees. These issues are fed by a political structure which is fuelled by deep-rooted corruption and impunity, leading to a blind eye being turned despite reported cases of abuse against Angolan workers.

In fact, Chinese labour practices in Caota have been openly exposed by trade unions, as well as by a group of protesters who spoke out against what they described as ‘human exploitation and encroaching in the Caota fishing business against fundamental rights’.78 The impunity with which these companies operate is facilitated by Chinese connections with political elites. These connections enable the Chinese to work as front men representing the vested interests of influential Angolans who remain in the shadows. Reports by Radio Ecclesia in Benguela describe a complex labour environment in which the Chinese are not the only culprits. Discontented workers pledged to fight against this situation despite cases of intimidation:

‘They do not pay our wages. There are cases of mistreatments including physical aggression. We have got colleagues who are going to speak about this. Recently, some colleagues were subjected to violence by the Chinese because they no longer wanted to work. They ripped their shirts, and the buttons were everywhere on the floor. The same happened to us, myself and two colleagues. As the Chinese noticed that a demonstration was about to take place, they went after those who they suspected to be the masterminds and immediately got rid of them. The colleagues got fed up by that and they clearly said to the Chinese if they go, then we are also going to follow them. This is how aggressions and offences started.’79
'Whenever we started complaining about mistreatments they tell us: You can go whenever you want, but we fear nothing. This is how they put things. So, this alone gives us one certainty: when inspectors go inside, they simply don’t do anything as far as defending our rights is concerned. If they bring here all the inspectors, I can point to those inspectors who I have seen getting out [from the company facilities] with a box of fish.’

‘We are obliged to work every single day. What kind of situation is this? Is this really allowed anywhere? What country is this then? Which country are we living in? We work every day and can’t say anything!’

‘Basically, we haven’t got a working end time. We have a start working time, though! Sometimes we start at 7am and we finish the following day. Some days we work without [eating] any food. When they give us food is a snack: bread with juice. Sometimes they give us a kind of meal that is not healthy. Just imagine, we work every day with fish, we stay at work long hours but they only allow us to prepare the kind of fish we call mayua and xamixu. That’s rotten fish, they give us that one to fry and eat with plain rice.’

A Radio Ecclesia journalist reporting on the workers’ protests stated that: ‘the labour general inspectorate doesn’t react to this situation; however, there are a lot of reports from the workers in the inspection office which alert and denounce violations against workers’ labour rights perpetrated by Chinese fishing companies in Caota.’

The silence of the labour inspectorate reveals a country where worker’s rights are outlined in the law but no authority uses that law to hold to account the Chinese fishing companies in Caota for their widespread abuses. The labour law appears to serve the interests of employers rather than workers. Trade unions have called for the law to be revamped to strike a balance between workers’ rights and employers’ duties.

The silence of the labour inspectorate reveals that worker’s rights exist, but no authority uses the law to hold companies to account.

A review of the labour law is under way and the issues discussed here have been the subject of public debate on Angola’s national radio. The first step of this process has resulted in a document produced by a technical committee. An assessment from the Council of Ministers will follow before the document is sent to the National Assembly for discussion and voting prior to becoming the new labour law.
Labour practices and working conditions in the DRC’s construction sector

Introduction

This section investigates labour practices in Chinese construction companies in the DRC. Data were collected from the Société Zhengwei Technique Cooperation sarl (SZTC), a Chinese construction company based in Kinshasa. SZTC is a branch of Weihai International Economic & Technical Cooperative Co. Ltd (WIETC). Established in January 1989, WIETC gradually formed its transnational operational pattern over nearly 30 years of development.

Multiple industries were developed simultaneously, such as engineering construction, manpower services, shipping services, real estate development, mineral resource exploitation, capital operation and logistics services. It also invests in forestry development and other operations. Its business has spread over more than 30 countries and regions, including Japan, Germany, Congo-Brazzaville, Congo-Kinshasa, Mozambique, Indonesia and Burma. Local branches have been set up in nearly 20 of them.

There is relative discontent among local workers with working conditions, wage differentials between local and Chinese employees and lack of adequate PPE

Its comprehensive strength ranks among the top in the trade. By 2016, WIETC had carried out nearly 500 engineering projects in Africa, Asia and South America, covering international airports, urban water supply, roads, stadiums and gymnasiurns, municipal squares, housing and other fields, and accomplished a total turnover of more than USD4 billion. Through WIETC, over 100 000 senior seamen, medical care personnel, cooks, electric welders, machining personnel and various other workers have been dispatched to more than 20 countries and regions.

Semi-structured interviews were conducted with employees and other stakeholders. The investigation established local workers’ relative discontent with working conditions, including informal contractual practices (non-binding practices), especially in low- and semi-skilled positions; unfair treatment with regard to the risk exposure of workers; wage differentials with Chinese employees; and lack of adequate PPE. Below is a summary of key issues discussed.

Recruitment

The recruitment process is an important tool for guaranteeing equal opportunity for all employable people, and thus avoiding social discrimination (based on gender,
religion, physical handicap, for instance) in an environment where formal jobs are scarce and difficult to access. Job opportunities are often not advertised by Chinese employers, and information goes by word of mouth, circulating among people connected to Chinese networks. Interpreters who facilitate Chinese investors’ interactions with locals play a key role in this regard. Chinese employers tend to favour casual or daily employment. As a result, new people connected to the network show up at management sites every day in the hopes of securing a job.

Article 7 of the Labour Code (Code du Travail) defines recruitment as any operation carried out with the aim of securing or obtaining for others the labour of persons who do not spontaneously offer their services. Employers are in principle free to recruit the candidate of their choice. However, this freedom has limits; the law sets restrictions on the freedom of hiring. Employers may, in the absence of hiring priorities, freely choose among job applicants. However, they cannot dismiss an applicant for employment because of their sex, marital status, nationality, pregnancy, handicap, religion or state of health. Maternity cannot constitute a source of discrimination in matters of employment, according to the Labour Code.

Employment contract and compensation

In most cases, Chinese investors do not sign labour contracts with their employees, especially for unskilled jobs (casual employees). Our interviewees revealed that workers do not have formal contracts with their employers. None of our respondents was able to provide us with a copy of a contract. This suggests that employees are more often hired for casual daily labour. By law, this type of contract is not supposed to exceed 22 working days in a two-month period. If it does, the agreement becomes an open-ended contract with associated obligations.

Most jobs with Chinese companies are fragile, and workers can be ‘unfairly’ dismissed at any time as there is no formal contract to protect them

However, the contractual conditions and treatment remain unchanged even for people who have worked for three or more years with Chinese companies. This is in violation of the Labour Code. By employing people on a daily basis, the companies avoid further obligations such as paid leave (annual leave, sick leave, etc.) and employee family benefits.

Most jobs with Chinese companies are thus fragile and workers can be (unfairly) dismissed at any time as they are not protected by a legal binding document such as a formal contract. In most cases, these jobs also do not financially empower employees. Therefore, despite the widespread perception that the ‘win-win’
Chinese business model benefits the DRC in terms of job creation and knowledge and technology transfer, the quality of jobs for the Congolese in Chinese companies remains precarious and insecure. As a stakeholder noted: ‘The jobs that the Congolese are getting are very weak and fragile. The salary is minimal. And the maximisation of income for the company is total.’

Employees admit that Chinese employers adhere strictly to standard working hours, not exceeding eight hours per day or 45 hours per week. Staff are allowed one hour of break. Overtime is applied to work done outside the normal daily hours or on public holidays, although it remains underpaid at only USD1 per hour. Although Chinese employers are credited with respecting working time when compared to other expatriate companies, such as Indian and Lebanese, workers and other stakeholders are of the view that wages are not commensurate with the work done and working conditions remain dangerous, with no risk coverage (insurance) for workers. Respondents said:

‘Well, we can only be happy with what we earn even if the salary we are paid does not correspond to the work we do. This is a first work experience for me, so I have no other bases of comparison.’

‘When I compare [what I earn] to other companies for which I worked [such as Office des routes or Lady Construction], the treatment of Chinese people is very poor. At Office des routes, for example, a machine operator earns USD600 a month, but here we only have USD240 and if you have worked overtime, you can expect a total of USD300 a month. However, going through my own experience, my previous treatment was better than today. When I worked with the Indians, I earned a little more but I left because of the working conditions; we were treated like slaves. It was exploitation, we worked until late hours without it being counted as overtime.’

In most cases, there is no leave for employees in Chinese businesses, at least not for middle- and low-profile jobs. This follows the logic of daily casual jobs and means that absence for any reason, including sickness, is not paid. Payment is dependent on work done. This approach undermines the right of workers to 25 days per year of paid leave, as per the Labour Code. Article 7 of the Labour Code defines remuneration as:

… the sum of all the earnings likely to be assessed in cash and fixed by agreement or by legal and regulatory provisions which are due by virtue of an employment contract, by an employer to a worker. It includes the salary or wages; commissions; cost of living allowance; bonuses; profit sharing; amounts paid as a bonus or as a supplement; the sums paid for additional services; the value of
benefits in kind; leave allowance or compensatory leave allowance; sums paid by the employer during incapacity for work and during the period preceding and following childbirth. Are not part of the remuneration: health care; housing allowance or accommodation in kind; legal family allowances; transport allowance; travel expenses as well as advantages granted exclusively to facilitate the worker in the performance of his [sic] duties.

As noted, remuneration is not commensurate with work done and is only in the form of wages; no other benefits are included. Wage variations with Chinese workers are another aspect of concern for Congolese employees, one of whom remarked: ‘Even though I do not do the same work as him, I do not see why my supervisor sitting there should be paid USD100 per day […] for what work done? It’s simply unfair.’ To balance this view, an employer’s perspective asserts that Chinese companies operate like any other company: ‘They pay salaries not on a nationality basis but with regard to the position and the expertise.’

**Occupational health and safety**

From the perspective of Chinese employers, quality of work and workers’ safety and health are priorities of Chinese companies in both China and the DRC. However, respondents indicated that they have access to medical support only for incidents or accidents that occur in the workplace. In other circumstances, being sick may result in staff being (unfairly) dismissed. Concerns were also raised about the lack of appropriate PPE in the workplace, as well as the lack of ‘risk coverage’ such as insurance or risk premiums:

> ‘Daily workers are not given the safety materials they need: gloves, boots, etc. when doing the kind of manual work […] those who are in the construction sector, for instance, often complain for difficult and dangerous working conditions; unfortunately, they receive no risk premium.’

**Rights of workers and fair treatment**

Although workers expressed positive views regarding Chinese employers’ respect for their rights, especially compared to other expatriate companies, both workers and stakeholders acknowledged that employers blame them for ill-discipline and frequently shout at them in the workplace. Some understood this as a way to get the job done, but others felt very uncomfortable being insulted or blamed in public, which they felt was not acceptable for adults who are parents and family leaders. Almost all interviewees agreed that physical violence does not generally occur in the construction sector, although the media reported on a case of a Congolese worker killed at a Chinese mining site in Katanga.
Dialogue, discipline and disputes

Data on labour disputes in the DRC are not easily available to the public. Access to these data requires long procedures with labour courts or the labour general inspectorate. Labour disputes usually revolve around remuneration, termination of employment, contracts and benefits, but the number of disputes regarding incomplete agreements and confidentiality is increasing. Labour disputes are subject to arbitration as a first procedure.

The resolution of labour disputes in the DRC can involve conciliation (Labour Code, Arts. 298–302), mediation and litigation. Conciliation is mostly used to settle labour disputes between an employee and an employer, while mediation applies to collective disputes. The conciliation process is run by a labour inspector. Where parties fail to reach a settlement agreement, the matter can be taken to the labour court (tribunal du travail).

None of the respondents indicated having filed a labour dispute, and most were aware of the dispute settlement mechanisms. A stakeholder articulated it as follows:

‘Most Congolese nationals would not bring their grievances to us, representatives of the civil society, seeing the kind of knowledge and intellectual power we wield in engaging the Chinese on many issues. I think Chinese are not respectful of the Congolese people until they see you are firm and knowledgeable. They even try to intimidate when signing contracts, until one shows s/he can stand their ground.’

Relationship with trade unions

The law in the DRC acknowledges the rights to form and join a union, to collective bargaining and to strike. In practice, many trade unions are organised by employers and there are many cases of unionists being arrested, prosecuted and punished unlawfully. The International Trade Union Confederation (ITUC) affiliates in the DRC are the Confédération Démocratique du Travail (CDT), the Confédération Syndicale du Congo (CSC) and the Union Nationale des Travailleurs du Congo (UNTC), which together have 490,000 members covering various areas of employment. The 2006 Constitution allows workers, except government officials and security forces, to form and join unions. However, the unionisation rate is low because 90% of the economy consists of informal activities like subsistence agriculture.

The law protects union activities from employer interference but many employers allegedly organise and register unions in order to discourage independent unions from being set up, especially in the extraction industries. In practice, the private sector is dominated by bogus unions with inactive members. In the context of Chinese firms, the issue is not talked about and was not explicitly attested to in our interviews; employees also did not refer to any attempt at organising themselves
in trade unions. Although the law prohibits anti-union discrimination, it occurs in Chinese firms and goes unpunished. The law establishes the right of a worker that has been fired for union-related activities to be reinstated, but there is no information on the application of this provision, especially in Chinese businesses.

**Contribution of Chinese investments to economic and social development**

Job creation and the transfer of skills were mentioned as contributions of Chinese investments in the DRC. A Chinese employer remarked, ‘In the mining sector, for instance, Chinese investments have allowed the creation of numerous jobs for local populations, and have generated important revenue for the country. If well used, this can constitute a critical capital for the country’s development.’ However, this does not contribute substantially to the country’s overall development, as bribery to avoid taxes is rampant.

Furthermore, while Chinese businesses assert their social responsibility – such as assistance to orphanages and schools – this does not seem to be visible or commonly known by the public. This is the result of poor communication or marketing mechanisms, but also of a lack of connection to African realities, as two respondents remarked:

> ‘I don’t think it’s even part of what I have seen Chinese care about. Social responsibility requires social awareness, social connections. Chinese – for the most part – don’t even speak a relatable language. […] This is to say that there is no connection to the African realities for the Chinese to engage in any activities that are socially responsible to benefit the local communities or meet local needs. The deal is between government and Chinese company. That’s it!’

> ‘As I’ve said, Chinese are entrepreneurs who have no values. They cannot do anything socially responsible without being constrained to do so. One of the best illustrations is about their agreement with Jesuits in Kimwenza who agreed to provide to Zhengwei company the soil for the construction of the road. With the Jesuits, it was agreed that the Chinese must ensure the preservation of the site. But unfortunately, they do nothing to comply with contractual obligations. I think the state should ensure that every entrepreneur is subject to social responsibility.’

Respondents stated that they urge the DRC government to monitor the operations of Chinese companies in the construction sector and to ensure that Congolese workers are protected and empowered through skills development. Technology transfer and skills development should be seen as significant indicators of the Chinese ‘win-win’ business model.
Labour practices and working conditions in Lesotho’s textile and garment sector

Introduction

Numerous reports have highlighted unfair labour practices in the Taiwanese- and Chinese-dominated textile and garment industry, including underpayment and delayed payment, unfair dismissals, imposed and unpaid/underpaid overtime and long working hours. According to a report released in 2013 by the ILO, major issues of non-compliance in the textile industry include: verbal harassment of workers by supervisors; violations of occupational safety and health requirements;

Chart 6: Compliance clusters and additional issues: Lesotho’s textile industry

<table>
<thead>
<tr>
<th>Core labour standards</th>
<th>Chinese owned*</th>
<th>South African owned</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Child labour</td>
<td>0</td>
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<td>0</td>
</tr>
<tr>
<td>Discrimination</td>
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<tr>
<td>Forced labour</td>
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<td>8</td>
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</table>

<table>
<thead>
<tr>
<th>Working conditions</th>
<th>Chinese owned*</th>
<th>South African owned</th>
<th>Total</th>
</tr>
</thead>
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<tr>
<td>Compensation</td>
<td>20</td>
<td>6</td>
<td>26</td>
</tr>
<tr>
<td>Contracts and HR</td>
<td>29</td>
<td>5</td>
<td>34</td>
</tr>
<tr>
<td>Occupational safety and health</td>
<td>76</td>
<td>26</td>
<td>102</td>
</tr>
<tr>
<td>Working time</td>
<td>10</td>
<td>7</td>
<td>17</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Additional issues</th>
<th>Chinese owned*</th>
<th>South African owned</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chinese management</td>
<td>29</td>
<td>1</td>
<td>30</td>
</tr>
<tr>
<td>Government</td>
<td>6</td>
<td>0</td>
<td>6</td>
</tr>
<tr>
<td>South African management</td>
<td>2</td>
<td>16</td>
<td>18</td>
</tr>
<tr>
<td>Supervisor relations</td>
<td>40</td>
<td>76</td>
<td>116</td>
</tr>
<tr>
<td>Unions and collective power</td>
<td>2</td>
<td>16</td>
<td>18</td>
</tr>
<tr>
<td>Work life</td>
<td>7</td>
<td>2</td>
<td>9</td>
</tr>
</tbody>
</table>

Source: ILO, Better Work, 2012

Note: *Both Chinese and Taiwanese owners
non-compliance with compensation rates, human resources and contracts, as well as working time. Factory workers have also accused employers of abusive and discriminatory behaviour, resulting in sexist and ageist hiring policies and cruel and abusive labour practices.

Another report issued by the ILO indicated that ‘occupational safety and health’ and ‘supervisor relations’ were perceived by workers as the most important themes and causes for concern (Chart 6). Data were collected from six Taiwanese- and Chinese-owned textile factories located in Maseru’s Thetsane industrial area (3) and Maputsoe (3), a town in the northern district of Leribe near the South African border.

Recruitment

All factory workers interviewed, except one woman who was hired after submitting a job application, were recruited without a formal recruitment process. As one respondent explained: ‘I was sitting by the gates of the company waiting for the manager to come out and hire the people they want at that time […] where we are working no applications are made, the only way to get a job is to stand by the gate waiting for the manager to pick you.’ As highlighted by some of the participants, the lack of a structured recruitment process can incentivise corruption in the form of bribery, as well as sexual favours in exchange for employment.

One stakeholder noted that in some cases informal hiring procedures were conducted by security personnel mandated by local (Basotho) supervisors and this practice had led to gender-based abuses towards workers. This information is supported by a 2019 report released by the Worker Rights Consortium (WRC) assessing gender-based violence and harassment and violations of associated rights at three Taiwanese garment factories in Maseru. The factories are owned by the Nien Hsing textile group which employs over 10 000 workers. Findings from the investigation identified gender-based violence and sexual harassment across the three factories.

To remedy these violations, factory owners have established an agreement among the key stakeholders – the brands, trade unions, WRC, women’s rights groups, and local and international labour rights organisations – to prevent and deal with sexual harassment. Factory owners have also agreed to create an independent complaints mechanism for workers and to guarantee the three main trade unions access and representation rights.
Employment contract and compensation

Under the Labour Code, contracts can be written or oral. However, according to ILO Convention 158, ratified by the government of Lesotho, workers should be provided with a written statement of employment at the start of their employment. The lack of a written binding labour contract may have negative implications for workers as it ‘makes it difficult for them to obtain an assessment of severance pay and other obligatory fringe benefits. Furthermore, an oral contract presents the worker with the extra difficulty of proving the existence of a contractual working relationship in case of controversy.’

Some respondents reported being unaware of their type of contract as well as the terms and conditions. In general, if an employee does not understand the written particulars of employment, the employer should explain it in a language the employee can understand. As noted by a union representative, ‘some workers do not even know that they are employed on a fixed-term contract. They just sign and they don’t know […] they will only understand when they are getting fired.’

In Lesotho, more than 98% of the workforce is made up of permanent workers. However, according to labour representatives, fixed-term contracts are used to avoid paying benefits, including annual leave, sick leave and maternity leave and, in some cases, may expose workers to sexual harassment. For example, findings from the WRC report conclude that ‘women workers were coerced by their supervisors to engage in sexual activity as a condition of getting and retaining their jobs or receiving a promotion.’

An interviewee explained that at her factory, workers do not have contracts and employees are paid by the unit (piece rate), exposing them to labour abuse, exploitation and unpaid overtime work:

‘We work from 6am to 6pm, but we don’t get paid for that because of the piece rate […] I am a packer, I work by piece, I have a daily target […] every piece will give me R4. So we go there from Monday to Monday and weekend is for cleaning, but on weekends, we work less hours so we earn less money than during the week […] I can go there on a Sunday only to make R30 for the day […] I’m a garment packer so I have to take the piece from the ironers, if the iron got a problem it is not my fault, but I am going to lose money. We are paid on different day and different amount because of the piece rate […] if you don’t go on the weekend they’ll tell [you] they’ll replace you. We work Monday to Monday from 6am to 6pm and Saturday from 7am to 4pm and Sunday 8am to 3pm […] this is the shift for the whole month, there is no day off.’
As highlighted by the ILO, ‘piece rates are frequently used in the garment sector. When properly designed, they should motivate employees and hence increase productivity and wages. However, remuneration at the piece rate or by task work could, if inadequately designed, lead many workers to work long hours to earn the minimum wage, which is equivalent to performing unpaid overtime work.’

It is therefore important for policymakers to regulate piece-rate work so it is implemented in a fair and transparent manner.

The findings of this investigation highlight numerous non-compliance issues related to compensation (overtime, deductions, method of payment, social security and other benefits), the majority of which lead to considerable resentment over production target setting. Previous research showed that workers in textile factories can be dismissed for not reaching production targets.

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Chinese supervisors are usually in charge of the technical aspects of work, and Basotho supervisors are responsible for ‘motivating’ the workers.

In general, in Chinese-owned factories, one Basotho supervisor is appointed per line, and one Chinese supervisor for every two or three lines. Evidence from the literature shows that Basotho supervisors are appointed without formal promotion procedures, often due to favouritism and bribery. The lack of a formal hiring procedure can affect relationships between workers and create a divide between managers and their employees. In some cases, appointed supervisors lack technical, managerial, and communication skills. Production workers also have limited skills but receive training on the job.

Chinese supervisors are usually in charge of the technical aspects of work, and Basotho supervisors are responsible for ‘motivating’ the workers. One respondent said that:

‘Chinese supervisors constantly shout at workers to reach the target and if someone make[s] a mistake they expect the worker to stay after work to fix it and reach the target.’ This was echoed by another factory worker: ‘Sewing employees are given such a huge target and if you don’t finish them at 5pm you will be knocked out at 6pm and 6pm is overtime but they don’t pay for that.’

One respondent, a leading union member, noted that ‘the Chinese want to put the production first, they want to speed the production […] but they are not paying enough salaries to the workers. […] They force them to work overtime, unpaid work overtime […] they force them do a highest score with less earning for them.’
Occupational health and safety

Many examples of non-compliance with occupational health and safety were reported by the respondents, specifically regarding toilet facilities and the lack of PPE. A woman explained that at her factory, ‘toilets are not flushing […] we have to fetch water with a bucket, but often we are not allowed to do that. If there is a bad smell in the factory we are asked to open the windows […] sometimes toilets are blocked but employers never call a plumber to fix.’ A stakeholder noted that workers are not given adequate PPE for the work and, when they are given any, it is not replaced when it gets old. He further explained that:

‘Workers are exposed to coldness in the winter and they are not given freezer suits. Our expectation is that during winter time people should be given freezer suits, but it is not the case in most of the Chinese factory. If you go to this other South African factory, I think it is producing car seat covers for BMW. Yes. If you go there you will see that in winter they are wearing clothes that are matching the season and then when it is hot they are given the appropriate safety equipment for that situation. But when it comes to Chinese factories, it is a different story. Workers would have to come with their own clothing.’

Concerns were also raised over inadequate eating areas. In numerous factories, workers do not have a canteen in which to consume their lunch and are forced to eat outside in both summer and winter. Some factories only have tiny sheds which can accommodate a limited number of people.

Dialogue, discipline and disputes

Employees and other stakeholders reported that verbal abuse is fairly common in the workplace. Chinese supervisors, recruited from those textile workers ‘who have come up through the ranks of the garment industry’, use derogatory and vulgar language. Language barriers and cultural differences are major causes of misunderstanding and communication issues, as reported by one factory worker:

‘Chinese managers are using their language which we don’t know, they insult us but we know that we have been insulted […] I know they are insulting us by the look on their face, they show they’re angry. They are even mixing their language with Sesotho using insults like ‘masepa’ [meaning ‘excrement’ in Sesotho].’ In some instances workers reported being physically abused: ‘I was slapped on the back because the manager suspected I was talking.’

Labour disputes are dealt with by the Labour Court and the Labour Court of Appeal. In addition to these two judicial authorities, the Labour Code Amendment Act of 2000 established the Directorate of Dispute Prevention and Resolution (DDPR), with the aim of preventing and solving labour disputes through arbitration.
For a list of labour disputes submitted by the National Clothing, Textile and Allied Workers’ Union (NACTWU), see Chart 7.

Findings from this study show that remedies for unfair dismissal (73% of all reported cases by NACTWU) and unfair labour practices are lacking due to an inefficient justice system, reduced capacity and bribery. Labour disputes, which are meant to be addressed by DDPR within a period of 30 days after referral, can take more than a year to be processed and during this time dismissed employees are deprived of their income. This was explained by a member of a trade union:

‘When it comes to labour laws in the country, unfortunately the justice system in our country has collapsed. So that gives an advantage to the Chinese not to comply with the laws of the country. I think after 2014 the government started reducing the number of arbitrators. First here in Maseru they had 14 arbitrators but after 2014 they reduced the number to six. So if you refer to the case of DDPR today in December, you will save the date and it will be heard maybe in May next year. So you have to wait for those months. And for the employer that is an advantage […] By the time you go DDPR the case will be heard months after the dismissal and for a worker in the textile sector who is earning R2 100 and has been unfairly dismissed, finding a house here in Maseru is a problem. That person will abandon the case and maybe go back to the rural area in Lesotho or decide to cross the border to South Africa. So the case will not proceed if the worker is not present.’

Respondents perceived legal remedies to deal with labour disputes to be ineffective. One challenge experienced by workers is unfair dismissals without following the disciplinary and dismissal process: ‘A worker has to attend the disciplinary hearing, and then if found guilty he is dismissed, but you know in factories like these once you are called for a disciplinary hearing, you’re already dismissed.’ Those who are members of the union can report a case of unfair dismissal to the shop steward, who then meets with both the HR manager and the employee to mediate the dispute. Chinese and Basotho supervisors act as the middle-men between workers and HR, making it difficult for workers to express their concerns.

A trade union leader explained that sometimes employers who are not interested in complying with the legislation force Basotho HR managers to follow their instructions or otherwise face the threat of dismissal. Concerns were also raised over the lack of training of middle-management employees. In some factories, the Chinese do not allow trade unions to access their workplace. However, Section 198 (1) of Lesotho’s Labour Code states that ‘the employer shall allow any officer of a trade union whose members include some of his or her employees reasonable facilities for conferring with the employer and/or his or her employees on matters affecting the employer and those members.’
Chart 7: Labour disputes in Lesotho’s textile industry, 2019–2022

<table>
<thead>
<tr>
<th>No.</th>
<th>Case No.</th>
<th>Parties</th>
<th>Dispute</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>A0029/20</td>
<td>Lerotholi Mating vs Meraka (PTY) LTD</td>
<td>Dismissal</td>
</tr>
<tr>
<td>2</td>
<td>A0812/19</td>
<td>Papali Makana vs Presitex Enterprise (PTY) LTD</td>
<td>Dismissal</td>
</tr>
<tr>
<td>3</td>
<td>E0061/20</td>
<td>Ranthona Motlaeaa vs Afro Asia (PTY) LTD</td>
<td>Dismissal</td>
</tr>
<tr>
<td>4</td>
<td>D0047/21</td>
<td>Thabang Lebasa vs Basotho Farming (PTY) LTD</td>
<td>Retrenchment</td>
</tr>
<tr>
<td>5</td>
<td>A0739/19</td>
<td>Terausi Ntlhaba vs C&amp;Y Garments (PTY) LTD</td>
<td>Dismissal</td>
</tr>
<tr>
<td>6</td>
<td>A0651/19</td>
<td>Matsoeunyane Monare vs Tzicc Manufacturing (PTY) LTD</td>
<td>Dismissal</td>
</tr>
<tr>
<td>7</td>
<td>A0283/20</td>
<td>Fotho Mohalali vs Tzicc Manufacturing (PTY) LTD</td>
<td>Dismissal</td>
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<td>8</td>
<td>A0303/19</td>
<td>Mapitso Lekhetho vs Leo Garments (PTY) LTD</td>
<td>Dismissal</td>
</tr>
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<td>9</td>
<td>A0706/19</td>
<td>Mathapelo Konyana vs Sun Textile (PTY) LTD</td>
<td>Dismissal</td>
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<td>10</td>
<td>A0342/21</td>
<td>Mafako Phumo vs Seshoeshoe Productions (PTY) LTD</td>
<td>Expired contract</td>
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<td>11</td>
<td>A0343/21</td>
<td>Marelebohile Ramosoeu vs Clact Evergood (PTY) LTD</td>
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<td>12</td>
<td>A0448/21</td>
<td>Bokang Lesenyeho vs Lefase Lesotho (PTY) LTD</td>
<td>Unpaid wage increment</td>
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<td>A0212/21</td>
<td>Moratuoa Lefosa vs Maseru E Textile (PTY) LTD</td>
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<td>14</td>
<td>A0430/20</td>
<td>Motalepula Makara vs Liberation Clothing (PTY) LTD</td>
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<td>A0314/21</td>
<td>NACTWU vs Long River (PTY) LTD</td>
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<td>A0559/21</td>
<td>Makibi Mahloane vs Tai Yuan Garments (PTY) LTD</td>
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<td>A0589/21</td>
<td>Maponi Matsipa Vs Lucky Manufacturing</td>
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<td>E044/19</td>
<td>Mahapu Fruits (PTY) LTD vs Palesa Mafiele</td>
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<td>A0622/21</td>
<td>Mathuso Monyalotsa &amp; Others vs Sun Textile (PTY) LTD</td>
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<td>A0029/21</td>
<td>Mothepane Sello vs Sun Textile (PTY) LTD</td>
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<td>23</td>
<td>A0114/21</td>
<td>Liberation Clothing (PTY) LTD vs Thato Mokhali</td>
<td>Rescission (dismissal)</td>
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<td>A0635/21</td>
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<td>25</td>
<td>A0716/20</td>
<td>Afro Expo (PTY) LTD vs NACTWU</td>
<td>Stop order</td>
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<td>26</td>
<td>A0558/21</td>
<td>Poulo Mosola vs Bull Clothing (PTY) LTD</td>
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<td>Party 2</td>
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<td>-------------</td>
<td>---------</td>
<td>---------</td>
</tr>
<tr>
<td>27</td>
<td>A0651/21</td>
<td>Tebello Makara vs Long Chang Clothing (PTY) LTD</td>
<td>Dismissal</td>
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<tr>
<td>28</td>
<td>A0388/21</td>
<td>Malerato Sefali vs Hippo Knitting (PTY) LTD</td>
<td>Dismissal</td>
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<tr>
<td>29</td>
<td>A0688/21</td>
<td>Mataelo Selo vs Lucky Manufacturing (PTY) LTD</td>
<td>Dismissal</td>
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<tr>
<td>30</td>
<td>A0719/20</td>
<td>Mathebe Lefu vs Lucky Manufacturing (PTY) LTD</td>
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<td>31</td>
<td>A0729/18</td>
<td>Nthabiseng Monkhe vs Tzicc Manufacturing (PTY) LTD</td>
<td>Dismissal</td>
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<tr>
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<td>A0191/21</td>
<td>Nthabiseng Hlalele vs Sun Textile (PTY) LTD</td>
<td>Dismissal</td>
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<tr>
<td>33</td>
<td>A0442/21</td>
<td>Lehlohonolo Leroi vs Hippo Knitting (PTY) LTD</td>
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<td>A007/22</td>
<td>Manapo Setebele vs Sun Textile (PTY) LTD</td>
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<td>A0019/22</td>
<td>Lineo Phenethi vs Leo Garments (PTY) LTD</td>
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<td>36</td>
<td>A0011/22</td>
<td>NACTWU vs Bomling Lai Teng (PTY) LTD</td>
<td>Stop order</td>
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<td>37</td>
<td>A0032/22</td>
<td>Thabang Molotsi &amp; 7 Others vs Meraka Lesotho</td>
<td>Annual leave pay</td>
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<tr>
<td>38</td>
<td>A0108/22</td>
<td>Malimakatso Kopano vs Long Chang Clothing (PTY) LTD</td>
<td>Non-payments &amp; underpayment</td>
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<td>A0121/22</td>
<td>Mathakane Molotsi vs Long Chang Clothing (PTY) LTD</td>
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<td>A0122/22</td>
<td>Sello Thabo &amp; 11 Others vs Sebatatso Lanoline &amp; Cosmetics</td>
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<td>43</td>
<td>A0102/22</td>
<td>Neo Motjeleba Fako &amp; 48 Others vs Hippo Knitting (PTY) LTD</td>
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<td>44</td>
<td>A0169/22</td>
<td>Mofubelu Rebohile vs Hippo Knitting (PTY) LTD</td>
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<td>45</td>
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<td>Thato Mokhali vs Liberation Clothing (PTY) LTD</td>
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<tr>
<td>46</td>
<td>A0166/22</td>
<td>Motlati Ralitsebe vs Lefase Lesotho</td>
<td>Short time</td>
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<td>47</td>
<td>A0188/22</td>
<td>Mpho Maphathe vs Damak Fresh Proprietary (PTY) LTD</td>
<td>Dismissal</td>
</tr>
<tr>
<td>48</td>
<td>A0208/22</td>
<td>Joel Taole Tumo vs Maseru E Textile (PTY) LTD</td>
<td>Dismissal</td>
</tr>
</tbody>
</table>

Source: The National Clothing, Textile and Allied Workers Union (NACTWU)

When grievances cannot be resolved, the union can sue the employer at the DDPR. If the arbitration award is in favour of the worker, employers sometimes do not comply and take the award on review or appeal. In some instances, it can take a few years to complete a case in the Labour Court. Unemployed workers end up losing trust in the union and the importance of taking the matter to court. Unfair
dismissal and the lack of any recourse to justice within a reasonable time, combined with extremely low wages, can produce severe socio-economic consequences, as reported by several respondents. In some cases, men who are dismissed end up working in illegal mines in South Africa, while women may become prostitutes on the streets of Maseru.

Corruption in Lesotho is a widespread problem and more than 50% of firms identify corruption as a major constraint (see Chart 7 above). A number of respondents raised concerns over corruption and bribery in the justice system. A member of a local NGO observed that, ‘because of financial muscle, you will find that officers in the dispute resolution body can easily be bribed by Taiwanese or Chinese to an extent that workers will lose their case.’ Bribery also occurs among labour officers and inspectors whose role it is to ensure compliance with labour legislation in accordance with the Labour Code.

**Relationship with trade unions**

Since the enactment of AGOA, the union membership rate among factory workers has increased and trade unions have gained access to the workplace, as prescribed by the labour law. However, as noted in the previous section, union representatives have raised concerns about some employers not granting them access to confer with workers. As one stakeholder said, ‘during the COVID-19 pandemic we were instructed by our superior to visit each company we have members in this area. Chinese managers will stop us from going inside to see if they were cooperating with the World Health Organization’s rules and regulations.’

Similarly, a member of one of the main trade unions complained about non-compliance with the labour law:

‘They don’t accept us inside their companies, we are doing it forcibly […] we have to go to the DDPR if we need to solve a problem, we involve other stakeholders to help us […] they [employers] didn’t follow the law, they are not complying at all and don’t care about laws and procedures.’ According to another respondent, relationships are ‘not healthy’ because employers do not facilitate the collection and payment of trade union fees by refusing to sign stop order forms which authorise deductions.’
Contribution of Chinese investments to local communities’ economic development

Respondents agreed that Chinese investments in Lesotho have a positive impact on job creation and the ripple effects of generating additional tax revenues and opportunities to develop infrastructure. A representative of the Lesotho National Development Corporation remarked:

‘Chinese investors have come here to open businesses which most of us Basotho would not have the capital to open and they have provided jobs to many indigenous people […] we are also forced to provide the infrastructures for them to remain here and these infrastructures, in future, will still be used by Basotho if the Chinese will leave.’¹²⁵

She further explained that the introduction of new machines and advanced manufacturing systems to compete with the globalised garment and textile sector should be seen as an opportunity rather than a threat to employment:

‘Of course, anybody want operations that are labour intensive, but it is not our choice, in terms of how the operations of that particular investor should be structured. In fact, for me, I would say we are encouraging more technologically advanced operations because it also influences our environment to become advanced. We can’t continue to operate with obsolete technology when the world is advancing. We have to be seen evolving with emerging technologies and adapting to new technologies that are available and new companies that come here and introduce new technologies for me, they’re most welcome.’¹²⁶

A trade union leader also remarked on the positive effects of investments in terms of job creation and economic development:

‘The positive part of the operation is that they have created employment for a large number of young men and women and many youths who are coming from training institutions; because of the lack of employment in the country they go to the factories to keep themselves busy while they’re still looking for other better opportunities […] also because of the workers in the textile industry the vendors have gone close to the factories to open some tuck shops and sell food to them. The transport sector is also boosted by the workers that are using transport to wagon back home and the malls at the end of the month are busy. The economy is a little bit more vibrant.’¹²⁷
Views on the transfer of skills differ among stakeholders. In particular, trade unions have raised concern about the lack of transfer of skills and knowledge which could allow workers who have been laid off to start their own business:

‘There is no transfer of skills, everything is done by them. And for the local people there are limitations as to how far they could go. This is why every time the Asians come and invest in the country, when they leave, the local people are unable to proceed with such business because there was no transfer skills.’ 128

However, a member of a state-owned enterprise argued that the lack of entrepreneurial opportunities for local people is not a direct consequence of foreign investments:

‘We cannot believe that Chinese companies in the country are not doing skill transfer, or that their existence in our environment is not creating a ripple effect in terms of giving Basotho opportunities to open [the] same operations. It has nothing to do with the Chinese. The problem is us, Basotho who are not taking the opportunity to pursue training in textile engineering and to understand the whole global supply chain, in terms of textile industry, and all those things. It’s something that we should have done a many years ago.’ 129

**Labour practices and working conditions in South Africa’s mining sector**

**Introduction**

A report released by Southern Africa Resource Watch highlights that working conditions at Chinese-owned mining companies generally conform to legislation and are compliant with international norms and standards due to ‘diligent union oversight, South Africa’s strict legal environment and robust legislation.’ 130

Nonetheless, the media has reported on poor working conditions and unfair labour practices at Chinese-owned mines. For example, in 2018, a group of mineworkers at China Africa Precious Metals gold mine went on strike to demand better health and safety conditions.

Members of the national union of mineworkers accused China Africa Precious Metals of exploiting workers and operating ‘without showing the slightest respect for the basic labour laws.’ 131 In 2020, the National Union of Mineworkers staged an underground sit-in at Village Main Reef, a mine operated by Heaven Sent Gold SA, which falls under a Chinese group, to demand the payment of pension funds. 132 Strong negative views about Chinese investments are not only driven by perceptions that the Chinese do not comply with labour standards, but also that they bring their own workers.
Ten interviews were conducted by the researchers with mineworkers and ex-mineworkers, trade unionists, government officials and members of civil society. Data were collected from three different mining sites located in the province of Limpopo.

**Recruitment process**

The level of localisation of low-skilled, semi-skilled and mid-level management positions seems to be high in Chinese mining companies. In general, unskilled and semi-skilled workers are recruited from among members of the local communities through labour offices or local community forums. Highly skilled positions are occupied by Chinese employees, as confirmed by the CEO of a Chinese mining company, but also by South Africans from outside the community subcontracted by the Chinese. The management personnel, except for CEOs, are also South Africans, as explained by one participant:

> “The people that are responsible are not Chinese; of course, the guy at the helm is the Chinese CEO, but managers, senior managers, engineers, they are South Africans […] it is their responsibility to look after the day-to-day operations.”

In some cases, mining companies are pressured by local community leaders to employ workers from the area and failure to do so may result in protests and riots. A respondent from a local municipality stated that both Chinese and non-Chinese mining companies in the area employ large numbers of foreign nationals, mainly from Zimbabwe and Mozambique, with the purpose of exploitation: “Unfair labour practices will always be there, let’s not pin it on Chinese companies. I think all companies are doing this because one thing that we noticed is that these mining companies tend to appoint foreign employees, abusing them.” Findings from the interviews, however, showed that the majority of workers are South Africans who are recruited from areas in the proximity of the mines. As workers from three different Chinese-owned mines explained:

> “The majority [of workers] is from here. I think they brought some Chinese for the smelter. In general for some highly skilled position they might recruit from somewhere else because they don’t have skills within the local workforce.”

> “Majority of workers were South Africans. They were not employing people that are coming from outside. They will only employ those who got a SA identity, except obviously the Chinese themselves […] their jobs were on the senior positions.”

> “The majority of workers are from the community, from around.”

Labour broking, casualisation and the subcontracting of work are common practices in the mining industry, where companies hire contractors to perform certain core activities. However, contractors do not have the same benefits as permanent workers and are more ‘vulnerable with respect to workplace
hazards’. As one participant remarked: ‘We call them contractors […] mostly all the contractors everything they do is actually an abuse. We’re working under an abusive environment and not even the unions can do anything.’ Workers employed by subcontractors are more likely to experience labour law violations, including minimum wage violations.

**Employment contract and compensation**

All workers interviewed reported having signed contracts with the mining companies. Comments about compensation were ambivalent and influenced by the particular employment status of the respondents. One worker who was laid off by a Chinese-owned mining company said that his salary was lower than the market rate when compared with previous jobs at non-Chinese mines. He stated:

‘I was working with other companies which are still standing even now, they are the best mining companies around here and we cannot compare the Chinese mines to those ones […] there is a very big difference on the payment […] we were not paid the way we were supposed to be paid […] we were underpaid.’

Another worker at the same mining company reported late payments of salaries:

‘Sometimes we were having a problem of getting paid in time. They would tell you that there is a problem of selling the ore from Maputo and that you will get the monthly wages next week.’ On the other hand, one respondent noted he was satisfied with the payment conditions: ‘I would say, Dilokong mine at the time with ASA Metals in terms of the benchmarking, the salary was fair. Because you benchmark with other companies.’

**Occupational health and safety**

A similar dualism applied to labour conditions in general and health and safety conditions in particular, with some government officials and members of the trade unions holding strong negative opinions about Chinese companies and others expressing more positive views. As one participant put it, ‘without contradiction, my experience even outside the mining company is that the worst working conditions that you will ever find is under the Chinese companies and I don’t see any difference in mining.’ This was seconded by a leader of a trade union:

‘Most of the Chinese companies operating in South Africa don’t want to respect the country’s policies, especially in mining. The Health and Safety Act was introduced because mines were killing people. Chinese want a speed production and everything has to be done fast. This can cause an increase in the number of lost time injuries and fatalities.’
According to trade union representatives, if South Africa grants more mining rights to Chinese companies this is likely to produce more exploitation and a reversal of the gains made by the unions. According to the Department of Mineral Resources and Energy (DMRE), in 2019, a total of 51 fatalities were reported in the gold sector (a decrease of 37% from 2018), while the number of injuries was 2 406, lower than the previous year (2 447). Excess dust and poor ventilation were cited by one worker as common problems in mines:

“We were using the load haul dump which takes out the ore after we were breaking with the blast. So that the load haul dump is making out a lot of smoke, so while the system of supplying with the air [...] remember we are inhaling the artificial air under the ground so if there is no air rotation, all the smoke from the machinery we keep on inhaling on a daily basis. So on top of that, after you are done with the work, they don’t want you to leave the underground, they said you have signed the contract of eight hours so if you will complete their work before those hour [...] meaning that they’re going to cut off your hours. So, sometimes you are working with water and become wet. So meaning we have to be wet for the whole day.”

During an interview discussion another worker described dangerous work practices, including performing tasks for which he did not have any specialised training:

“I was installing cam lock jacks and sometimes I was helping the miners, as a general worker you do everything they tell you to do [...] you are a general assistant [...] I was also used to assist the operator of a drill rig. So if the one who was working is not around, which means I have to go and do the job of that person, even if we’re not trained for that one. Some people were working underground without having the competency.”

Findings show that trade unions can play a fundamental role in enforcing labour standards, addressing issues of non-compliance and ensuring safe working conditions and fair labour practices. Robust legislation and a solid legislative framework were also cited as key factors to promote a safe working environment and adherence to minimum norms and standards of safety. As one worker explained:

“My take on the working condition, to me I will say they were fair. Yeah, it was not bad. Because they gave you your health and safety rights. Obviously if the conditions become worse, it simply means that your leadership is failing to do the job. Because obviously, the time I would say we managed to engage with them robustly, so to say if the condition is not favourable for the workers to work, they should be taught, that’s why I’m saying the working condition was fair.”
Another worker at Palabora Copper Mine said:

“There are no issues for now, they comply even in terms of safety [...] the relationship between us as organised labour and them for now is still in order ever since they took over everything is hunky-dory for now [...] From the safety point of view they are compliant, you know, when they’re in South Africa there are South African laws [...] with this one they are compliant to those South Africa laws. Whenever we raise issues related to mine health and safety issues they listen to us.”\(^{149}\)

Despite this, however, in 2018, five miners at the Palabora Copper Mine were killed after a conveyor belt caught fire underground as a result of a fire suppression system failure.\(^{150}\) The incident is still under investigation and, at the time of writing, no final report had been released.

### Compliance with social and labour plans and investment laws

All mining companies applying for mining rights are required to submit a social and labour plan (SLP) whose objectives are: to promote employment and advance the social and economic welfare of all South Africans; to contribute to the transformation of the mining industry; and to ensure that holders of mining or production rights contribute towards the socio-economic development of the areas in which they are operating, as well as the areas from which the majority of the workforce is sourced.\(^{151}\) Some respondents raised concerns about instances of non-compliance with SLPs, as well as the reduced capacity of the DMRE to monitor compliance. As one respondent noted:

“Every investor must be compliant with an SLP. To make sure that companies, especially in mining need to show how they are going to uplift and improve the rights of people who are hosting the mines. We have done a so-called social audit with most of the mines to check whether they comply with their obligations and in 99% they are non-compliant. One is owned by Chinese [...] the DMRE doesn’t monitor the progress but just reissue the mining licence. They say they [DMRE] do not have the capacity to monitor compliance. No one is compliant including the Chinese.”\(^{152}\)

According to the Chinese CEO of a medium-sized mining company, one of the challenges is the lack of communication between local government, mining companies and local communities:

“For the implementation of local economic development projects we rely on the municipal Integrated Development Plans [IDPs]. We can only implement projects which are included in the IDPs plan, but the community does not understand this. The Corporate Social Investments projects we can easily do; for example, in 2020, we donated masks, food, hand sanitiser during the COVID-19 emergency.”\(^{153}\)
Other respondents expressed their concerns over the ability of Chinese-owned companies to comply with labour and investment legislation and requested an improvement in inspection and auditing activities: ‘My proposal would be that government in each and every province should establish a team or a forum inclusive of labour and business to monitor these issues, including the issue of SLPs. The issuing of mining licence should also be scrutinised.’\(^{154}\) Another respondent referred to ‘a consistent exercise of inspection that must be made’\(^{155}\) in order to ensure compliance with laws and regulations.

A Chinese manager at a mining company explained that Chinese companies comply with the Mining Charter in terms of employment equity and employee share ownership schemes, but need some assistance from their local partners or shareholders:

‘To guarantee compliance with the legislation we need to work in partnership […] we bring the funding but my local partner as per the broad-based black economic empowerment’s policy needs to help with the implementation of the law. If something happens in the company or there are issues of compliance with the employment equity, it is the responsibility of the Chinese, but no one challenges what is the responsibility of our local partners. Most people focus on what Chinese companies do not do right; we try our best, we bring the funds, we comply with the law, we follow policies and regulations but it is also the responsibility of the local management to assist with the correct implementation of our operations.’\(^{156}\)

**Labour practices and working conditions in Zambia’s mining sector**

**Introduction**

Through its long history in mining, Zambia has developed strong mining regulations and labour laws. The tight regulations of the Zambian mining industry are aimed at protecting its workers from companies with poor safety practices. Unfortunately, this protection of workers has not extended to Chinese-run mines, which have faced heavy criticism for workers’ conditions.\(^{157}\) There are several reasons for this, one being the desire for investment and revival of the mining industry after the slump that followed the crash in copper prices in 1974. As the economic situation in Zambia worsened and investors shied away from the copper sector, the government turned a blind eye to labour regulations in order to create an environment attractive to investors.

Human Rights Watch notes in a report that while there have been improvements in some labour issues since Chinese companies began operating in Zambia in 2003, ‘they still fail to meet the standards of both labour law and their multinational competitors in Zambia’s copper industry’.\(^{158}\) The report also points out that many of the poor health and safety practices found at Chinese-run
mines in Zambia are similar to the labour abuses commonly seen in China. For example, the Chinese run Collum Coal Mine failed to provide the required emergency medical treatment facilities underground. While Zambians working in the country’s Chinese-run mines welcome the substantial investment and job creation, they suffer from abusive employment conditions that fail to meet domestic and international standards.

Thirty-three respondents were interviewed, of whom thirty were workers drawn from two of Zambia’s major economic centres, Lusaka and the Copperbelt.

Chart 8: Abuses experienced by respondents in Zambia

<table>
<thead>
<tr>
<th>Type of abuse</th>
<th>Description</th>
<th>Percentage of respondents who experienced it</th>
</tr>
</thead>
<tbody>
<tr>
<td>Uncompensated long working hours</td>
<td>Undocumented overtime without compensation</td>
<td>47</td>
</tr>
<tr>
<td>Salary irregularities (unjustified wage differences)</td>
<td>Discrepancies in salaries, no clear salary scale and salaries not commensurate with skills and experience</td>
<td>77</td>
</tr>
<tr>
<td>Lack of medical insurance and support</td>
<td>No medical support</td>
<td>90</td>
</tr>
<tr>
<td>Physical assault</td>
<td>Beating, shooting</td>
<td>53</td>
</tr>
<tr>
<td>Poor health and safety standards</td>
<td>Inadequate PPEs, unsafe work procedures and environment</td>
<td>83</td>
</tr>
<tr>
<td>Discrimination between Chinese and local workers</td>
<td>Clear favouritism of Chinese employees in terms of working conditions, accommodation and PPEs</td>
<td>100</td>
</tr>
<tr>
<td>Unfair dismissal</td>
<td>Dismissed arbitrarily without following due process</td>
<td>100</td>
</tr>
<tr>
<td>Unclear disciplinary actions and procedures</td>
<td>No clearly laid down disciplinary procedures; arbitrary decisions without due process</td>
<td>87</td>
</tr>
<tr>
<td>Restrictions to unionisation</td>
<td>Threatened or intimidated for perceived union activities</td>
<td>73%</td>
</tr>
<tr>
<td>Contracting not properly adhered to</td>
<td>Contracts are written in English and Chinese without the worker understanding if the Chinese translation is correct</td>
<td>77</td>
</tr>
</tbody>
</table>

Source: Author’s own compilation
Chart 8 shows a summary of responses by the mineworkers on categories of reported labour violations.

Three violations stand out: unfair dismissal, discrimination between Chinese and local workers, and lack of medical insurance (Chart 8). All the workers mentioned that they had directly experienced discrimination on the basis of being local. The discrimination covered a range of activities, from accommodation provided by the company to salaries and access to health facilities. 87% of the interviewees mentioned that they were not clear as to the company’s disciplinary procedures, which they felt were at variance with the labour law. The workers mentioned that their main concern was the intimidatory approach taken by the Chinese, which even threatened their representation by the unions.

Chart 9 provides information on cases handled by the mineworkers’ union representatives at one of the major copper mines in the Copperbelt.

**Chart 9: Workers’ union record of labour disputes at Chililabombwe mine in Zambia**

<table>
<thead>
<tr>
<th>Cases</th>
<th>No. reported to the workers’ union</th>
<th>No. reported to district labour commission</th>
<th>No. reported to police</th>
<th>Resolution</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unfair dismissal</td>
<td>48</td>
<td>25</td>
<td>-</td>
<td>Nothing done</td>
</tr>
<tr>
<td>Physical abuse</td>
<td>5</td>
<td>5</td>
<td>5</td>
<td>Nothing done</td>
</tr>
<tr>
<td>Verbal abuse</td>
<td>100</td>
<td>-</td>
<td>-</td>
<td>Nothing done</td>
</tr>
<tr>
<td>Unfair remuneration structures</td>
<td>15</td>
<td>-</td>
<td>-</td>
<td>Nothing done</td>
</tr>
<tr>
<td>Lack of adherence to health and safety standards</td>
<td>100</td>
<td>10</td>
<td>-</td>
<td>Nothing done</td>
</tr>
</tbody>
</table>

Source: Authors’ own compilation

**Employment contract and compensation**

Seventy-seven percent of respondents mentioned that they were underpaid (Chart 8) and that they had evidence that Chinese colleagues doing similar jobs, but with fewer qualifications, were paid more. They further contended that, comparatively, they fared poorly in terms of remuneration on the market. One mine captain said:
'I am a mine engineer with a degree from Copperbelt university. I have risen through the ranks to mine captain. There are two parallel lines of management the Chinese have. The Zambian management are just figureheads; all decisions are made by the Chinese line. A Chinese guy trained by the same engineer has been promoted to be the supervisor when he joined; he was earning 30 000 kwacha now he earns 90 000, which is 40 000 more than the engineer who trained them.'

The miners also made a comparison with other mines owned by South African and European companies. They noted that the difference in salary scales for people with the same qualifications and experience was vast: ‘Compared to companies for Boers from South Africa what the Chinese pay are peanuts. Unfortunately, the government and the ministry of labour have not been helpful in this.'

As shown in Chart 8, 47% of respondents mentioned that they had worked for extended hours without compensation for overtime as stipulated by the country’s labour laws. The Zambian Employment Code Act of 2019 is clear on the stipulated working hours for various categories of occupations. There is an eight-hour limit for miners and an additional four hours of paid overtime. The respondents working in copper mines and the smelting plants reported that they worked 15-hour days without compensation in cash or time off.

The employees noted that long working hours are detrimental to their safety and health. One mentioned that they work underground with machines that require a level of alertness and drawn-out working hours impact their ability to concentrate and respond. A mining engineer from Chililabombwe mentioned that they were physically beaten after protesting about the long working hours: ‘I went to report [the beating] to the police as the labour union could not help. The police were bribed, and they asked me to go and settle matters with my employers. When I returned the Chinese supervisor asked me to choose between work and overtime pay.’

The laws in Zambia provide for time off for workers during statutory scheduled maintenance of the mining plant. In such cases, it is standard practice for mining companies to hire contractors for servicing, cleaning up and maintenance. However, it was revealed that the Chinese mining companies use their own employees to do the maintenance and servicing of the plant at no additional cost. The workers are not paid for this extra work but, more importantly, they miss out on the important rest period.

**Occupational health and safety**

Eighty-three percent of the respondents noted that Chinese employers did not adhere to legislated health and safety standards (Chart 8). Miners mentioned that they were exposed to a number of health and safety hazards, without the possibility of recourse. Various regulations deal with health and safety in both mines and
factories in Zambia, including the Occupational Health and Safety Act of 2010, the Factories Act, the Ionizing Radiation Act and the Mines and Minerals Development Act.\textsuperscript{164} Despite these laws, Zambian mines in general have low compliance and, as a result, health and safety-related incidences are commonplace. Several examples were given: inadequate PPE, lack of visible labelling of machinery and buildings (in some cases these are labelled in Chinese), poor lighting and ventilation, and lack of company training programmes and safety policies.

In all of the interviews, respondents mentioned that workers were not involved in setting and monitoring health and safety standards at their respective workplaces. They said that they were not aware of any company policy or training programme with regards to health and safety:

‘We are only examined [medical examination] at the beginning when you get a job and they tell you that you are fit. From then we do medicals every year, but they don’t tell us results. We only find out when we are sick that our health has been deteriorating over time and they knew it because they had these regular checks that should have shown the deterioration.’\textsuperscript{165}

A union leader mentioned that the Chinese employers do not show medical results for fear of having to pay hefty severance packages:

‘When these tests are done along the way during the employment the company does not disclose the results to the worker because if they let them go concerning these results, the separation package paid to the worker is more if the health damage happened while working at the company. So, they would rather keep the results for themselves and let you go without regard to this.’\textsuperscript{166}

Furthermore, government regulators seldom undertake in-depth inspections as prescribed in the regulations. The mineworkers accused inspectors of neglecting the plight of mineworkers and colluding with Chinese employers, ‘I think they are bribed at the higher offices [provincial and national].’\textsuperscript{167}

**Dialogue, discipline and disputes**

Cases of unfair dismissal are commonplace and some cases do not get reported to any structure. All respondents indicated that they had either been threatened, suspended or dismissed or knew a colleague who had been dismissed unfairly (Chart 8). In most instances, workers are dismissed without any disciplinary hearing, or written or verbal warning before the dismissal. How individual workers responded to circumstances of unfair dismissal seemed to be mediated by their level of education and skills. For instance, unskilled and semi-skilled workers hardly ever reported to their union leaders and in only a few circumstances did they take the matter up with the labour commissioner at the district offices. Generally, once they are dismissed, they vacate the premises and the case ends.
With the skilled workforce, the situation is somewhat different. The skilled workers are knowledgeable about their rights as workers and often take the matter up with the union through to the courts. One mine captain, a trained engineer with a university qualification, recounts his situation:

‘Three months ago, I was unlawfully suspended by the Chinese for two weeks without any charge, no case was raised against me. I went as far as the mayor, the district commission and district labour offices. All these offices didn’t help me until I reached the extent of saying, ok in this case I will take them to court. That is when I was reinstated.’

Four main reasons were cited as major causes of unfair dismissal: challenging a Chinese supervisor’s authority, mainly in relation to uncompensated extra working hours; raising the issue of salary discrepancies between Chinese and local workers doing the same jobs; anything that can be interpreted as mobilising workers to demand salary increases or better working conditions; incidents where an employee falls sick while away from duty and fails to bring a medical note from the Chinese-designated doctors at the mine compound’s health facility. For instance, if an employee falls sick while on leave in another province and provides a sick note from a doctor who is not the mine doctor, that sick note is not considered valid and can be a reason for dismissal.

In most instances, workers are dismissed for being vocal about unfair working conditions without any disciplinary hearing, written or verbal warning.

The findings of this research point to labour that has been left to its own devices by the regulators and to some extent by the main labour unions. The perspective of the interviewees is that their rights have been violated by their Chinese employers and that the government has ‘sacrificed’ them for bilateral relations and to prove that the country is investor-friendly. Shopfloor workers’ representatives bemoaned the lack of backing from the main labour union, and accused the labour body of being complicit in the exploitation of workers.

Relationship with trade unions

Participating in union activities was considered a risky undertaking and 73% of respondents mentioned that they had been victimised for participating in such activities: ‘When you are vocal you are targeted and victimised,’ noted a former union leader. Another respondent mentioned that after being vocal about salaries and unfair working conditions, he was given a suspension and threatened with non-renewal of the contract. The workers’ representatives felt that they did not have any
backing from the labour commission or the national labour union: ‘Labour unions at
the national level are in the pockets of the Chinese.’

**Labour practices and working conditions in Zimbabwe’s mining sector**

**Introduction**

Chinese businesses have established connections with the Zimbabwean political
elite to flout local regulations on business ownership, environmental protection and,
most importantly for this research, labour standards (see Chart 10). Among the
accusations against Chinese mining companies is the physical abuse of employees,
a case in point being the shooting of two employees by a Chinese employer at
Reden Mine-Gweru, as reported by the Zimbabwe Environmental Law Association

A dispute allegedly occurred over outstanding wages and working conditions at
Reden Mine. The employees were shot at point-blank range by the employer’s
security, causing both to sustain injuries resulting in hospitalisation. Moreover,
numerous Chinese employers are accused of gross human rights abuses including
physically assaulting employees.

Chinese companies are also accused of labour exploitation through paying wages
below those prescribed by the government. For example, this issue resulted in a
clash in September 2020 between employees and employer at the Chinese-owned
Zimberly Investment, which supplies coal to Zimbabwe Power Company and
employs more than 200 workers.

An employee speaking on condition of anonymity indicated that during that period,
‘The National Employment Council in mining recently increased pay rates from
ZWLS7 000 to $14 750 per month for the lowest paid, and from ZWL$16 235 to
$34 210 per month for the highest-paid grades. Part of the salary should be in
United States dollars, the lowest paid supposed to earn USD95 and the highest
getting USD222 per month. The Chinese companies refused to apply these rates
and continued paying USD7 000 per month.’

In most cases, mineworkers at Chinese mines work in extremely dangerous
environments. They are seldom or never provided with PPE, and receive few or no
medical check-ups as prescribed by the law. Workers are exposed to disease-causing
environmental elements such as noise, dust and hazardous chemicals and substances.
Further, mining accidents are commonplace in most Chinese-operated mines.

Thirty interviews were held in Zimbabwe; 26 of these respondents were
mineworkers. One interviewee was from the private sector (a mining consultant
formerly with a government agency) and three from civil society organisations
working in the area of natural resource governance and human and socio-
economic rights. Of the 26 mineworkers, 20 were still employed and six were no longer in active employment. In addition, further data were collected from the local workers’ union. These data are in the form of reported cases that the union has received, processed or helped to lodge with the Department of Labour at the provincial level.

Chart 10: Secondary data on widespread abuses in Zimbabwe’s mining sector

<table>
<thead>
<tr>
<th>Company or industry</th>
<th>Claims</th>
<th>Source</th>
</tr>
</thead>
<tbody>
<tr>
<td>Detroop Mine</td>
<td>ZIDAWU takes the company to the National Employment Council NEC over assault of employees, non-payment of overtime, lack of provision of safety clothing and underpayment of wages.</td>
<td>Newsday, 15 October 2016</td>
</tr>
<tr>
<td>Goldmore Investments</td>
<td>Employees allege underpayment and physical assault by their Chinese employer at the mine. The Zimbabwe Congress of Trade Unions president, Peter Mutasa, laments the ill-treatment and abuse of employees in Chinese organisations.</td>
<td>Newsday, 26 May 2017</td>
</tr>
<tr>
<td>Mining</td>
<td>The Amalgamated Mine Workers Union of Zimbabwe is concerned about widespread physical assaults and labour violations in Chinese mines, with one of the nation’s Provincial Affairs ministers calling on miners to adhere fully with safety regulations in the country.</td>
<td>Chronicle, 10 June 2019</td>
</tr>
<tr>
<td>Reden Mine</td>
<td>A Chinese employer shot two employees over a salary dispute.</td>
<td>Herald, 27 June 2020</td>
</tr>
<tr>
<td>Mining</td>
<td>ZIDAWU accuses Chinese miners of physical abuse and harassing workers while bragging about their political networks.</td>
<td>Bulawayo24 News, 5 July 2020</td>
</tr>
<tr>
<td>Yakutsi Investments</td>
<td>Employees and the National Union of Mines, Quarry, Iron and Steel Works of Zimbabwe allege gross human rights abuse, including unfair dismissals and poor working conditions at the company. An official at the company denied the accusations.</td>
<td>Newsday, 11 February 2020</td>
</tr>
</tbody>
</table>

Source: M Bhebhe, C Gabriel and T Prince, Compliance with Section 6 (1) of the Labour Act (Chapter 28:01) (Protection of employees’ right to fair labour standards), within Chinese enterprises in Zimbabwe: The HRM practitioners’ perspective, Africa Development and Resources Research Institute Journal, Ghana, 29, No. 1(6), 2020, 113–142 at 122–123, E-ISSN: 2343–6662.
Chart 10 details just some of the complaints raised against Chinese mine employers in Zimbabwe. Despite increasing evidence, the government of Zimbabwe says it has not received any reports of abuse of workers in Chinese-owned mines.175

**Employment contract and compensation**

Ninety-two percent of the respondents mentioned that the contracting procedures were not clear and many workers did not know or understand the contents of their contracts. A significant portion of the employees is unskilled and semi-skilled, without much knowledge of how to read and interpret a contract. In the Chinese system, the longest contract is a 12-month renewable contract; for unskilled workers, it is three months. This is a common practice, especially in the mining sector, and allows companies to control and limit the benefits accrued by employees.

Local workers are made to work with what the Zimbabwe Allied and Diamond Workers Union (ZIDAWU) described as ‘limping’ or unfairly drafted contracts. For instance, a member of ZIDAWU stated in an interview176 that the contracts omit salary amounts so that the Chinese can underpay workers and avoid accountability. In other mines in Matebeleland and Manicaland, workers are given no contracts, which means they also do not have payslips, pensions, medical aid or compensation for workplace injuries. An official from the adjacent mining company to Anjin in Chiadzwa observed that some Chinese employers give one-month contracts in exchange for a bribe to management or toleration of ill-treatment to have the contract renewed.177

Interviewees claimed that Chinese employers often have a sense of impunity and are protected by their political ties when reported to the authorities. As a result, they often breach their obligations in employment contracts. Such cases, according to an interviewed member of ZIDAWU, are frequently reported to the Department of Labour but without redress.

As Chart 11 shows, 96% of the interviewees mentioned that they had experienced long working hours which are never compensated. The practice was revealed to be rampant as the mine shift system of eight hours by three shifts per day, (that is to say there are three shifts working eight hours each) has not been adhered to:

‘I can say I used to work up to 24 hours a day when I was part of the exploration department. This is so because we would work from 6 in the morning to 6pm and then we were asked to guard the machinery and we would not go back until our week was over. This caused a lot of fatigue and led to accidents as we would be tired. When we complained we would be asked to choose between work or being fired even though I was the chairperson of the workers’ committee.’178
<table>
<thead>
<tr>
<th>Type of abuse</th>
<th>Description</th>
<th>Percentage of respondents who experienced it</th>
</tr>
</thead>
<tbody>
<tr>
<td>Uncompensated long working hours</td>
<td>Undocumented overtime without compensation</td>
<td>96</td>
</tr>
<tr>
<td>Salary irregularities (unjustified wage differences)</td>
<td>Discrepancies in salaries, no clear salary scale and salaries not commensurate with skills and experience</td>
<td>92</td>
</tr>
<tr>
<td>Lack of medical insurance and support</td>
<td>No medical support</td>
<td>100</td>
</tr>
<tr>
<td>Physical assault</td>
<td>Beating, shooting</td>
<td>53</td>
</tr>
<tr>
<td>Poor health and safety standards</td>
<td>Inadequate, PPEs, unsafe work procedures and environment</td>
<td>100</td>
</tr>
<tr>
<td>Discrimination between Chinese and local workers</td>
<td>Clear favouritism of Chinese employees in terms of working conditions, accommodation and PPEs</td>
<td>100</td>
</tr>
<tr>
<td>Unfair dismissal</td>
<td>Dismissed arbitrarily without following due process</td>
<td>100</td>
</tr>
<tr>
<td>Unclear disciplinary actions and procedures</td>
<td>No clearly laid down disciplinary procedures; decisions are arbitrary without due process</td>
<td>87</td>
</tr>
<tr>
<td>Restrictions to unionisation</td>
<td>Threatened or intimidated for perceived union activities</td>
<td>100</td>
</tr>
<tr>
<td>Contracting procedures not properly adhered to</td>
<td>Contracts are written in English and Chinese without the worker understanding if the Chinese translation is correct; ‘limping’ contracts</td>
<td>92</td>
</tr>
<tr>
<td>Unsuitable living conditions</td>
<td>Accommodation, hygiene and sanitation standards are not as prescribed by law</td>
<td>77</td>
</tr>
</tbody>
</table>

Source: Authors’ own compilation
The National Employment Council Statutory Instrument 152 of 1990 regulates the working hours and operations of mineworkers in mining fields and prescribes eight-hour shifts, but in practice workers commonly work at least 12 hours in most mines and very few Chinese mining companies compensate for this over time. All workers interviewed from Anjin mine revealed they had been subjected to long working hours. An interviewee from a mineworkers’ union reported that miners working for the Chinese often suffer from eye and lung diseases caused by prolonged exposure to dust.179 This points to occupational health and safety issues in the employment of local labour by Chinese mine owners.

Despite the long working hours, one former employee of Anjin mine confirmed that no off or leave days were given.180 During COVID-19 workers at Anjin and other Chinese mines in Manicaland were not allowed to take leave and go home to their families. Some workers snuck out of the barracks at midnight to go see their families for a few hours before returning early in the morning to avoid detection.

Ninety-two percent of the respondents mentioned that the salary structures were not only unfair but also violated gazetted salaries from the National Employment Council (NEC) for the mining industry.181

‘The salaries are way below the gazetted wages from the NEC when the gazetted amount ZWL$ 30 000.00 yet they were giving ZWL$ 18 000.00 across the board whether you are driver or electrician, it was a flat fee. Sixty percent was supposed to be paid in USD and 40% in ZWL. They would get approval from Reserve Bank of Zimbabwe but they would not give the workers the USD.’182

Interviewees noted that there is no accountability for the payment of workers. Salaries are inconsistent and hardly ever fully paid. According to a union member, local employees are paid a standard salary, regardless of which department they work in or the skills and expertise they have.183

**Occupational health and safety**

The research established that workers work in a deplorable environment and the company pays no regard to national regulations:

‘There have been two cases of perforated lungs as a result of exposure; people are just fired. Because there is no pre-employment medical examination as such it is difficult to prove that you got exposed at the mine. The same colonel who is the mine medic is also the Safety Health Environment and Quality officer and administration officer.’184
National Health and Safety requires PPE work suits; [the] welfare policy document of Anjin requires that everything be up to standard. However, we have substandard work suits that are not strong and don’t offer any protection as intended. We get once a year for protective clothing. You only get a second one after someone has left employment without any regard for hygiene and sanitary facilities.

The health and safety issues raised by interviewees range from medical examinations and hygiene and safety issues at the mine plant to lack of appropriate and adequate PPE. Anjin mine does not require a pre-employment medical test. According to safety and health in Zimbabwe mineworkers must have medical examinations upon starting work at the mines and be examined again when they exit. The Chinese employers, however, do not commit to this, despite exposing employees to a hazardous working environment.

This makes it difficult for workers to attribute any health condition that develops during employment or soon after to their working conditions. A ZIDAWU representative noted several cases of individuals who had developed serious health conditions due to their working environment. Workers also do not get the post-employment medical examinations that are laid down in law. They are let go without assessment of the health damage that they may have suffered in the mines. This was confirmed by six former employees of the mine in Nyanyadzi. Furthermore, it is difficult for workers to enforce their legal rights in court. This is because of the legal costs involved, as well as workers’ lack of knowledge about their right to take legal action. This is especially relevant in the Chiadzwa area, where unions and civil society organisations are barred and cannot provide awareness-raising workshops.

The union and workers interviewed decried the fact that the mining company did not offer any training, manuals or seminar on occupational health and safety, as prescribed by law. Furthermore, workers revealed that most of the machines are labelled in Chinese. One dump driver mentioned that the machine he used had all the equipment, including gear levers, labelled in Chinese. He had to rely on his knowledge and assistance from other senior drivers to navigate the machine instructions. All workers mentioned that their PPE was inadequate, substandard and inappropriate for the work they were doing (Chart 11), contrary to statutory requirements. They specifically mentioned substandard work suits that did not offer protection, face masks unsuited to industrial use and inappropriate safety shoes. One mineworker from Nyanyadzi noted the following about PPE at Anjin:

‘The safety shoes that we have are made of plastic and melt when exposed to heat on the surface. What is worse is we are given only two substandard disposable masks for the whole week working in the blasting section which is so dusty. The mask would be unusable within just one hour.’
A former Anjin employee said that they received one set of work suits per year, which included a jacket, a pair of trousers and a helmet. Only workers who were favoured by management would get second-hand safety shoes. Poor-quality gloves were received once a day, but they were often torn before the day ended. Another former Anjin employee reported that it would take about a month to get new PPE if the work suit got torn. In the interim period, he worked without any work suit or safety shoes. This information was corroborated by other organisations that work on natural resource governance and human rights, such as the Centre for Research and Development and Centre for Natural Resource Governance.

**Dialogue, discipline and disputes**

The workers interviewed mentioned that they had no faith in the Department of Labour’s ability to handle their complaints. One interviewee, who claimed to have been unfairly dismissed, said he did not report the incident: ‘We have had so many incidences of people being beaten and chased from work without anything happened. We don’t think it helps.’ The labour union mentioned that they had taken up matters with the Department of Labour at the provincial level. Chart 12 illustrates how cases of labour disputes in the mining sector were filtered from the mine to the responsible authorities. Barely half of the cases recorded by ZIDAWU between 2019 and 2021 reached the Department of Labour and less that 10% of criminally related cases, such as assault with intent to cause grievous bodily harm, reached the police.

**Chart 12: Handling of labour disputes in the Zimbabwe mining sector, 2018–2022**

<table>
<thead>
<tr>
<th>Year</th>
<th>Total number of cases</th>
<th>Handled at workplace</th>
<th>Reported to union</th>
<th>Reported to Ministry of Labour/Labour Court</th>
<th>Reported to police</th>
</tr>
</thead>
<tbody>
<tr>
<td>2018</td>
<td>113</td>
<td>3</td>
<td>32</td>
<td>78</td>
<td>0</td>
</tr>
<tr>
<td>2019</td>
<td>58</td>
<td>31</td>
<td>13</td>
<td>8</td>
<td>6</td>
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<tr>
<td>2020</td>
<td>96</td>
<td>66</td>
<td>11</td>
<td>16</td>
<td>3</td>
</tr>
<tr>
<td>2021</td>
<td>38</td>
<td>18</td>
<td>9</td>
<td>7</td>
<td>4</td>
</tr>
<tr>
<td>2022</td>
<td>7</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>1</td>
</tr>
</tbody>
</table>

Source: Authors’ own compilation

However, the Department of Labour claimed to be overwhelmed with complaints from workers at Chinese mines which are yet to be followed up on. Department officials also mentioned that Chinese labour matters are political and that their hands are tied. The labour department does not have access to the mining sites, which have been designated protected areas that require police and security
clearance. As a result, the department does not know what is happening and has no access to Chinese employers.

Workers are also victimised if their employer establishes that they are members of a labour union. The Chinese employers do not follow the laid down disciplinary procedures. Causal workers are fired on the spot and because most workers have limited knowledge of labour rights and the disciplinary process, they do not know where to report the matter.

**Relationship with trade unions**

Since independence, the Zimbabwean government has had a difficult and antagonistic relationship with trade unions. The unions have asserted their independence and have held the government to account regarding economic policies and labour rights. The relationship fractured when the Zimbabwe Congress of Trade Unions (ZCTU) gave rise to the Movement for Democratic Change in 1999. As the leadership of ZCTU left and established the political formation, the close ties with the government soured to the extent that the trade unions were viewed as anti-government. Due to their close ties with the state, the Chinese have exploited these fractured relations to the detriment of workers.

All the workers interviewed narrated how they had been intimidated, openly victimised and threatened with dismissal by their employers.

The unions have lost their voice and, as this research has revealed, are in some cases denied access to their members in Chinese mines and mining compounds. Without the protection of the unions, the workers are left to negotiate their working conditions with the aid of workers’ committees that are generally beholden to the employers.¹⁹⁹

The workers are openly victimised for union activities to the extent that they are threatened with dismissal. Given their protected-area status, labour unions do not have access to the diamond mines. As such, it is difficult for them to educate and capacitate the workers. The workers are effectively isolated and without support. All the workers interviewed narrated how they had been intimidated and victimised by their employers. This has led workers to rely on civil society organisations operating in the area of natural resource governance and human rights. The director for Center for Research and Development (CRD) mentioned that they were inundated with labour-related issues when they undertook fieldwork on community–mine relations in the diamond-rich areas.²⁰⁰
Chapter 4
Conclusion and recommendations

Conclusion
Despite the differences between countries and sectors, the findings of this study highlight numerous labour rights violations linked to Chinese companies operating in mining, construction, fishery and manufacturing across the country case studies. Workers and labour movements expressed their concerns about areas of non-compliance, including compensation (overtime, deductions, method of payment, employee benefits, etc.), contracts and wages, health and safety, and handling of labour disputes. Furthermore, non-standard employment relations and the resulting employment insecurity expose vulnerable workers, many of whom are women, to abuses and exploitation. For example, the lack of a fair hiring process to recruit casual workers has negative implications for employees, including the exchange of bribes and sexual favours for employment, while fixed-term contracts result in workers not being able to claim employment benefits.

The many issues of non-compliance recounted by the workers suggest that despite robust labour legislation, national governments are failing to ensure compliance with the legislated standards. This is partly because labour inspectorates and other government institutions that enforce labour regulations, as well as trade unions, are ineffective due to a lack of capacity, resources and training, or fall prey to corruption.

Africa’s strategy for a successful partnership with China should be based on accountability, transparency, labour relations and decent work

This study also found that a robust legal framework, diligent union oversight and a consistent exercise of inspection from all labour institutions may ensure compliance with labour legislation and improve labour practices and standards. For example, in Zimbabwe where Chinese mining companies have established connections with the Zimbabwean political and military elites, employers can exploit the antagonistic relationships between government and trade unions to their advantage. Similarly, in
Angola conflicting relationships between trade unions and the labour inspectorate have led to a situation of impunity for widespread labour abuses and unfair labour practices. In some cases, workers who join the unions are victimised. In Zambia, participating in union activities was considered a risky undertaking, while in the DRC where many trade unions are organised by employers to discourage independent unions, members of the unions have been arrested and prosecuted. Therefore, in countries where unions have antagonistic relationships with political elites, where members are victimised or where unions have raised concerns about employers not granting them access to a workplace, it is necessary to strengthen labour movements’ ability to intervene and hold governments and employers accountable.

While China has clearly defined its strategic priorities and outlined an official policy on Africa, the African Union lacks a common policy to guide relations with China. Africa’s strategy for a successful partnership with China should be built around issues of accountability, transparency, labour relations and decent work. However, despite efforts to develop legislation in line with international standards, African states seem unwilling to fully commit to implementing international labour standards and protect workers’ rights. For example, at the level of SADC, issues related to employment and labour are not agreed upon and Member States have not yet ratified the 2014 Protocol on Employment and Labour, or some of the ILO Conventions and Protocols to protect the rights of workers. In particular, it is worth noting the low level of ratification of ILO Conventions dealing with workers in non-standard employment and migrant workers who are often unable to join trade unions.

Furthermore, the southern African framework for regional labour standards lacks appropriate monitoring and sanctioning mechanisms to hold accountable those governments that fail to adhere to the minimum regional labour standards. It is the responsibility of states to create an environment where the rights of all workers are protected and ‘promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all,’ as stated in the 2030 Agenda for Sustainable Development.201

This investigation also identified areas for further research that may provide useful information. First, there is a need for more comparative and systematic research to benchmark labour relations and working conditions across Chinese and non-Chinese companies operating in Africa. Second, it is important to consider country-specific aspects such as national labour legislation, availability of skilled workers, supply chain management in labour-intensive industries such as construction and mining, and the strategies used by Chinese firms to adapt to different socio-economic and political environments. Highlighting the internal and external variables responsible for variations in the type of labour outcomes can help in developing a better understanding of Chinese labour practices to contextualise the impact of Chinese investment on work relationships.
**Recommendations**

**Angola**

- An independent watchdog should be established to oversee the implementation of the labour law and compliance of Chinese companies involved in the fishing industry. This measure might help to supplement and audit the practices of the General Labour Inspectorate as an enforcer of labour legislation, and ensure that no one, regardless of their political influence, is allowed to exploit workers.

- Information on the full scale of Chinese operations, including net investments, social capital, list of Angolan shareholders, contributions to the workers’ health insurance and social security benefits should be made available to the general public.

- A new labour governance system should be established to integrate trade unions, the General Labour Inspectorate and employees of Chinese fishing companies in Caota. This will help monitor and enforce compliance with employment and human rights law.

- The Ministry of Public Administration, Labour and Social Security (MAPTSS) should liaise with Chinese companies to encourage trade union representatives to prevent any violations against workers’ labour rights. In addition, MAPTSS should endeavour to establish recruitment centres for the fishing industry.

**Democratic Republic of Congo**

**Chinese firms:**

- Recruitment policies and procedures in Chinese firms should acknowledge the need for cultural sensitivity, fairness and transparency; and apply non-discrimination and equal opportunity principles to prevent dissatisfaction over access to jobs and perceptions of bias.

- The government, through the General Labour Inspectorate, should require Chinese employers to issue employment contracts for national skilled workers (those with recognised skills in the labour market), while unskilled workers hired as casual labour should benefit from knowledge and skills transfer in the form of in-house training. This would make them more capable to be contracted as skilled workers after a reasonable period of time. An improved policy framework could provide a large portion of the population with a significant economic advantage in the medium and long run.

- Employers should adopt HR policies which are consistent with the DRC’s legal framework. Employers should inform employees of their employment rights, responsibilities and duties.

- Employers should develop health and safety programmes in accordance with national legislation and international best practices to provide a safe and healthy
work environment, taking into account inherent risks and hazards. Steps should be taken to minimise accidents, injuries and diseases occurring in the course of work. In line with international best practice, employers should address the following: identification of hazards, preventative and protective measures, training, documentation and reporting and emergency responses.

• Employers should provide a transparent, well-understood grievance mechanism for workers. This mechanism should address concerns promptly at an appropriate level of management, and should not delay or impede other remedies available under law or in the context of existing arbitration procedures.

• Working conditions and terms of employment should be clearly documented and communicated to employees and contracted workers, as well as to other stakeholders. They should comply with national policies and legislation.

Government:

• State agencies and services, including the General Labour Inspectorate, should exert more oversight on law enforcement to ensure Chinese companies’ compliance with legislation, rules and regulations; and to protect workers’ rights, especially in terms of remuneration, working conditions and skills development.

• The DRC government should adopt a policy of zero tolerance with respect to all forms of bribery and corruption, including tax evasion by Chinese employers.

• Encourage the unionisation of workers to facilitate their claims with employers.

• Allow more Chinese investments in the DRC on a ‘win-win’ basis.

• Explore the possibility of hiring an expert on China to advise on all agreements with Chinese companies.

Lesotho

• National government and international partners should invest in developing and strengthening the technical and operational capacity of labour dispute resolution and arbitration bodies.

• Trade unions should sensitise factory workers through information campaigns about the Labour Code and their rights, and provide officials and employers with training and information on their responsibility to prevent discrimination and reduce inequality as prescribed by the Labour Code.

• The national government should consider establishing an independent public institution to certify compliance with international labour standards, including ethical manufacturing, social compliance and traceability within the supply chain.

• The national government together with international partners, private companies and donor agencies should establish a training facility to supply the manufacturing
sector with the appropriate skills. This would increase the level of localisation of skilled workers and supervisors. It would also provide local supervisors with the requisite managerial, supervisory and communication skills.

• Chinese employers should grant trade unions access to the workplace to recruit members, communicate with their affiliates and inspect working conditions, as prescribed by the Labour Code.

• Chinese employers should provide a safe and healthy work environment, taking into account inherent risks and hazards. They should also ensure that workplaces and sanitary facilities adhere to basic standards of hygiene and workers are provided with on-site canteens where they can eat and take a break.

• Chinese-owned factories should establish fair hiring policies that prohibit the exchange of any kind of favour for employment and that promote transparency and efficiency.

• The piece-rate system should be implemented in a transparent and clear manner, taking into account the maximum standard working time per day/week and the maximum hours of overtime per day. Furthermore, piece-rate pay should not be lower than the minimum wage.

South Africa

• Inclusive forums should be established by the Department of Mineral Resources and Energy, Department of Labour, Provincial and Local Government, Chinese mining companies and trade unions to monitor compliance with labour, investment and environmental issues.

• Create mining forums to involve all stakeholders and assist local municipalities in ensuring that mining companies are compliant with SLPs.

• Promote transparency and strengthen public participation by making SLPs publicly available to mining-affected communities before companies apply for mining rights.

• Strengthen the role of local government in promoting effective communication between Chinese mining companies and local communities, and mediating mining company–community disputes.

• The Department of Mineral Resources and Energy should pursue the establishment of Future Forums involving mining companies, workers and trade unions to discuss challenges and solutions in the best interests of productivity and employment.

• The Department of Mineral Resources and Energy should ensure the appointment of an adequate number of occupational health and safety inspectors.
Zambia

Chinese mining companies:

• Chinese companies need to guarantee the rights of workers to participate in organised labour union activities without fear of victimisation. Workers’ representatives need to be protected from being singled out for retribution when they present workers’ grievances to the company management.

• Salaries need to be benchmarked against market rates. The unemployment rates should not be used as an excuse to underpay workers.

• All labels and signs on machinery, equipment and buildings should be translated into the language that local employees understand to avoid accidents.

Government:

• The government of Zambia needs to continually review minimum wage regulations to keep pace with market value.

• The government needs to build the capacity of mine inspectors and labour commissioners for them to effectively carry out inspections and be competent to handle complaints from employees.

• The government needs to reinforce its position with regards to workers’ health insurance.

Trade unions:

• The relationship between workers, workers’ council and trade unions needs to be developed through close interactions and communication. At present, workers feel the trade unions are on the side of employers. This prevents workers from reporting grievances via the trade union. It also affects collective bargaining efforts as the workers do not feel that the unions are genuinely negotiating on their behalf.

• Trade unions have to invest in capacity-building and awareness-raising on issues such as labour laws, workers’ rights and obligations, and occupational health and safety.
Zimbabwe

Chinese mining companies:

- Chinese companies’ HR policies and procedures should be accessible to workers in a language that they understand.

- The right of workers to organise and associate in a labour union must be protected. Trade unions must be allowed to advertise and recruit members at the mines in a transparent manner without intimidation and victimisation of workers and workers’ representatives.

- All labels and signs on machinery, equipment and buildings should be translated into the language that local employees understand to avoid accidents.

- The laws that govern overtime and commensurate compensation should be adhered to and clearly communicated to employees.

- Accommodation facilities should meet the basic sanitary and hygiene standards, with an emphasis on the dignity of workers.

- Employees need to be regularly capacitated as to their rights and obligations. These capacity-building interventions have to be guided by law and should be part of ongoing staff development that is not limited to the orientation of new staff members.

Government:

- Zimbabwe’s labour laws, specifically the Labour Act (Chapter 28:01), provide for verbal contracts. This needs to be reviewed as this gap is being used to exploit workers. The power asymmetry between workers and employers makes it difficult for employees to seek redress with a verbal contract.

- Laws such as the Environmental Management Act, the Factories and Works Act (20 of 1948), the Labour Act (16 of 1985), the National Social Security Authority (Accident Prevention and Workers Compensation Scheme) have to be robustly enforced, monitored and implemented. In this regard, civil society organisations can also play a vital watchdog role to monitor the government’s enforcement of the country’s laws.
# Appendix A

## Ratification of ILO conventions by country

<table>
<thead>
<tr>
<th>Fundamental Conventions</th>
<th>Angola</th>
<th>DRC</th>
<th>Lesotho</th>
<th>South Africa</th>
<th>Zambia</th>
<th>Zimbabwe</th>
</tr>
</thead>
<tbody>
<tr>
<td>C029 - Forced Labour Convention, 1930 (No. 29)</td>
<td>✓</td>
<td>✓</td>
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<td>C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)</td>
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<td>C100 - Equal Remuneration Convention, 1951 (No. 100)</td>
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<tr>
<td>C105 - Abolition of Forced Labour Convention, 1957 (No. 105)</td>
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<td>C111 - Discrimination (Employment and Occupation) Convention, 1958 (No. 111)</td>
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<thead>
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<th>Governance</th>
<th>Angola</th>
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<th>South Africa</th>
<th>Zambia</th>
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<td>C081 - Labour Inspection Convention, 1947 (No. 81)</td>
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<td>C122 - Employment Policy Convention, 1964 (No. 122)</td>
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<table>
<thead>
<tr>
<th>Work and wages</th>
<th>Angola</th>
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<th>Lesotho</th>
<th>South Africa</th>
<th>Zambia</th>
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<td>C117 - Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117)</td>
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<td>C175 - Part-Time Work Convention, 1994 (No. 175)</td>
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<td>Lesotho</td>
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<td>Zambia</td>
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<td>C171 - Night Work Convention, 1990 (No. 171)</td>
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<td>C001 - Hours of Work (Industry) Convention, 1919 (No. 1)</td>
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<td>C014 - Weekly Rest (Industry) Convention, 1921 (No. 14)</td>
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<td>C047 - Forty-Hour Week Convention, 1935 (No. 47)</td>
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<td>C106 - Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106)</td>
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<td><strong>Employment security</strong></td>
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<td>C158 - Termination of Employment Convention, 1982 (No. 158)</td>
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<td>C181 - Private Employment Agencies Convention, 1997 (No. 181)</td>
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<td>C156 - Workers with Family Responsibilities Convention, 1981 (No. 156)</td>
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<td>C183 - Maternity Protection Convention, 2000 (No. 183)</td>
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<td><strong>Health and safety</strong></td>
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<td>C155 - Occupational Safety and Health Convention, 1981 (No. 155)</td>
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<td><strong>Sick leave and employment injury benefit</strong></td>
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<td>C130 - Medical Care and Sickness Benefits Convention, 1969 (No. 130)</td>
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<td><strong>Social security</strong></td>
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<td>C102 - Social Security (Minimum Standards) Convention, 1952 (No. 102)</td>
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<td>C157 - Maintenance of Social Security Rights Convention, 1982 (No. 157)</td>
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<td><strong>Migrant workers</strong></td>
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<tr>
<td>C097 - Migration for Employment Convention (Revised), 1949 (No. 97)</td>
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<td>C143 - Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)</td>
<td></td>
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Notes


13. Ibid. The COVID-19 pandemic has had a significant impact on the garment and textile sector. The industry suffered declines in employment and some of the factories have shut down.


15. The PGMs include platinum, palladium, rhodium, ruthenium, osmium and iridium.


26. Ibid., 19.
The fallout which happened in 2003 was a result of a number of issues including Zimbabwe’s failure to meet its debt obligations to the Paris Club and Bretton Woods Institutions, the Fast Track Land Reform Programme and accusations of human rights violations.

Interview, Centre for Natural Resource Governance, 20 November 2021.


JP Cardenal and H Araújo, China’s silent army: The pioneers, traders, fixers and workers who are remaking the world in Beijing’s image, Crown, 2013.


JP Cardenal and H Araújo, China’s silent army: The pioneers, traders, fixers and workers who are remaking the world in Beijing’s image, Crown, 2013.


JP Cardenal and H Araújo, China’s silent army: The pioneers, traders, fixers and workers who are remaking the world in Beijing’s image, Crown, 2013.


Interview respondent 1, union leader, Chililabombwe, 3 March 2022.

The case of Chinese abuses was raised in an interview on Radio Ecclesia on 10 October 2021 by Helena França, the leader of the National Union of Angolan Workers, União Nacional dos Trabalhadores Angolanos (UNTA), in Benguela. França spoke with journalist Carla Chiquete about alleged Chinese fishing industry abuses and violence. Angola's daily newspaper, Jornal de Angola, reported a year earlier on the situation of a group of 60 Angolan workers at Guanda, a Chinese fishing company in Caota, who were confined for 'three months without seeing their families'. According to a young female worker interviewed by the newspaper, 'the proposal to stay confined was a measure of voluntary quarantine, proposed by the company’s bosses with consent of the workers'. See, Covid-19: Trabalhadores da Guanda Pesca já em casa depois de 90 dias no mar, Jornal de Angola, 11 July 2020, https://www.jornaldeangola.ao/ao/noticias/covid-19-trabalhadores-da-guanda-pesca-ja-em-casa-depois-de-90-dias-no-mar/

Radio Ecclesia reporting on the workers protests against the Chinese, Caota, Benguela, 24 February 2022.

Interview, Caota community leader, 21 December 2021.


Interview, provincial labour inspector, Benguela, 21 December 2021.

Interview, provincial trade union leader, Benguela, 20 December 2021.

Interview, trade union leader for agriculture and fishing, Benguela, 20 December 2021.

Interview, trade union leader for construction and public infrastructure, Benguela, 21 December 2021.

Radio Ecclesia reporting on the workers protests against the Chinese, Caota, Benguela, 24 February 2022.

Interview, stakeholder 6, Kinshasa-Kimwenza, 12 December 2021.

Interview, worker 3, Kinshasa, 12 November 2021.

Interview, worker 1, Kinshasa-Kimwenza, 12 November 2021.

Interview, employer, Kinshasa-Kimwenza, 12 November 2021.

Interview, stakeholder 5, Kinshasa-Kimwenza, 11 December 2021.

Interview, stakeholder 7, Kinshasa-Kimwenza, 12 December 2021.

Interview, stakeholder 2, Kinshasa-Quartier GB, 10 November 2021.

Interview, stakeholder 7, Kinshasa-Kimwenza, 12 December 2021.

Interview, stakeholder 5, Kinshasa-Kimwenza, 11 December 2021.


Focus group, factory workers, Maputsoe, 7 December 2021.

Notes from meeting with union representative, Maseru, 2 December 2021.


99 Interview, union representative 1, Maseru, 2 December 2021.


101 According to the ILO, a “full pieceworker” receives a fixed rate for each unit (piece) produced or action performed (ILO, Minimum Wage Policy Guide). Worldwide, workers paid by the piece are mainly women.

102 Focus group discussion, factory workers, Maputsoe, 7 December 2021.


106 Ibid., 16.

107 Focus group discussion, factory workers, Maputsoe, 7 December 2021.

108 Focus group discussion, factory workers, Maseru, 2 December 2021.

109 Interview, union member 1, Maseru, 6 December 2021.

110 Focus group discussion, factory workers, Maputsoe 7 December 2021.

111 Interview, union member 2, Maseru, 2 December 2021.

112 Ibid.


114 Focus group discussion, factory workers, Maputsoe, 7 December 2021.

115 Ibid.

116 Interview, union member 2, Maseru, 2 December 2021.

117 Ibid.


119 Phone interview, union member 1, 23 November 2021.

120 Interview, union member 2, Maseru, 2 December 2021.

121 Phone interview, civil society member, 17 November 2021.

122 Interview, union member 3, Maputsoe, 6 December 2021.

123 Ibid.

124 Interview, union member, Maseru, 23 November 2021.

125 Phone interview, Lesotho National Development Corporation representative, 6 December 2021.

126 Ibid.

127 Interview, union member 1, Maseru, 23 November 2021.

128 Ibid.

129 Phone interview, Lesotho National Development Corporation representative, 6 December 2021.


133 Interview, mineworker, Phalaborwa, 12 November 2021.

134 Phone interview, local government representative, 15 November 2021.

135 Interview, mineworker, Burgersfort, 12 November 2021.

136 Ibid.

137 Ibid.


139 Interview, mineworker 1, Burgersfort, 10 November 2021.

140 Interview, mineworker 2, Burgersfort, 10 November 2021.
Interview, mineworker, 1, Burgersfort, 10 November 2021.

Interview, mineworker 3, Burgersfort, 10 November 2021.

Phone Interview, member of South Africa Parliament, 9 November 2021.

Phone interview, union member, 21 October 2021.


Interview, mineworker 1, Burgersfort, 10 November 2021.

Interview, mineworker 2, Burgersfort, 10 November 2021. Competent B is the training necessary to install, maintain and remove any support in underground mining operations.

Interview, mineworker, 3 Burgersfort, 10 November 2021.

Interview, mineworker, Phalaborwa, 12 November 2021.


Phone interview, civil society member, 25 October 2021.

Group discussion, PRC embassies and Chinese businesses, Pretoria, 19 April 2022.

Phone Interview, union member, 21 October 2021.

Phone interview, member of South African Parliament, 9 November 2021.

Group discussion, PRC embassies and Chinese businesses, Pretoria, 19 April 2022.


Respondents were drawn from five mining companies: NFCA, Chambishi Copper Smelter, China Luanshya Mine (GLM), Sino Metals Leach Zambia (Sino Metals) and Collum Coal Mine.

Interview 1, mine captain, Chililabombwe, 3 March 2022.

Interview 10, with mine worker, Chililabombwe, 3 March 2022.

Interview 7, with mine worker, Chililabombwe, 3 March 2022.

C Sikana, Examination of occupational health and safety systems in selected mining companies in the Copperbelt Province of Zambia, Master’s Dissertation, University of Zambia, 2020.

Interview respondent 14, with mine worker, Chililabombwe, 3 March 2022.

Interview respondent 1, union leader, Chililabombwe, 3 March 2022.

Interview respondent 5, with mine worker, Chililabombwe, 3 March 2022.

Interview respondent 1 with mine worker, Chililabombwe, 3 March 2022.

Former workers’representative leader in Chililabombwe 3 March 2022.

Ibid.


174 Interview with mine worker Matsure, Mutare, 23 November 2021.


176 Interview with ZIDAWU official #2, Mutare 25 November 2021.

177 Interview with mining company official from Chiadzwa, Mutare 23 November 2021.

178 Interview, union leader, Mutare, 22 November 2021.

179 Interview, mineworker, Nyanyadzi, 26 November 2021.

180 Interview with former Anjin mine worker #10, Nyanyadzi 26 November 2021.

181 The salary structures are arrived at after a statutory collective bargaining process. The most recent is the Statutory Instrument 182 of 2021 Collective Bargaining Agreement: Mining Industry.

182 Interview, security personnel working in the area, 30 November 2021.

183 Interview with ZIDAWU provincial leader, Mutare, 23 November 2021.

184 Interview with mine worker Matsure, Mutare, 23 November 2021. The interviewee revealed that the management structure of Anjin is populated by serving and retired military personnel from the Zimbabwe Defense Forces (names and ranks provided). This made it difficult for the workers to raise their concerns as the military personnel do not take kindly to being questioned. It is also meant to prevent civilian government personnel from carrying out on-site investigations of labour abuses.

185 Interview, mine workers, Manicaland, 25 November 2021.


187 Interview, ZIDAWU, Mutare, 23 November 2021.

188 Interview with former Anjin employees, Nyanyadzi, 23 November 2021.

189 Interview, mineworker 7, Nyanyadzi, 26 November 2021.

190 Interview with former Anjin employee #1 Hotsprings, 23 November 2021.

191 Interview with former Anjin employee #2 Hotsprings, 23 November 2021.

192 Interviews were held with the director and field officers on Mutare and Nyanyadzi between 21 and 26 November 2021.

193 Interviews were held with the director in Harare and field officers in Mutare Mutare between 19 and 23 November 2021.


195 Interview with ZIDAWU official, Mutare, 23 November 2021.

196 Provided by ZIDAWU and corroborated by the Centre for Research and Development.

197 Interview with provincial labour officer, Mutare, 25 November 2021.

198 Ibid.

199 Interview, former workers committee chairperson, Mutare, 23 November 2021.

200 Interview with CRD field officer, Hotsprings, 25 November 2021.

201 Department of Economic and Social Affairs Sustainable Development, https://sdgs.un.org/goals/goal8
About this monograph

This monograph analyses Chinese companies’ labour practices in six southern African countries: Angola, the Democratic Republic of Congo, South Africa, Lesotho, Zambia and Zimbabwe. It explores employment patterns, wage agreements and working conditions, and also reflects on the relationships between Chinese companies and trade unions, as well as the effectiveness of mechanisms to prevent and settle labour disputes in the selected countries. The study focuses on the construction, mining, textiles and fisheries sectors. It presents key findings and recommendations aimed at improving labour relations.

About the authors

Sergio Carciotto is a Senior Researcher consulting on migration, displacement and refugee rights.

Ringisai Chikohomero joined the ISS in 2018 as a Research Consultant in the Southern Africa project in Pretoria.

Research support in Angola and the DRC was coordinated by Paulo CJ Faria (Ambuila – Pesquisa e Produção Científica) and Pascal Sundi Mbambi (Université Catholique du Congo). They contributed to the chapters on Angola and the DRC, respectively.

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